



An
Bord
Pleanála

Inspector's Report

ABP-322053-25

Development

Retention of demolition of dwelling;
permission for the construction of a
dwelling with waste water treatment
unit and all associated site works.

Location

Pucky Lane, Garristown, Co. Dublin,
A42 PW08

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/1113E

Applicant(s)

KGLC Trust Ltd.

Type of Application

Permission and Retention

Planning Authority Decision

Type of Appeal

First Party

Appellant(s)

KGLC Trust Ltd.

Observer(s)

1. Garristown Community Council
2. Evelyn Lennon
3. John Dennedy
4. Darina Ryan

Date of Site Inspection

6th June 2025

Inspector

Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Garristown, Co. Dublin, to the south-west of the village itself, and is accessed on its northeast side via Pucky Lane (a narrow single carriageway local access road) which connects to the L5040 Garristown Road to the south and the L5007 and L1005 local roads to the north. The wider area is rural in character and features a mix of agricultural lands and one-off housing in a variety of sizes and designs.
- 1.2. The site is adjoined to the north-west by a detached dwelling setback from the road to the west by an agricultural field, to the south and south-east by one-off housing of 1.5 storeys in height – with the adjoining houses also being accessed off Pucky Lane.
- 1.3. The existing entrance to the site is located c. 100m from the junction of Pucky Lane and the L5040 which connects to the R130 leading to Garristown village. It is splayed and comprises of a c. 2m high wooden fence with inward opening vehicular gates which is setback from the edge of the road.
- 1.4. The generally rectangular site, which comprises of a partially constructed dwelling (foundations and partially constructed walls), a garage, a shipping container on its north-west side and an existing mobile home on its south-east side, is 1.098ha in area. The site is enclosed on all sides by mature trees, hedges and other vegetation with an earthen embankment (c. 2.5m high) topped with vegetation, hedges and sporadic trees defining its border with Pucky Lane. The site gently slopes toward Pucky Lane.

2.0 Proposed Development

- 2.1. The proposed development/ development to be retained comprises of:
 - (i) Retention permission is sought for: the demolition of the previously existing, substantially completed, single-storey residential dwelling on-site (as approved under ABP Ref. PL06F.204933) formerly known as 'The Green', Garristown, Co. Dublin (Eircode A42 PW08) and the erection of a partially constructed replacement dwelling and garage on-site.
 - (ii) Planning permission is sought for: the completion of the partially constructed replacement, single storey, 6-bedroom residential dwelling on-site; the completion of the partially constructed single storey detached garage structure

to the north-west of the replacement house; the provision of a gated site entrance (vehicular and pedestrian) off Pucky Lane to the east and a new gravel driveway to the replacement dwelling and garage structure; provision of an on-site waste water treatment unit to the front of the replacement dwelling; and, all ancillary works necessary to facilitate the development including landscaping, boundary treatments and drainage.

3.0 Planning Authority Decision

3.1. Decision

Permission/ retention permission refused on 12/02/2025 for 1 no. reason as follows:

- 1. The proposed development cannot reasonably be considered a replacement house but rather constitutes a new rural dwelling, subject to the provisions of the rural settlement strategy outlined in the Fingal Development Plan 2023-2029. The applicant has failed to demonstrate a genuine rural-generated housing need in accordance with Objectives SPQHO76 & SPQHO81 of the Fingal Development Plan 2023-2029 within the submission. As the applicant has not satisfactorily demonstrated compliance with these requirements, the proposed development would materially contravene the 'HA – High Amenity' and the 'RU – Rural' land use zoning objectives pertaining to the site and the rural settlement strategy of the Fingal Development Plan 2023-2029. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report (dated 12/02/2025) forms the basis of the assessment and recommends that permission be refused. Points of note in the report include:

- *Principle of Development* – based on a review of the site's planning history, site inspection and documentation on file, PA do not consider that previous structure on site (now demolished) was substantially completed or ever occupied and therefore, that existing dwelling (to be completed) does not constitute a

‘replacement dwelling’ but instead a new rural dwelling. **Refusal recommended on this basis.**

- *Housing Need & Compliance with Zoning* – applicant has not provided sufficient documentary evidence to demonstrate their genuine rural housing need in compliance with Objective SPQHO76 or SPQHO81 and, as such, the proposal would materially contravene the sites High Amenity (HA) and Rural (RU) zoning together with the Fingal rural settlement strategy. **Refusal recommended on this basis.**
- *Layout and Scale of Dwelling* – PA concerned that proposed 6-bedroom dwelling (with 5 ensembles) constitutes a B&B or hostel type accommodation arrangement rather than a family home (replacement family dwelling in this instance). Scale of proposal (386sq.m) is also considered inappropriately large for a family home. PA determined that the matter could potentially be dealt with by way of condition to prohibit commercial activity or the use of the dwelling as a B&B without a further grant of planning permission. Condition considered but not pursued by PA on account of recommendation of refusal.
- *Impact on Existing Residential Amenity/ Rural Landscape* – PA satisfied that no impacts would arise on account of siting, scale of site and, design and height of dwelling or garage.
- *Impact on Trees & Boundary Vegetation* – recommendation from P&GID that additional information needed on scheme landscaping proposals and extent of tree/ boundary removal to facilitate sightlines noted. FI considered by PA but not pursued on account of recommendation of refusal.
- *Access/ Mobility* – PA satisfied as to proposed bike and car parking arrangements. Recommendation from TPS to seek FI in respect to driveway width, sightlines and positioning of entrance gates and materiality of entrance noted but not pursued by PA on account of recommendation of refusal.
- *Water Services* – PA satisfied as to foul and surface water arrangements and note UE’s recommendation that the applicant submit an up to date PCE to UE on account of their confirmation of feasibility being 2 years out of date and uncertainty

around extent of water infrastructure works carried out on site to date. FI considered but not by PA pursued on account of recommendation of refusal.

- *Other* – PA consider mobile home in use as a residential premises (i.e. rather than a temporary site compound) and note that enforcement action in relation to same is ongoing.

3.2.2. Other Technical Reports

- *Transportation Planning Section (TPS) (report of 05/05/2025)* – seek further information in respect to reducing driveway width from 4.9m to 4m; recessing of entrance gates to a min. 6m from road edge with boundary treatments splayed; a reduction and change of materiality (to be bound road material) and gradient (max. 2.5%) of area of hardstanding adjoining the road; and, the provision of an amended drawing showing 90m sightline in either direction achieved with minimal tree/ hedgerow removal.
- *Water Services Department (WSD) (report of 20/01/2025)* - no objection subject to standard foul sewerage and surface water management conditions.
- *Parks and Green Infrastructure Division P&GID) (report of 20/01/2025)* – note evidence of recent roadside hedgerow removal and requirement to remove 2 no. existing trees on east corner of site to facilitate sightlines. Seek additional information in respect to landscaping proposals: boundary treatment plan, details of existing trees and hedgerows and external surface treatments.

3.3. Prescribed Bodies

Uisce Eireann (UE) (31/12/2024) – No objection in principle but note that applicant's pre-connection enquiry (PCE) is out of date. Request that new PCE is submitted to ascertain feasibility of connecting to UE network (Confirmation of Feasibility (CoF)) prior to commencement of development and that standard UE conditions attached if permission is forthcoming.

3.4. Third Party Observations

6 no. submissions were received at PA stage and raised the following issues:

- Concerns about existing and potential future commercial use of property.

- Non-compliance with site zoning and rural/ replacement dwelling policy.
- Concerns re: traffic hazard and pedestrian safety.
- Concerns re: impact on ecology and biodiversity and solar gain.
- Procedural and enforcement issues.
- Design of proposal is out of character with area.
- Ambiguities around legal entity/ ownership and proposed development.

4 no. of these submissions were received from the appeal observers (Garristown Community Council, Evelyn Lennon, John Dennedy and Darina Ryan). The issues they have raised are detailed in Section 8.3 of this report.

4.0 Planning History

4.1. Appeal Site

- 4.2. *P.A. Ref. F22A/0512* – Permission for a) Completion and reconfiguration of partially constructed dwelling previously permitted under Reg. Ref F03A/1099, with provision of additional raised floor within an altered dormer roof structure, 8 no. dormer windows, 8 no. rooflights at upper level and provision of solar panels; b) Change of use from dwelling house to Bed & Breakfast with 10 no. bedrooms living and dining and associated facilities at ground & first floors (385m²) with adjoining 2 storey 3 bed private residence (161m²) for caretaker/owner; c) Construction of standalone car garage building; d) All ancillary and associated site works including provision of new waste water treatment plant and 10 no. car parking spaces and sheltered bicycle rack for Bed & Breakfast, refused on 18/11/2022 for 2 no. reasons: 1. The structure on site not having extant permission for use as dwelling and being contrary to HA and RU zoning on account of same and proposed commercial use as a B&B; 2. Impact of intensive nature of proposed use on neighbouring residential amenity and traffic hazard.

P.A. Ref. F03A/1099 (ABP Ref. PL06F.204933) – Permission for new single storey u-shaped dwelling house (354sq.m), domestic garage, domestic car port and associated site works granted on appeal on 15/03/2004 subject to 8 no. conditions, including:

“1. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicants, members of the applicants’ immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant, and

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgage in possession or by any person deriving title from such sale.

Reason: *To ensure that the proposed house is used to meet the applicants’ stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area”.*

P.A. Ref. F97A/0288 (ABP Ref. PL06F.103216) – Permission for new dwelling house, garage and associated site works granted on appeal on 08/01/1998 subject to conditions.

P.A. Ref. 89A/130 – Permission for bungalow.

5.0 Policy Context

5.1. National Policy

Project Ireland 2040 – National Planning Framework (2025) – NPO28: siting and design criteria for rural housing.

Climate Action Plans (2024 & 2025) and Ireland’s 4th National Biodiversity Action Plan (NBAP) 2023-2030

Our Rural Future: Rural Development Policy 2021-2025

Design Manual for Urban Roads and Streets (DoHLGH, 2019)

EPA Code of Practice: Domestic Wastewater Treatment Systems (2021)

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (DoHLGH, 2007)

Sustainable Rural Housing Guidelines for Planning Authorities (DoHLGH, 2005).

5.1. **Regional Policy**

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 – Rural Areas: RPO 4.81 siting and design criteria for rural housing.

5.2. **Development Plan**

The Fingal Development Plan (FDP) 2023 – 2029 applies.

Zoning

- Section 13.5 (Zoning Objectives, Vision and Use Classes)
- The site is predominantly zoned 'Objective HA – High Amenity' with the Objective 'To protect and enhance high amenity areas'. The vision for 'HA' zoned lands 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'.
- The southern corner of the site is zoned 'Objective RU – Rural Areas' with the objective 'To protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'. The vision for 'RU' zoned lands is to 'Protect and promote the value of the rural area of the County'
- Residential development is 'Permitted in Principle' on HA and RA zoned lands subject to compliance with the Rural Settlement Strategy.
- The site is also located within a 'Highly Sensitive Landscape'.
- Section 9.6.17 (High Amenity Zoning) – zoning applies to areas of the County of high landscape value.
- Policy GINHP28: Protection of High Amenity Areas - Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

- Objective GINHO67: Development and High Amenity Areas – ensure development reflects and reinforces distinctiveness and sense of place of such areas.

Rural Settlement Strategy

Section 3.5.15 (Housing in Rural Fingal)

Section 3.5.15.3 (Fingal Rural Settlement Strategy Rural Generated Housing Need) – states that residential development in areas zoned RU, HA, GB and RC which is urban generated will be restricted to preserve the character of Rural Fingal and to conserve this important limited resource. Table 3.4.

Objective SPQHO74: Houses in HA Zoned Areas - permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.

Policies CSP46 and SPQHP46: Rural Settlement Strategy

Section 14.12.4 Replacement Dwellings – Rural: The Council promotes the sympathetic maintenance, adaptation, and re-use of vernacular buildings where they contribute to the character of the rural area and will support the appropriate revitalisation, re-use and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless strong justification is provided by the applicant in such instances.

Where replacement is accepted, the applicant shall clearly demonstrate as part of an application for demolition and replacement:

- The impact of the replacement structure on surrounding landscape and/or properties in the vicinity of the site, resulting from the design, location, layout, and size of the proposed dwelling.
- The appropriateness of demolition of the existing structure having regard to its existing setting, age, design, and overall contribution to the area.

Housing Design Guidance

Section 14.12.2 (Design Criteria for Housing in the Countryside)

Policy Highlighted by Appellant

Sections 14.13.3.3 – Private Open Space, 14.17.7 – Car Parking, 14.6.6 – External Factors for Consideration

POs DMSO71 (Overshadowing of Private Open Space)

DMSO72 (Boundary Treatment to Private Open Space)

DMSO23 – no such PO in FDP

CIO5053 (Open Space and Privacy)

Policy Highlighted by Observers

POs SPQH054 (Vehicular Entrances) and SPQHO55 (Preservation Of Roadside Hedging And Trees).

5.3. Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

The nearest European sites in close proximity to the appeal site are as follows:

- River Boyne and River Blackwater SPA (Site Code 004232) – approx. 15km
- River Boyne and River Blackwater SAC (Site Code 002299) - approx. 15km
- North-West Irish Sea SPA (Site Code 004236) – approx. 16km
- River Nanny Estuary and Shore SPA (Site Code 004158) – approx. 16km
- Rogerstown Estuary SPA (Site Code 004015) - approx. 16km
- Rogerstown Estuary SAC (Site Code 000208) - approx. 16km

The site is also proximate to the following proposed Natural Heritage Areas:

- pNHA: 001576 - Cromwell's Bush Fen
- pNHA: 001204 - Bog Of The Ring
- pNHA: 000208 - Rogerstown Estuary
- pNHA: 000205 - Malahide Estuary
- pNHA: 000554 - Laytown Dunes/Nanny Estuary
- pNHA: 001579 - Balrath Woods

6.0 EIA Screening

The proposed development/ development to be retained has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendix 1 of this report). Having regard to the characteristics and location

of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 Water Framework Directive Screening

I have concluded, on the basis of objective information, that the proposed development/ development to be retained will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment (refer to form in Appendix 3 for details).

8.0 The Appeal

8.1. Grounds of Appeal

First party appeal submission received 11th March 2025 against the PA's decision to refuse permission. The grounds of appeal (GOA) can be summarised as follows:

Refusal Reason No. 1

Substantial Completion

- Pre-existing structure (permitted and constructed in accordance with PL06F.204933) was substantially completed (building envelope, external walls and roof fully erected in 2009 in accordance with the plans and particulars) prior to the expiry of this enacted permission on 29th April 2009.
- In light of the substantially completed status of the pre-existing property at the time of purchase (November 2021), the applicant should be permitted to provide a replacement dwelling (in line with Section 14.12.4 of FDP) without the requirement to demonstrate rural housing need or to obtain further consent/ grant of permission to occupy the property as a private dwelling.
- Post-purchase remedial repair and refurbishment works carried out under 4(1)(h) exempted development provisions which led to identification of major structural

defects in the structure's internal and external blockwork and floor slab (technical report to this effect provided as part of GOA and discussed in paragraph 9.1.8 of this report) as site had been left idle since works ceased in 2009 on account of economic difficulties.

- Demolition of pre-existing structure was warranted and unavoidable (not being fit for future habitation) and it was dismantled down to its foundation in the interests of health and safety. This process was distressing and costly for the applicant.
- FCC took enforcement action taken against its demolition and erection of new external brickwork in July 2023 and the applicant subsequently engaged in PAC with PA before lodging the application subject to appeal.
- Basis for PA's interpretation of what constitutes 'substantial completion' is unclear and Commission's interpretation on same is sought.

Replacement Dwelling

- Partially completed dwelling is a replacement dwelling (as provided for in Section 14.12.4 of the FDP) and does not constitute a new rural dwelling and, as such, the Fingal rural settlement strategy does not apply.
- Siting, scale and design of replacement dwelling (single storey bungalow) is very similar to pre-existing dwelling and will improve/ not give rise to negative impacts on its surroundings and will respect character of area, whilst contributing to climate action goals.
- Proposal also meets requirements of Section 14.12.3 of FDP re: rural dwellings.
- Proposal fully complies with 2007 Quality Housing Guidelines and with FDP private open space, overshadowing, privacy, car parking, and separation distance requirements.
- Existing access proposed to be kept and upgraded.
- Condition No. 1 attached to PL06F.204933 (which relates to the occupancy of the property) is not applicable on account of its caveated wording (re: sale of dwelling) and therefore, the applicant's purchase/ occupation of the dwelling is not non-compliant with same.

Zoning/ Policy Compliance

- Proposal is compliant with site zoning (HA and RU)
- Proposal accords with applicable FDP development management standards.

Procedural Issues

- PA assessment did not take account of enforcement correspondence/ applicant's notification to PA (in February 2023) that they intended to carry out repair & refurbishment works.
- Initial enforcement proceedings (March 2023) on site did not relate to repair/ refurbishment works to pre-existing structure and this meant that PA considered the pre-existing dwelling to be substantially complete.
- Note site's highly sensitive landscape designation and the fact that the PA's P&GI sought FI on landscaping proposals, access arrangements and on sightlines – which the applicant was not given opportunity to address. Seek the Commission attach conditions to satisfy same.
- Note UE requirement for a new PCE/ CoF and seek Commission condition same.
- PA's reference to a B&B/ hostel type layout in their report is inappropriate and not relevant to the proposal.

Response to Observations

- Proposal is for a permanent family home and no other/ commercial use (incl. B&B) is intended.
- Applicant is actively working to satisfy matters subject to enforcement.
- Proposal seeks to maximise retention of trees and natural boundaries and to supplement same to offset the loss of trees along Pucky Lane to facilitate required access sightlines.
- Proposed access and servicing strategy is well considered.

Ultimately, applicant seeks that PA's decision to refuse is overturned by the Commission.

The grounds of appeal are accompanied by the following documents: Appendix A – FCC Notification of Decision to Refuse dated 12/02/2025; Appendix B – Warning Letter of 07/10/2022; Appendix C – Applicant's letter to FCC re: remedial/ repair works

to pre-existing dwelling dated 02/02/2023; Appendix D – Enforcement Notice of 27/03/2023; Appendix E – Copy of Smart Test Solutions Limited survey test results for site; Appendix F – Enforcement Notice of 27/07/2023; Appendix G – Planning Consultant's Response to aforementioned Enforcement Notices dated 21/08/2023.

8.2. Planning Authority Response

Response dated 07/04/2025 reiterates the PA's refusal reasoning (1 no. reason) and states that, notwithstanding the contents of the grounds of appeal, the applicant has failed to demonstrate that the previous (now demolished) dwelling on site was never substantially completed, on the basis of it never achieving weathertightness/ being internally completed or being connected to drainage/ water/ electrical services, or that it was ever occupied and, on this basis the proposal could not constitute a 'replacement dwelling'. The PA seek that the appeal be dismissed in the first instance and failing that, request that the Commission attach conditions in respect to financial contributions, tree bond/ cash security and contribution in lieu of play facilities where they are minded to grant permission.

8.3. Observations

4 no. observations were received from neighbouring property owners. The issues raised therein are detailed below and are very similar in nature to those raised at planning application stage:

John Dennedy & Garristown Community Council (both received 07/04/2025)

- Non-compliance with zoning, rural settlement strategy & replacement dwelling policy.
- Existing development on site unauthorised and enforcement ongoing.
- Concerns re: future commercial use/ occupancy of proposed dwelling.
- Concerns re: capacity of Pucky Lane and related pedestrian/ traffic hazard.

Evelyn Lennon (received 04/04/2025)

- Impact of proposed access/ sightlines on biodiversity/ native hedges/ trees.
- Non-compliance with POs SPQH054 and S055PQH.
- Non-compliance with zoning, rural settlement strategy & replacement dwelling policy and no extant permission applies to site.

- Rural siting of proposal inappropriate and road infrastructure cannot support it.
- Concerns re: capacity of Pucky Lane and related pedestrian/ traffic hazard.
- Concerns re: planning history/ development of site & ongoing enforcement action.
- Procedural concerns.

Darina Ryan (received 07/04/2025)

- Existing development on site unauthorised and enforcement ongoing.
- Impact of proposal on native hedges, trees & biodiversity.
- Concerns re: capacity of Pucky Lane and related pedestrian/ traffic hazard.
- Concerns re: future commercial use/ occupancy of proposed dwelling.
- Procedural concerns.

Garristown Community Council (received 07/04/2025)

- Existing issues with local public water supply and sewage system at capacity.

8.4. Further Responses

None on file.

9.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, having inspected the site and, having regard to the relevant local/ regional/ national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Other

9.1. Principle of Development

Substantial Completion

- 9.1.1. The Commission previously granted permission for the construction of a large detached single storey dwelling on the site under P.A. Ref. F03A/1099 (ABP Ref. PL06F.204933) as detailed in Section 4.1 of this report.

- 9.1.2. The PA do not consider that the pre-existing structure was substantially completed on the basis that it was never occupied, internally completed, weathertight or connected to services.
- 9.1.3. The appellant is of the view that the pre-existing structure was constructed in accordance with its permission and that it was substantially completed on the basis of the building envelope, external walls and roof being fully erected in 2009 and prior to the expiry of said permission.
- 9.1.4. Having considered the information on file, including the various photos of the pre-existing dwelling provided as part of the GOA and its appendices, I note that the main external walls of this structure were erected and that the roof was partially completed with no glazing being provided and the interior of the structure being open to the elements.
- 9.1.5. The FDP provides no definition for what constitutes the 'substantial completion' of a property in accordance with its permission, but I note the PA's interpretation as outlined in paragraph 9.1.2. It would appear to me on the basis of the information on file (i.e. photos in the GOA of block work to eaves levels and some internal walls and roofing) detailed in paragraphs 9.1.4 and 9.1.14) that the structure was substantially complete.

Replacement House

- 9.1.6. The PA are of the view that the existing structure to be completed could not reasonably be considered to be a replacement dwelling as allowed for under Section 14.12.4 of the FDP. It is the PA's interpretation that the proposal constitutes a new rural dwelling, subject to the provisions of the rural settlement strategy outlined in the Fingal Development Plan 2023-2029. This view is strongly contested by the appellant in the GOA.
- 9.1.7. The appellant argues that, as the pre-existing house was substantially completed and in-situ at the time of their purchase of the property in November 2021, they should be permitted to provide a replacement dwelling without the requirement to demonstrate rural housing need or to obtain further consent/ grant of permission to occupy same.
- 9.1.8. I note that the applicant (KGLC Trust Ltd.) demolished the pre-existing dwelling which was granted permission under ABP Ref. PL06F.204933 and are now seeking retention permission for its demolition and are also seeking planning permission for, and to rely

on the FDP's replacement dwelling policy in order to allow, their completion of a partially constructed dwelling on site. Having reviewed the content of FDP Section 14.2.4 (Replacement Dwellings – Rural) I note that it makes reference to encouraging the re-use and retrofitting of structurally sound, habitable dwellings in good condition – allowing for their demolition and replacement in exceptional circumstances where the requirement is demonstrated. Having reviewed the investigative report provided in Appendix E of the GOA (which includes photos of the pre-existing structure showing its roof removed and being open to the elements), I note that it refers to cracking in the floors of the pre-existing dwelling with sub-floor aggregate sample test results showing that the building has significant existing and progressive damage. The report concludes by stating that while the results are not definitive, they indicate that the masonry may have poor durability, but that further testing is required in order to resolve uncertainty with regard to the extent of risk and potential causes of degradation. No evidence of further testing is provided with the GOA. On this basis, I am generally satisfied that there is sufficient information on file to provide a justification for the complete demolition of the pre-existing dwelling as required by Section 14.12.4 which requires the appropriateness of the demolition be justified on account of factors such as design and age.

Compliance with Condition No. 1 on ABP Ref. PL06F.204933

- 9.1.9. The original permission contained an occupancy clause in the form of Condition No. 1.
- 9.1.10. The GOA outline how and why Condition no. 1 attached to the grant under ABP Ref. PL06F.204933 was never complied with (as per the details in Section 8.1). Whilst acknowledging that Condition no. 1 (re: property occupancy requirement) attached to the aforementioned permission was not complied with, the appellant argues that the nature of the wording of this condition allowed for the sale of the property by the previous owner and would exempt a new owner (the applicant - KGLC Trust Ltd.) from being required to demonstrate their compliance with rural housing need policy.
- 9.1.11. I note that the previous owner did not comply with condition no. 1 prior to the expiry of the permission under ABP Ref. PL06F.204933, on account of financial difficulties in 2009, and that the property was subsequently sold to the applicant – an entity rather than an individual. Having reviewed the wording of the condition (provided in Section

4.1), I note that its reasoning refers to the need to “*ensure that the proposed house is used to meet the applicants’ stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area*”. On this basis, it is my view that the replacement house would also be governed by the stipulation in the condition that the grant of permission for a residential dwelling (and any replacement of same) on the site relates to an evidenced essential local housing need in the rural area – which has not been demonstrated by the applicant either as part of their planning application or in their grounds of appeal. Furthermore, I do not accept the appellant’s argument that the wording in the condition which states that “*This condition shall not effect the sale of the dwelling by a mortgage in possession or by any person deriving title from such sale*” means that the overall intent of the condition to restrict the development permitted to that which meets an evidenced local housing need would not apply to them as purchaser. Given the lack of information on file to demonstrate the applicant’s (KGLC Trust Ltd. – a commercial entity rather than an individual) housing need and compliance with Fingal’s settlement strategy and, as such, the proposal’s compliance with the site’s zoning which only allows for new residential development on RU and HA zoned lands where the applicant’s rural housing need has been adequately demonstrated in accordance with Section 3.5.15.3 (Fingal Rural Settlement Strategy Rural Generated Housing Need) of the FDP, I consider that permission should be refused.

Design, Siting, Layout and Visual Impact

- 9.1.12. In assessing the impact of the dwelling proposed to be completed on existing residential amenity and the character of the rural area, the PA were satisfied that no impacts would arise on account of the siting, design and height of dwelling and garage. The appellant is in agreement with this view, and they note that the proposal is very similar to pre-existing dwelling and will improve its surrounds and will respect the character of area.
- 9.1.13. The observers are concerned that the proposal is out of character with area and will negatively impact on existing residential amenity and the rural landscape.
- 9.1.14. Whilst I note the appeal site is located in a designated sensitive landscape, having considered the design of the proposal, planning history of the site and having visited

the site and observed the siting of the dwelling and the existence of dense natural boundaries that will be retained and supplemented in the main, I am satisfied that there is no potential for the proposal to give rise to negative impacts on existing residential amenities or on the local rural landscape and I am satisfied that it complies with Section 14.12.4 of the plan's replacement dwelling policy as it relates to the impact of the replacement structure on surrounding landscape and/or properties in the vicinity of the site, resulting from the design, location, layout, and size of the proposed dwelling.

Enforcement

- 9.1.15. The appellant raised a number of matters in respect of the nature and extent of enforcement action taken by the PA in respect to development on the site. Planning enforcement is a matter for the PA (falling within their remit) and is not a relevant consideration for the Commission in the context of this appeal.

Procedural Issues

- 9.1.16. The GOA outline a range of procedural issues with the PA's assessment of their proposal including not taking into account the appellant's enforcement correspondence and notification to the PA of works on site and not giving the appellant the opportunity to address their technical department's requests for FI in respect to access, sightlines and landscaping proposals. The matter of enforcement is dealt with under paragraph 9.2.4 above and the matters of access, landscaping and water servicing are addressed in subsequent sections of this report.
- 9.1.17. The appellant also takes issue with the PA and Observers concerns in respect to the proposed property being used as a commercial premises rather than as a private residential dwelling. Having reviewed the plans and description of development applied for in the statutory notices, I am satisfied that it is the latter use for which permission is sought and will be conditioned as such where the Commission are minded to grant permission.

Natural Heritage

- 9.1.18. 2 no. of the observers raise concerns about the impact of the proposal, and specifically the proposed access/ sightlines, on biodiversity and existing native hedges and trees in and around the site.

- 9.1.19. The GOA state that the proposal seeks to maximise the retention of trees and natural boundaries and to replace any that are lost due to safe access requirements.
- 9.1.20. In assessing the impact of the proposal on natural heritage, the case planner noted the recommendations of the TPS and P&GID that FI be sought from the applicant in respect to the nature and extent of landscaping proposals proposed sightlines being achieved whilst requiring minimal tree/ hedgerow removal. I note that this request for FI was not actioned on account of the decision to refuse on the grounds detailed in Section 3.1.
- 9.1.21. The appellant wished to be provided with an opportunity to provide this additional landscaping information to the PA and, whilst this information was not provided to the Commission as part of the grounds of appeal, they seek that a condition is attached to allow them to furnish this information where the Commission are minded to grant permission. The appellant also seeks to clarify that they have sought to maximise retention of trees and natural boundaries and to supplement same to offset the loss of trees along Pucky Lane to facilitate required access sightlines.
- 9.1.22. Having regard to the detail provided above and to my review of the plans and particulars on the file, I am satisfied that the detail of the proposed landscaping arrangements and the minor impact of the proposed sightlines on adjoining natural boundaries and trees can satisfactorily be addressed by condition in a way that complies with Objective SPQHO55 (roadside trees and hedging).

Access/ Mobility

- 9.1.23. 3 no. of the observers raise concerns in respect to the proposed access arrangements in the context of the risk to pedestrian safety and of traffic hazard along Pucky Lane.
- 9.1.24. The PA were satisfied as to proposed bike and car parking arrangements and noted the recommendation from TPS to seek FI in respect to driveway width, sightlines and positioning of entrance gates and materiality of entrance. This FI request was not pursued on account of the recommendation of refusal on more fundamental matters.
- 9.1.25. The appellant notes that the existing access is to be kept and upgraded, that the issue of access/ mobility has been well considered and that the proposed car and bike parking proposal comply with FDP requirements. The appellant goes on to state that they are willing to fully address the TPS requirements by way of condition.

- 9.1.26. Having visited the site and its surrounds and having regard to the detail provided above and to my review of the plans and particulars on the file – including the proposed sightlines, I am satisfied that the detail of the proposed driveway width, sightlines and positioning of entrance gates and materiality of entrance can each be addressed by condition in the event the Commission are minded to grant permission.

Water Services

- 9.1.27. The PA's WSD cited no objection subject to the proposal standard foul sewerage and surface water conditions. The PA also noted UE's request that the applicant submit an updated PCE and COF prior to the commencement of further development on site and considered that the matter could be addressed by FI were permission not to be refused. On this basis, I consider it appropriate that the matter of the feasibility of connecting to the UE network be addressed by condition where the Commission are minded to grant permission.

Housing Quality

- 9.1.28. The appellant considers that their proposal fully complies with 2007 Quality Housing Guidelines and with FDP standards in respect to private open space, overshadowing, privacy, car parking, and separation distance requirements. I note that the PA were also satisfied that this was the case and, on that basis, I consider that this matter was already adequately addressed at PA stage.

10.0 AA Screening

- 10.1.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development/ development to be retained individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within the Malahide Estuary namely, River Boyne and River Blackwater SPA (Site Code 004232), River Boyne and River Blackwater SAC (Site Code 002299), North-West Irish Sea SPA (Site Code 004236), River Nanny Estuary and Shore SPA (Site Code 004158), Rogerstown Estuary SPA (Site Code 004015) and Rogerstown Estuary SAC (Site Code 000208) or any other European site, in view of these sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

10.2. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European site.
- Distance from and weak indirect connections to the European sites.
- No significant ex-situ impacts on wintering birds.

See Appendix 2 for further details.

11.0 Recommendation

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

12.0 Reasons and Considerations

1. Having regard to the location of the site on lands which are predominantly zoned for 'HA – High Amenity' (and also for and 'RU - Rural') as per Map Sheet 2 'Fingal North' and Section 13.5 (Zoning Objectives, Vision and Use Classes) of the Fingal County Development Plan 2023-2029 and in an area where housing is restricted to persons demonstrating local need in accordance with Section 3.5.15.3 (Fingal Rural Settlement Strategy Rural Generated Housing Need), Table 3.4, of the Fingal County Development Plan 2023-2029, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for a dwelling at this location. The proposed development, in the absence of said housing need, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, 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.

Emma Gosnell

Planning Inspector

7th July 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ABP-322053-25
Proposed Development Summary	Retention of demolition of dwelling; permission for the construction of a dwelling etc. with waste water treatment unit and all associated site works.
Development Address	Pucky Lane, Garristown
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Part 2, Class 10(b)(i) Infrastructure – dwelling units</p> <p>Part 2, Class 1(a) - (rural restructuring/ hedgerow removal)</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322053-25
Proposed Development Summary	Retention of demolition of dwelling; permission for the construction of a dwelling etc. with waste water treatment unit and all associated site works.
Development Address	Pucky Lane, Garristown
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development is for a one-off house and garage, comes forward as a standalone project, does not require demolition works or the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. Notwithstanding, I note that demolition did take place and retention permission is sought for same. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is situated on a brownfield site and surrounded by agricultural land and other one-off rural dwellings within the townland of Garristown, Co Dublin. The development is removed from sensitive natural habitats, dense centres of population and designated sites and landscapes of identified significance in the County Development Plan.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration,	Having regard to the nature of the proposed development and development to be retained, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in Section 171A of the Act.

cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2 – AA Screening Determination

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposal for the retention of demolition of, and completion of, a dwelling etc. at Pucky Lane, Garristown, Co. Dublin in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located:

- Approx. 15km from River Boyne & River Blackwater SPA (Site Code 004232)
- Approx. 15km from River Boyne & River Blackwater SAC (Site Code 002299)
- Approx. 16km from North-West Irish Sea SPA (Site Code 004236)
- Approx. 16km from River Nanny Estuary and Shore SPA (Site Code 004158)
- Approx. 16km from Rogerstown Estuary SPA (Site Code 004015)
- Approx. 16km from Rogerstown Estuary SAC (Site Code 000208)

The proposed development comprises of the retention of demolition of dwelling; permission for the construction of a dwelling with waste water treatment unit and all associated site works.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Small scale nature of works/ development
- Location-distance from nearest European site and lack of connections
- Taking into account screening report/determination by LPA

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

Appendix 3

Screening the need for Water Framework Directive Assessment Determination.

The appeal site is located in the townland of Garristown, Co. Dublin.

The nearest watercourses are River Delvin (located c. 600m to the north-east) and to opposition side of Garristown village and River Hurley (located c. 1km to the north-west) which is separated from the site by an extensive bank of agricultural lands. There is no direct connection between the appeal site and these watercourses. The site is also situated within Lusk-Bog of the Ring groundwater body which is 'at risk' but identified as having a 'good' WFD status under the 2016-2021 monitoring period¹.

The proposal comprises of retention and completion of dwelling etc. as under construction with waste water treatment unit and all other site works – see Section 2.0 of Inspector's Report for further details.

No water deterioration concerns were raised in the planning appeal.

I have assessed the proposal for permission and retention permission (described above) at Garristown, Co. Dublin and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- The de-minimus small scale nature and scale of the proposal.
- The location-distance from nearest water bodies and/ or lack of hydrological connections.

Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

¹ Source: [EPA Maps](#) accessed 03/07/2025

