



An  
Bord  
Pleanála

## Inspector's Report ABP-320173-24

---

<b>Development</b>	Retention of 2 cabins and all associated site works
<b>Location</b>	Braxton Lodge, Unit 1 and 2, Six Cross Lane, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0390
<b>Applicant(s)</b>	Eamonn Fagan
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Eamonn Fagan
<b>Observers</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> August 2024
<b>Inspector</b>	Jim Egan



## **1.0 Site Location and Description**

- 1.1.** The site, with a stated area of 0.063ha, is located on the eastern end of Six Cross Lane, c. 1.3km north of Rush town centre in north County Dublin.
- 1.2.** Six Cross Lane commences at a T-Junction with the R128 Skerries Road and continues west to east, before splitting into a network of narrow laneways providing access to properties adjacent to Rush North Beach. The section of Six Cross Lane from its junction with the R128 to the interface of the appeal site comprises a tarred surface of between c. 3 and 4 metres wide, intermittent public lighting and no footpaths.
- 1.3.** Six Cross Lane and its environs adjacent to Rush North Beach is characterised by long established holiday homes / chalets and caravan park uses, in addition to a number of more substantial permanent homes.
- 1.4.** The site has frontage of c. 28m to Six Cross Lane, and is bounded by agricultural land to the west, a group of three dwellings / structures to the north accessed from Six Cross Lane via a shared gravel driveway that runs adjacent to the eastern boundary of the appeal site.
- 1.5.** The site comprises 2no. detached single-storey chalet style modular cabins, a mobile home; and a gravelled yard.
- 1.6.** All site boundaries comprise an unrendered, capped concrete block wall and piers. The wall ranges in height from c. 2m to c. 2.5m along the southern / front boundary. Internally, sections of the wall on the south, east and north boundaries are fixed with varnished timber panelling.
- 1.7.** Vehicular access to the site is from Six Cross Lane via a 4.4m wide entrance with an electric sliding timber gate. There is a separate pedestrian gate further east on the front boundary.

## **2.0 Proposed Development**

- 2.1.** The development comprises the retention of 2no. chalet style modular cabins for tourist accommodation, and all associated site works.
- 2.2.** The cabins have an external dimension of c. 5.75m x 5.75m, each with a stated gross floor area of c. 31.5sq.m, an eaves height of c. 2.3m, and a shallow pitch roof with a

ridge height of c. 3.05m. External finishes comprise painted timber walls, upvc framed windows and rainwater goods, and a felt roof. Each cabin comprises a double bedroom, bathroom and an open-plan kitchen/living/dining area that interfaces with a covered outdoor deck.

The cabins are orientated to face each other with a c. 3.5m wide landscaped area in between. On the north side of each cabin is a detached open-sided, timber-framed, roofed structure, housing an outdoor hot tub and edged with raised planters.

- 2.3.** The statutory notices refer to 'all associated site works', but don't call up specific details. In the context of the application, I would consider that access, car parking, foul / surface water drainage and boundary treatments constitute associated works and thus form part of the application for retention. Access and boundary treatments are outlined under Section 1.0 above. The application indicates 2no. car parking spaces provided within the gravel yard; wastewater is treated via an existing on-site septic tank; and surface water run-off disposal via on-site soak pits.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning permission was refused for the following reasons:

- 1. The subject site is zoned 'HA' High Amenity under the Fingal Development Plan 2023-2029' the objective of which is to 'protect and enhance high amenity areas'. The Vision for this zoning objective seeks to protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. Having regard to the nature and design of the proposal comprising the retention of no. 2 cabin structures providing tourism accommodation, the proposal is an inappropriate form of development which undermines the character of the Highly Sensitive Landscape and the special character of the coast. As such, the proposed development would materially contravene the 'HA' zoning objective pertaining to the subject site and Objective GINHO59 - Development and Sensitive Areas, would set an undesirable precedent for similar type development in this highly sensitive landscape and would therefore be contrary to the proper planning and sustainable development of the area.*

2. *The site is located along a local road which is inadequate in terms of width, alignment & surface condition and where sightlines are substandard and limited by the development on the subject site. The proposed development, would, therefore, be contrary to the proper planning and development of the area and would endanger public safety by reason of traffic hazard.*
3. *Based on the information submitted, the Planning Authority is not satisfied that adequate foul drainage arrangements are in place to serve the development. The development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.*
4. *Based on the information submitted, the Planning Authority is not satisfied that the development individually, or in combination with other plans or projects would not be likely to have a significant effect on any Natura 2000 site. The Planning Authority is therefore precluded from granting permission.*
5. *Having regard to the proximity of the development to a coastline at risk from coastal erosion, and the provisions of Objective DMSO163 relating to Coastal Erosion as set out in the of the Fingal Development Plan 2023-2029, the applicants have failed to demonstrate the potential impact of the proposed development on erosion or deposition and the predicted impacts of climate change on the coastline and any potential mitigation measures which could be employed to address coastal erosion in this location. On the basis of the foregoing, the proposal would contravene materially Objective DMSO163 of the Fingal Development Plan and would if permitted, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report contains an assessment of the development to be retained. Points of note include:

- The form of tourist accommodation proposed does not fall within a 'Permitted in Principle' or 'Not Permitted' use under the 'HA – High Amenity' land use

zoning matrix, therefore the development is assessed in terms of its contribution towards achieving the zoning objective and vision.

- Inappropriate form of development in a highly sensitive location, would set an undesirable precedent for similar type development, would detract from the visual amenities of the area, and would not contribute to the vision of the zoning objective, therefore would materially contravene the High Amenity zoning objective.
- By reason of the design of the cabin structures and boundary treatment, the proposal would detract from the scenic value of the area and have a negative impact on the visual amenities of the area, contrary to Objective GINHO59 (Development and Sensitive Areas).
- Development would not cause any residential amenity concerns such as overlooking, overshadowing or overbearing impacts.
- Site layout plan includes a mobile home, not referenced in the public notices. Planning status of same is not clear.
- Proposal would create a traffic hazard by reason of inadequate sightlines; application does not include drawings to demonstrate sightlines on Six Cross Lane.
- Insufficient information provided with respect to wastewater treatment.
- No supporting documentation to address Objective DMSO163 with respect to coastal erosion.
- Insufficient information provided on wastewater treatment and surface water management to conduct Appropriate Assessment screening.

### 3.2.2. Other Technical Reports

- Water Services: Additional information sought on the existing septic tank and surface water management.
- Transportation Planning Section: Six Cross Lane is substandard in width, alignment and surface condition with no footpaths; any increase in traffic on the road is not advised; proposed development is not supported due to the substandard vehicular and pedestrian access; and the proposed development

is considered a traffic hazard due to substandard sightlines limited by development on the site.

- Parks and Green Infrastructure Division: Site is within 100m of an Annex 1 Habitat and the coastline, thus vulnerable to erosion. The proposal is not in line with HA zoning objective and vision for the sensitive landscape.
- Ecologist: Proximity to North-West Irish Sea SPA designated for the protection of wintering and breeding birds. Due to the nature of the development and local topography, construction stage unlikely to cause noise, dust or visual impacts on the SPA. Full AA screening not possible in the absence of information on wastewater treatment system, soakaways and disposal of wastewater from hot tubs. Recommended that an AA screening report be requested by way of further information.

### **3.3. Prescribed Bodies**

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: No objection in principle, with a request for standard conditions in respect of water services connections.

### **3.4. Third Party Observations**

3.4.1. 1no. submission received during statutory consultation period, as follows:

Jason & Mary Philbin, Argyle Lodge, North Beach, Rush, Co. Dublin

Submission can be summarised as follows:

- High Amenity zoning
- Unauthorised development comprising mobile home, log cabins, hot tubs, new external wall and gates
- Adequacy of septic tank
- Car parking
- Access and traffic congestion on Six Cross Lane

## 4.0 Planning History

### 4.1. Appeal Site

None as per planning register.

### 4.2. Surrounding Area

#### Site to the east

**P.A. Ref. F06A/1895 / ABP Ref. 222353** – refers to a 2007 refusal for retention of a mobile home and septic tank.

#### Site to the north

Numerous decisions between 2000 and 2018 relating to the middle property of the three properties immediately north of the appeal site, with the most recent decisions being as follows:

**P.A. Ref. F10A/0192 / ABP Ref. 237277** – refers to a 2010 grant of permission for retention of chalet structure and for use of same as horticultural shed.

**P.A. Ref. F15A/0245 / ABP Ref. 245325** – refers to a 2015 refusal for retention of chalet structure for residential use.

**P.A. Ref. F18A/0500 / ABP Ref. 302998** – refers to a 2019 refusal for retention of chalet structure for residential use and connection to mains sewer.

## 5.0 Policy Context

### Fingal Development Plan 2023-2029

- The appeal site, located outside the development boundary for Rush town, is zoned ‘HA – High Amenity’, the objective of which is ‘*to protect and enhance high amenity areas*’, and the vision of which is to ‘*Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored.*’
- Objective CSO51 – Support Growth of Self-Sustaining Towns
- Policy GINHP28 – Protection of High Amenity Areas



- Objective GINHO67 – Development and High Amenity Areas
- Green Infrastructure Map 1 – Highly Sensitive Landscape (Coastal)
- Objective GINHO58 – Sensitive Areas.
- Objective GINHO59 – Development and Sensitive Areas
- Green Infrastructure Map 2 – Area within 100m of Coastline Vulnerable to Erosion
- Policy GINHP29 – Development and the Coast
- Objective GINHO73 – New Development and the Coast.
- Objective GINHO74 – Pattern of Coastal Development
- Objective GINHO75 – Prohibition of Coastal Development
- Objective GINHO76 – Development and Risk of Coastal Erosion
- Strategic Objective 13 - Support the development of the tourism industry
- Policy EEP22 – Tourism Infrastructure
- Objective IUO9 – Surface Water Drainage Systems
- Objective IUO10 – SuDS – Nature-Based Solutions
- Objective IUO11 – SuDS in New Developments
- Objective IUO15 – Surface Water Management Plan
- Section 14.20.2 – Wastewater Treatment
- Objective DMSO200 – EPA's Code of Practice for Domestic Wastewater Treatment Systems
- Table 14.19: Car Parking Standards
- Objective DMSO118 – Road Safety Measures
- Objective DMSO1 – Screening for Appropriate Assessment
- Objective DMSO163 – Coastal Erosion

## **5.1. Natural Heritage Designations**

The subject site is not within or immediately adjacent to any Natura 2000 or designated sites. The North-West Irish Sea SPA (Site Code: 004236) is the closest Natura 2000 site at c. 115m to the east. The closest designated site, apart from Natura 2000 sites, is the Rogerstown Estuary pNHA (Site Code: 000208), located c. 1.5km to the south of the site.

## **5.2. EIA Screening**

Refer to Form 1 in Appendix 1. Class 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for holiday villages which would consist of more than 100 holiday homes outside built-up areas.

Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the development to be retained and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the development. EIA, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A First Party appeal has been submitted on behalf of the applicant against the Planning Authority's decision to refuse permission.

The grounds of appeal are summarised as follows:

- Acknowledges the 'High Amenity' zoning objective and use of the structures.
- Proposal comprises tourism accommodation provided in a sensitive manner, benefiting the economic sector of Rush.
- Optimal use of the site, high quality development, consistent with the character of the surrounding area and contributing to the receiving environment.
- Will not negatively affect the sustainable development of the area.

- Refers to Fingal Development Plan policy in respect of replacement of chalets and seaside huts.

## **6.2. Planning Authority Response**

A submission received on 9th August 2024 states that, having reviewed the first part appeal, the Planning Authority has no further comment to make on the proposal, and requests An Bord Pleanála to uphold the decision of the Planning Authority.

In the event that the appeal is successful, the Planning Authority requests that conditions requiring financial contributions and/or Bonds in accordance with the Section 48 Development are included.

## **6.3. Observations**

None received.

## **6.4. Further Responses**

None received.

## **7.0 Assessment**

I would note firstly that the application drawings refer to an 'Existing Mobile Home' on the site. The statutory notices make no reference to same, with the Planning Officer's Report making a similar observation. This is a matter for the Planning Authority to pursue through the appropriate channels and does not form part of my assessment.

The appeal received is first party versus the Planning Authority's decision to refuse permission for 2no. cabins for tourism related use and seeks to address the reasons for refusal of same. Having examined the application details and all other documentation on file, including the first party appeal, site inspection and having regard to the relevant policies and objectives, I am satisfied that the main issues to be considered are those relating to the Planning Authority's reasons for refusal. I am satisfied that no other substantive issues arise. The main issues in determining this appeal are as follows:

- Principle of Development / Zoning

- Design and Visual Impact
- Access and Road Safety
- Wastewater Treatment
- Coastal Erosion
- Appropriate Assessment

## **7.1. Principle of Development / Zoning (Reason for Refusal No. 1)**

- 7.1.1. The proposal seeks retention permission of 2no. chalet style modular cabins for tourist accommodation on land zoned 'HA – High Amenity', the objective of which is '*to protect and enhance high amenity areas.*'
- 7.1.2. The First Part Appeal received acknowledges the 'High Amenity' zoning objective and use of the structures but contends that the proposal constitutes the optimal use of the site and will not negatively affect the sustainable development of the area.
- 7.1.3. In Appendix 7 to the Fingal Development Plan, 'Holiday Home / Holiday Apartments' is defined as '*The use of a building, or part thereof, for short term holiday-related accommodation*'. I am satisfied that the use of the cabins falls under this use class definition.
- 7.1.4. Under the land use matrix for the High Amenity zoning, 'Holiday Home / Apartments' is a use which is 'Permitted in Principle' with a footnote specific to that use class that reads '*Only permitted where the development involves conversion of a protected structure*'.
- 7.1.5. The Planning Officer's report considered that the type of tourism accommodation use does not fall within the 'Permitted in Principle' or 'Not Permitted' category therefore should be assessed in terms of its contribution towards achieving the High Amenity zoning objective and vision, and concluded that by reason of its nature, design and location, the development to be retained materially contravened the High Amenity zoning objective, being the basis for the Planning Authority's first reason for refusal.
- 7.1.6. Notwithstanding the above, based on the wording of the footnote, it is unambiguous, in my opinion, that the use of land for 'Holiday Home / Apartments', where it does not involve conversion of a protected structure, is not permitted in the High Amenity zoning.

- 7.1.7. The first party appeal places much emphasis on the Development Plan policy around the replacement of chalets and seaside huts. Policy SPQHP57 and Objective SPQHO100 allow consideration in exceptional circumstances for the replacement or conversion of existing coastal chalets and seaside huts by dwellings which can be resided in all the year round. The development does not comprise replacement of existing coastal chalets or seaside huts, therefore Policy SPQHP57 and Objective SPQHO100 do not apply.
- 7.1.8. Having regard to the foregoing, I consider that the development, by reason of its use for a new build tourist accommodation, materially contravenes the High Amenity zoning objective. I recommend, therefore, that the development to be retained is refused permission on this basis.
- 7.1.9. Policy EEP22 supports development of tourism infrastructure, visitor attractions and supporting facilities at appropriate locations in the County in a manner that does not have an adverse impact on the receiving areas and the receiving environment. Having regard to the zoning objective and nature of the development, I consider that the proposal is contrary to Policy EEP22.

## **7.2. Design and Visual Impact (Reason for Refusal No. 1)**

- 7.2.1. The appellant submits that the proposal comprises a high-quality development, consistent with the character of the surrounding area and contributing to the receiving environment.
- 7.2.2. The proposal comprises retention of 2no. cabins, both with an eaves height of c. 2.3m and a ridge height of c. 3.05m. With a relatively low building height, the cabins are only partially visible from the public road due to the nature and height of the boundary wall and sliding timber gate. The boundary wall is of concrete block construction, capped but not rendered / plastered. The wall extends around the full perimeter of the site, with the drawings indicating a height of between c. 2m and 2.5m along the site frontage to Six Cross Lane. The statutory notices do not refer specifically to the boundary wall, rather 'all associated site works'.
- 7.2.3. Under the Fingal Development Plan's Landscape Character Assessment (LCA), the site is located within the Coastal Character Type, categorised as having an exceptional landscape value and being highly sensitive in terms of vulnerability to change. Section 9.6.17 of the Fingal Development Plan outlines that the High Amenity zoning has been

applied to areas of the County of high landscape value. The objective of the High Amenity zone is '*to protect and enhance high amenity areas*'.

Policy GINP28 and Objective GINHO67 seek to protect High Amenity Areas from inappropriate development and reinforce their character, distinctiveness and sense of place. Objective GINHO58 seeks to resist development that would interfere with the character of highly sensitive areas, whilst Objective GINHO59 seeks to ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas, and states that new development in highly sensitive areas shall not be permitted if it causes unacceptable visual harm.

I also note Objective GINHO74, which seeks to strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards and sited appropriately so as not to detract from the visual amenity of the area.

- 7.2.4. The Planning Authority concluded that by reason of its nature, design and location, the cabins are an inappropriate form of development in a highly sensitive location, would set an undesirable precedent for similar type development, would detract from the visual amenities of the area, and would not contribute to the vision of the zoning objective, therefore would materially contravene the High Amenity zoning objective and contrary to Objective GINHO59 (Development and Sensitive Areas), forming the basis for Reason for Refusal No. 1.
- 7.2.5. I consider that the front boundary wall is a key component of the overall development, the incremental increase in height between 2009 to 2023 is evident from a review of Google Maps Street View. The two cabins are positioned c. 1.7m from the front boundary with the front elevations facing inwards towards each other, therefore the southern side elevations of the cabins, comprising the only bedroom window, along with the side profile of the open deck, are interfaced within 1.7m of the public road. In the absence of the boundary wall, as constructed, the level of privacy afforded to the cabins would be significantly diminished.
- 7.2.6. The boundary wall is unrendered and extends to over 2m in height along the road frontage, which, I consider, is a poor interface with the public realm and results in a negative impact on the visual amenity of the area particularly in the context of the site's prominent location close to Rush North Beach and within a high amenity area. Furthermore, and notwithstanding the scale of the boundary wall which conceals the

site from public view, it is my opinion that the cabins, by reason of their modular nature and design, do not contribute positively to the visual amenity of a high amenity area.

- 7.2.7. Based on the foregoing, I consider that by reason of the nature, design and location of the modular units and by reason of the nature and height of the boundary wall, the proposal would cause a significant and negative impact on the visual amenity of a highly sensitive area, contrary to Objective GINHO67 (Development and High Amenity Areas), Objective GINHO59 (Development and Sensitive Areas) and Objective GINHO74 (Pattern of Coastal Development) of the Fingal Development Plan. I recommend, therefore, that the development to be retained is refused permission on this basis.

### **7.3. Access and Road Safety (Reason for Refusal No. 2)**

- 7.3.1. The proposal is accessed by a vehicular entrance on Six Cross Lane, comprising concrete block piers and a timber sliding gate, all being of c. 2m in height.
- 7.3.2. Section 14.17.6 of the Fingal Development Plan states that in the assessment of planning applications for new development, the safety of all road users will be a primary consideration. In turn, Objective DMSO118 promotes road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.
- 7.3.3. The First Party Appeal makes no specific reference to road safety issues and has not provided any supporting evidence, drawings or otherwise, to address this reason for refusal; rather, as a general statement, submits that the proposal is a high-quality development and will not negatively affect the sustainable development of the area.
- 7.3.4. The Planning Officers Report notes that the application did not include a drawing demonstrating available sightlines at the vehicular entrance. Fingal County Council's Transportation Planning Section, in its report, describes Six Cross Lane as being substandard in width, alignment and surface condition with no footpaths. The report concludes that the development is not supported due to the substandard vehicular and pedestrian access and is considered a traffic hazard due to substandard sightlines limited by development on the site.
- 7.3.5. At the time of a site inspection, I did not observe a speed limit sign for the road, however I note that the report of Fingal County Council's Transportation Planning Section refers to a 30km per hour speed limit. The site layout plan indicates that the entrance is set back between c. 1m and 1.3m from the road edge. By reason of this

setback from the road and the height of the piers and boundary wall at c. 2m, I am of the view that sightlines are restricted at the entrance. I consider that this presents a traffic hazard on Six Cross Lane, contrary to Section 14.17.6 and Objective DMSO118 of the Fingal Development Plan. Therefore, I recommend that the development is refused permission on this basis.

#### **7.4. Wastewater Treatment (Reason for Refusal No. 3)**

- 7.4.1. The site layout plan indicates that the cabins are connected to an existing on-site septic tank. There is no record of a grant of planning permission for the existing septic tank on site and the applicant has not provided any information on the status of same.
- 7.4.2. The Planning Authority concluded that, based on a lack of information submitted, it was not satisfied that adequate foul drainage arrangements are in place to serve the development, and as such the development would be prejudicial to public health.
- 7.4.3. Section 14.20.2 of the Fingal Development Plan states that in the rural area wastewater treatment systems will only be considered where it is not feasible to connect to the public foul sewerage system and will be subject to full compliance with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses 2021; with Objective DMSO200 requiring that domestic effluent treatment plants and percolation areas serving rural houses or extensions shall comply with the requirements of the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent <10), 2021. I consider the current appeal one such scenario.
- 7.4.4. In the absence of supporting evidence, I am not satisfied that adequate foul drainage arrangements are in place to serve the development and therefore the development would potentially be prejudicial to public health and contrary to the proper planning and sustainable development of the area. I recommend, therefore, that the development is refused permission on this basis.

#### **7.5. Coastal Erosion (Reason for Refusal No. 5)**

- 7.5.1. Section 14.18.4 of the Fingal Development Plan outlines that coastal development must take account of the changing and dynamic nature of the coast and the need for coastal protection. On Green Infrastructure Map 2 (Sheet 15) of the Fingal Development Plan, the site is contained within an 'Area within 100m of Coastline Vulnerable to Erosion'. Objectives GINHO76 and DMSO163 prohibit new



development outside urban areas and within the 100m designated area, as is the current site, unless it can be objectively established based on the best scientific information available at the time of the application, that the likelihood of erosion at a specific location is minimal taking into account, inter alia, any impacts of the development on erosion or deposition and the predicted impacts of climate change on the coastline.

- 7.5.2. The Planning Authority concluded that in the absence of supporting documentation in respect of any potential impact of coastal erosion on the site, the proposal would contravene materially Objective DMSO163 of the Fingal Development Plan.
- 7.5.3. I have reviewed Green Infrastructure Map 2 and note that the 'Vulnerable to Erosion' designation is applied only to parts of the coastline, rather than a blanket designation, which, in my opinion, places more emphasis on ensuring that new development, particularly on greenfield sites, is properly scrutinised as per Objectives GINHO76 and DMSO163. In this regard, noting the proximity of the subject site to the coastline, and in the absence of scientific information or evidence put forward by the applicant, I concur with the concerns expressed by the Planning Authority and I consider the proposal to be contrary to Objective GINHO76 and Objective DMSO163. As such, I recommend that permission be refused in this regard.

#### **7.6. AA Screening (Reason for Refusal No. 4)**

- 7.6.1. The issue around wastewater treatment and the use of an existing septic tank is central to the Planning Authority's screening determination for appropriate assessment, which was informed by a report received from the Council's Ecologist and concluded that the applicant provided insufficient information on wastewater treatment and surface water management to conduct AA screening, thus Reason for Refusal No. 4.
- 7.6.2. The site is located c. 115m west of the North-West Irish Sea SPA (Site Code: 004236). Of relevance is that according to the Geographical Survey of Ireland (GSI) Groundwater Vulnerability Mapping, the site is underlain by a groundwater vulnerability rating of 'extreme', being groundwater that readily and quickly receives water, including any contaminants, from the land surface, meaning that water and any contaminants discharged to the groundwater are not attenuated to the same degree compared to water discharged to groundwater with lesser vulnerability.

- 7.6.3. Refer to the AA Screening in Appendix 2. On the basis of the limited information provided with the application and appeal, I am not satisfied that the development individually, or in combination with other plans or projects, would not adversely affect the integrity of European sites proximate to the site, namely the North-West Irish Sea SPA (Site Code: 004236) in view of the site's Qualifying Interests and Conservation Objectives, or other European Sites. In such circumstances the Board is precluded from granting permission.

## 8.0 Recommendation

I recommend that planning permission be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The development, for which retention permission is sought, is situated in an area zoned 'HA' - High Amenity, for which the objective is "*to protect and enhance high amenity areas*", as per the Fingal Development Plan 2023-2029. 'Holiday Home / Apartments' is defined under the Fingal Development Plan 2023-2029 as '*The use of a building, or part thereof, for short term holiday-related accommodation*'. The use of land for 'Holiday Home / Apartments', in the High Amenity zone is 'Permitted in Principle' only where it involves conversion of a protected structure, otherwise the use is not permitted. By reason of the use / nature, design and location of the cabins and by reason of the nature and height of the boundary wall interfacing with public road, the proposal would materially contravene the High Amenity zoning objective and cause a significant and negative impact on the visual amenity of a highly sensitive area, contrary to Objective GINHO67, Objective GINHO59 and Objective GINHO74 of the Fingal Development Plan 2023-2029, and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the information on file, it is considered that the development, by reason of substandard sightlines, would present a traffic hazard for road users on Six Cross Lane and is therefore contrary to Objective DMSO118 of the Fingal Development Plan 2023-2029, and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the information on file, the Board is not satisfied that the applicant has demonstrated that the arrangements provided for dealing with wastewater disposal from the development are adequate to cater satisfactorily for the development, that the development would not contribute to groundwater pollution at this location or that it would not be prejudicial to public health and would not cause pollution that would adversely affect ground water quality to the North Rush Beach and Irish Sea, and the integrity of North-West Irish Sea SPA (Site Code: 004236) or any other European Site, in view of the sites' conservation objectives. Accordingly, the Board is precluded from granting permission.
4. The development is situated in an area that is identified in the Fingal Development Plan 2023-2029 as being at risk of coastal erosion. Based on the information submitted, the applicant has failed to demonstrate the potential impact of the development on erosion or deposition and the predicted impacts of climate change on the coastline and any potential mitigation measures which could be employed to address coastal erosion in this location, contrary to the requirements of Objective DMSO163 of the Fingal Development Plan 2023-2029, and therefore would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Jim Egan  
Planning Inspector

21<sup>st</sup> October 2024

---

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	320173-24		
<b>Proposed Development Summary</b>	Retention of 2 cabins and all associated site works		
<b>Development Address</b>	Braxton Lodge, Unit 1 and 2, Six Cross Lane, Rush, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>			
<b>Yes</b>	X	Class 12(c) - Holiday villages which would consist of more than 100 holiday homes outside built-up areas	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	320173-24	
<b>Proposed Development Summary</b>	Retention of 2 cabins and all associated site works	
<b>Development Address</b>	Braxton Lodge, Unit 1 and 2, Six Cross Lane, Rush, Co. Dublin	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>Proposal for retention of 2no. cabins for tourist accommodation on land zoned 'High Amenity'. However, the proposal is not considered exceptional in the context of the existing rural environment.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposal will be connected to an existing septic tank on site. While sufficient information on the septic tank has not been provided, it is not considered that the development would result in the production of any significant waste, emissions or pollutants.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Site measuring 0.063 ha. The floor area of each cabin is c. 31.5sq.m. The proposal is not considered exceptional in the context of the existing rural environment.</p>	No
	<p>There are no other developments under construction in the proximity of the site.</p>	No

[illegible]

**Inspector:** \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix 2

### AA Screening

I have considered the development, comprising retention of 2no. cabins and all associated site works, in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

A report received by the Planning Authority from the Council's Ecologist contained the following main points:

- The site is located 115m west of the North-West Irish Sea SPA which is designated for the protection of wintering and breeding birds that feed in the pelagic zone.
- Due to the nature of the development and local topography, construction stage was unlikely to have caused noise, dust or visual impacts on the North-West Irish Sea SPA.
- Potential for significant effects on the SPA are limited to potential hydrological impacts during construction and operational phase of the development.
- AA screening not possible in the absence of information on wastewater treatment system, soakaways and disposal of wastewater from hot tubs.
- Recommended that an AA screening report be requested by way of further information.

### European Sites

One European site is identified as being located within a potential zone of influence of the development. The North-West Irish Sea SPA (Site Code: 004236) is located c. 115m east of the site.

European Site	Qualifying Interests	Distance	Connections
North-West Irish Sea SPA (Site Code: 004236)	Red-throated Diver ( <i>Gavia stellata</i> ) [A001] Great Northern Diver ( <i>Gavia immer</i> ) [A003] Fulmar ( <i>Fulmarus glacialis</i> ) [A009] Manx Shearwater ( <i>Puffinus puffinus</i> ) [A013]	115m	Yes, proximity

	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Common Scoter (<i>Melanitta nigra</i>) [A065]</p> <p>Little Gull (<i>Larus minutus</i>) [A177]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Great Black-backed Gull (<i>Larus marinus</i>) [A187]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Puffin (<i>Fratercula arctica</i>) [A204]</p> <p><a href="https://www.npws.ie/protected-sites/spa/004236">https://www.npws.ie/protected-sites/spa/004236</a></p>		
--	--	--	--

**Conservation Objectives are as follows:**

North-west Irish Sea SPA

- To maintain the favourable conservation condition of the following Qualifying Interests:
  - red-throated diver
  - great northern diver
  - manx shearwater
  - common scoter
  - black-headed gull
  - common gull
  - lesser black-backed gull
  - great black-backed gull
  - roseate tern
  - common tern
  - Arctic tern
  - little tern
  - guillemot
  - razorbill
  - little gull
- To restore the favourable conservation condition of the following Qualifying Interests:
  - Fulmar
  - Cormorant
  - Shag
  - herring gull
  - kittiwake
  - puffin

### **Likely impacts of the project**

A screening report for Appropriate Assessment or Natura Impact statement was not submitted with the application nor with the First Party Appeal. In evaluating the development in relation to Appropriate Assessment and the likelihood of a 'Likely Significant Effect' on the adjacent Natura 2000 sites, it is evident that initial screening cannot definitively exclude the need for further assessment. While the absence of a surface water pathway connecting the site with the North-West Irish Sea SPA is noted, the possibility of pathways via groundwater cannot be outright dismissed, primarily due

to the proximity of the site to the adjacent Natura 2000 sites, being c. 115 meters away in respect of the North-West Irish Sea SPA.

Taking into account the characteristics of the development, which includes connection to an existing on-site septic tank for wastewater and soakaways run-off, and uncertainty in respect of the discharge of wastewater from the hot tubs, it is important to consider the potential implications of drainage on water quality of the immediate surroundings.

The applicant has not provided any information to demonstrate that the existing septic tank is operating in accordance with the relevant EPA Code of Practice. In the absence of knowledge on the operational capacity of the septic tank, it is unclear as to whether or not correctly treated wastewater is discharging to the local ground water network. Furthermore, the applicant has not provided any supporting information on the capacity of the existing soakaways or on the drainage associated with the hot tubs.

Having reviewed Geographical Survey of Ireland (GSI) Groundwater Vulnerability Mapping, I note that the site is underlain by a groundwater vulnerability rating of 'extreme', being groundwater that readily and quickly receives water, including any contaminants, from the land surface, meaning that water and any contaminants discharged to the groundwater are not attenuated to the same degree compared to water discharged to groundwater with lesser vulnerability.

On the basis of the limited information provided with the application and appeal, in terms of the unknown quality of treated wastewater discharging to the ground, nature and capacity of the soakaways, or discharge of wastewater from the hot tubs, in conjunction with the potential for a groundwater connection to North Rush Beach, I am not satisfied that the development individually, or in combination with other plans or projects, would not adversely affect the integrity of European Sites proximate to the site, namely the North-West Irish Sea SPA (Site Code: 004236), in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.