

An  
Coimisiún  
Pleanála

Commission Order  
ABP-322048-25

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F24A/0606E**

**Appeal** by Dalton Tatton and Yvonne Walsh of 8 Old Street, Malahide, County Dublin and by others against the decision made on the 17<sup>th</sup> day of February, 2025 by Fingal County Council to grant permission, subject to conditions, to Dara View Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dun Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The partial change of use of an existing two-storey residential building on site to provide for a new café at ground floor level (approximately 73 square metres) and a new two-bedroom apartment at first floor level (approximately 74 square metres) with associated development works including a new two-storey extension to the rear with pitched roof detailing. Access to the apartment will be via the existing side access. Open space for the apartment will be at ground floor level to the rear of the property. Minor modifications to the windows and the provision of wall mounted signage on the front elevation are sought to the property along Railway Avenue to facilitate the café use. The development will also comprise a two-storey residential mews to the rear of the site, to provide a three-bedroom dwelling (approximately 120 square metres) with associated open space and courtyard areas. Access to the mews will be via the existing side access. The

development will also comprise all necessary site development works including services provision, infrastructural and drainage works, changes to the opes of the existing dwelling unit, bin stores, bicycle stores, as well as all landscape and boundary treatment works, all at site of approximately 0.0342 hectares at 2 Railway Avenue, Malahide, County Dublin. The site is bound by 9 Old Street to the east and 3 Railway Avenue to the west.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to the Town Centre zoning objective for the subject site as set out in the Fingal County Development Plan 2023-2029, its location within the town centre of Malahide and its proximity to Malahide Train Station, and to design, massing, nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would add to the vitality of the area, would enhance the streetscape and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommended condition to remove the first-floor element in the mews dwelling to the rear, the Commission agreed with the view of the planning authority and considered that the first-floor element is acceptable when assessed under the measurable indicators of shadowing and overlooking as it is modest in scale, width and massing and the fenestration has been positioned to minimize overlooking. The Commission agreed with the Inspector that the short-term bicycle parking with integrated bench rest shall be omitted as it is on the public footpath and therefore subject to license and/or agreement with the planning authority.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22<sup>nd</sup> day of January 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.



2. The proposed development shall be amended as follows:
- (a) the proposed short term bicycle parking with integrated bench rest to the front of the building for customers as shown on the drawings submitted with further information shall be omitted from the scheme unless otherwise agreed with the planning authority, and
  - (b) all bathroom windows shall be obscured by opaque glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of clarifying which part of the development is within the development boundary and of the residential amenity of the properties to the east.

3. The opening hours of the café shall be restricted to between 0700 hours to 1800 hours Monday to Sunday. Any alterations to same shall be subject to the prior written consent of the planning authority.

**Reason:** In the interest of residential amenity.

4. The café shall not be used as a takeaway/fast food outlet.

**Reason:** In the interests of residential amenities, orderly development and visual amenities.

5. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001, as amended, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures including freestanding structures, banners, canopies, flags or other projecting element shall be displayed or erected on the building or within its curtilage or attached to glazing without a prior grant of planning permission.

**Reason:** To protect the visual amenities of the area.

7. Before the change of use at ground floor level hereby permitted commences, a scheme shall be submitted to, and agreed in writing with the planning authority, for the effective control of noise, fumes and odours from the premises. The scheme shall be implemented before the use as a café commences and thereafter permanently maintained.

**Reason:** In the interest of public health and to protect the amenities of the area.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

9. No development shall commence on the site until such time as the following have been agreed and complied with:
- (a) Requirements of Fingal County Councils Water Services Planning Section.
  - (b) Surface water arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Full details shall be agreed with the planning authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the planning authority prior to the occupation of the house within the proposed development.

**Reason:** In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area.



10. Proposals for a naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment/house numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

12. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of proper planning and sustainable development.



15. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

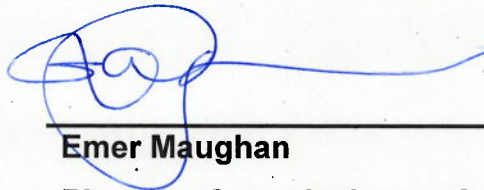
**Reason:** In the interest of sustainable transport and safety.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.



**Emer Maughan**

**Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.**



Dated this 14<sup>th</sup> day of July 2025.