

An
Coimisiún
Pleanála

Commission Order
ACP-323155-25

Planning and Development Act 2000, as amended

Planning Authority: Fingal County Council

Planning Register Reference Number: F24A/0993E

Appeal by Greg and Lisa Gallagher care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 1st day of July, 2025 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: (i) demolition of existing two-storey house and attached single storey flat (Eircode number D13 WEY8); (ii) construction of replacement two-storey, five-bedroom, flat/green roofed, detached contemporary dwelling with rear (south-facing) terrace at ground floor level, rear (south-facing) balcony at first floor level and one number rooflight; (iii) construction of detached single storey garage; (iv) provision of new private access road to adjoin existing access road serving Eircode number D13 YK71); and, (v) all ancillary site works, inclusive of landscaping, boundary treatment and SuDs drainage, necessary to facilitate the development. Dwelling, Eircode number D13YK71, within the Site of the Former Stella Maris Sisters of Charity Convent, Carrickbrack Road, Howth, County Dublin as revised by further public notices received by the planning authority on the 8th day of May, 2025.

Decision

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

Reasons and Considerations

Having regard to the the scale, form, design and siting of the proposed replacement dwelling submitted at appeal stage to An Coimisiún Pleanála, the specific characteristics of the site, including separation from the adjacent residential property, its topography and vegetation cover and the pattern of development in the surrounding area and to the provisions of the Fingal Development Plan 2023-2029, including the 'RS' and 'HA' zoning objectives that apply to the site, 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 of properties in the vicinity, would not be detrimental to the character or amenities of the Howth Special Amenity Area, 1999 and would constitute an acceptable form of development at this location. The Commission was satisfied that sufficient justification to demolish the existing property on site had been provided and was therefore in compliance with Policy CAP8 and DMSO256 of the development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding to grant permission for the proposed development submitted at appeal stage the Commission considered in full, and accepted as reasonable, the amendments put forward by the applicant at appeal stage to address the reasons for refusal as set out in the Planning Authority decision, the views of the conservation officer, the Inspector's report and the observations submitted on the proposed development lodged at appeal stage. Specifically, in relation to the amendments put forward, the Commission considered the siting, form

and design of the proposed development and the additional setback from the adjacent residential property was appropriate albeit not a material departure from the previous proposal with consequent new issues of planning relevance. The Commission did not therefore share the opinion of the Inspector, that the revisions at appeal stage were sufficiently material to merit readvertisement and revised public notices.

Appropriate Assessment – Screening

The Commission noted that the proposed development is not directly connected with or necessary to the management of a European site. In completing the screening for Appropriate Assessment, the Commission accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European site which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on this European site in view of the site's conservation objectives, and concluded that a Stage 2 Appropriate Assessment is not required.

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 information received by the An Coimisiún Pleanála on the 28th day of July 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 mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. The proposed development hereby permitted shall be amended so that the depth of the proposed south-facing external terrace is to be reduced from circa 10 metres as currently proposed to a maximum of five metres.

Revised plans showing details of the above design amendments are to be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of neighbouring residential amenity.

4. Details, including samples, of the materials, colours and textures of all the external finishes, including external glass which is to comprise of anti-glare glazing to the entire southern elevation and a 1.6 metre high privacy screen along the full extent of the west side of the revised external south-facing terrace, for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

5. The submitted Landscape Plan shall be implemented in full no later than the first planting season following substantial completion of construction works on site. Any plant failures shall be replaced until such time as the planting scheme has become established.
- (a) As per the arboricultural method statement, all recommended tree felling and pruning work throughout the site will be carried out by a qualified and experienced tree surgery contractor in accordance with BS3998 (2010) Tree Work – Recommendations before commencement of any other site operations including the erection of protective barriers.
 - (b) Prior to the commencement of construction works on site the protective fencing shall be erected as per the Tree Protection Plan (drawing number 210302-P-22). This fencing is to remain in place for the duration of the project.
 - (c) All measures outlined in the Arboricultural Method Statement must be adhered to.
 - (d) A tree bond is to be lodged with the Council prior to the commencement of development in order to ensure that the trees noted for protection in the submitted Tree Protection Plan (drawing number 210302-P-22) are protected and maintained in good condition throughout the course of development. For the tree bond to be released, a post construction report on the condition of the trees to be retained shall be undertaken by the project Arborist and all recommendations made within this report shall be carried out. On completion of this, the report and a Certificate of Effective Completion sign by the project Arborist shall be provided to the planning authority.

Reason: In the interest of tree protection, visual amenity and neighbouring residential amenity.

6. Prior to the commencement of the development, the developer shall submit for the written agreement of the planning authority a site-specific final Construction and Environmental Management Plan and shall implement the mitigation measures recommended therein in full.

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

7. During the construction and operational stages of the proposed development the mitigation measures as contained in the Ecological Impact Assessment, Bat Fauna Survey, Arboricultural Report and Tree Protection Plan shall be implemented in full to protect the receiving environment.

Reason: In the interest of protecting the environment.

8. (a) Prior to commencement of construction details of the scheme's surface water drainage calculations shall be submitted to the planning authority for approval.
- (b) Soakaways shall comply with BRE Digest 365, the GDSDS, designed to accommodate the 30 year critical duration storm event, include for climate change (minimum +20%), use site specific infiltration rates and rainfall data, and should generally be at least five metres from any structure and three metres from any boundary.
- (c) No surface water/rainwater is to discharge into the foul water system under any circumstances.
- (d) The surface water drainage must be in compliance with the Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

Reason: In the interest of public health.

9. (a) The detail and layout of the junction between the new private driveway and the existing private driveway shall be agreed in writing with the planning authority prior to commencement of development.
- (b) Any works to the public footpath and road carriageway to facilitate the development and any repairs to the public footpath and road carriageway necessary as a result of the development shall be at the expense of the developer and completed to the Councils' standards for taking-in-charge and to the satisfaction of the Council.
- (c) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay, rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.

Reason: In the interest of traffic and pedestrian safety and to protect the amenities of the area.

10. An asbestos survey is to be commissioned prior to demolition, with appropriate steps to be taken prior to demolition if asbestos is detected during the survey.

Reason: In the interest of public health.

11. Prior to the commencement of development, the developer shall prepare an updated Construction Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021). The plan shall include details of the various waste streams and expected tonnages which will be generated during site clearance, demolition and construction phases and any proposed exportation or importation of soil and stone material including destination/source locations, quantities and if any material will be assessed under By-Product notification. It shall also address the issue of material salvage as cited in the Demolition Justification Statement submitted at appeal stage. The plan shall also include specific proposals as to how it will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed plan shall be made available for inspection at the site office at all times.

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

12. The mitigation and protection measures outlined in the Engineering Report on the structural integrity of Tramway Retaining wall and Viaduct dated the 6th day of March 2025 shall be implemented in full during the proposed construction works.

Reason: In the interests of conservation and public safety.

13. The recommendations of the submitted Invasive Species Survey and Management Plan shall be implemented in full.

Reason: To protect the amenities of the area.

14. (a) The developer shall ensure that the design and installation of the proposed Wastewater Treatment System complies with the Environmental Protection Area Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).
- (b) Supervision of construction of the on-site wastewater treatment system shall be carried out by a suitably qualified (Fetac/ QQI), experienced and competent professional.
- (c) No foul drainage is to discharge into the surface water system under any circumstances.

Reason: In the interest of public health and environmental protection.

15. (a) The developer shall sign a connection agreement with Uisce Éireann prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.
- (b) All development shall be carried out in compliance with Uisce Éireann Standards codes and practices.
- (c) Any proposals by the developer to divert or build over existing water or wastewater services shall be submitted to Uisce Éireann for written approval prior to works commencing.
- (d) Separation distances between the existing Uisce Éireann assets and proposed structures, other services, trees, etc. have to be in accordance with the Uisce Éireann Codes of Practice and Standard Details.

Reason: To ensure adequate provision of water and wastewater facilities.

16. 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 hours 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.

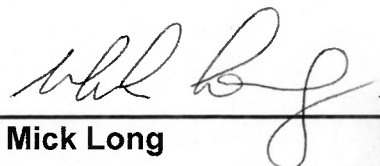
Reason: To safeguard the amenity of property in the vicinity.

17. All service cables associated with the proposed development (such as electrical, public lighting, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual amenity and orderly development.

18. 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.



Mick Long

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



Dated this *24th* day of *November* 2025