



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322514-25

<b>Development</b>	Retention of changes to a historic dwelling house and associated site works.
<b>Location</b>	Cherryfield Lodge, Linder's Lane, Burrow, Portrane, Co. Dublin, K36 X667
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F25A/0139
<b>Applicant(s)</b>	Lisa Dandy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Retention
<b>Type of Appeal</b>	First Party
<b>Date of Site Inspection</b>	13 <sup>th</sup> August 2025
<b>Inspector</b>	Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site contains a rectangular shaped site with a stated area of 0.12 hectares located to the east of Linder's Lane, a short cul-de-sac located to the north of Beach Lane, The Burrow, Portrane, Co. Dublin. The site is generally flat. On site is a detached single storey house and a detached garage to the west. A garden/ open space area is located to the front/ south of the house.
- 1.2. The area is characterised by detached units consisting of houses and holiday homes/ chalets located to the west of the beach. The majority of the sites adjoining the subject site are small and this forms a significant element of the character of the area – detached units on small sites. The coastline/ beach is approximately 144m to the east of the subject site.
- 1.3. Portrane is limited in terms of a settlement centre, but Portrane Green, approximately 810m to the south could be considered the centre, with a public house, a take-away and a small shop adjoining this public space. Donabate village is approximately 2.7km to the south west and offers a range of shops, schools, commercial and social facilities and there is also a station on the Dublin to Drogheda railway line.

## **2.0 Proposed Development**

- 2.1. The development consists of:
  - The retention of the demolition of a historic dwelling house.
  - The retention of a replacement dwelling – this is a single storey unit with a stated floor area of 84.18sqm, providing for three bedrooms, a living/ dining/ kitchen area, utility and bathroom. The house is similar in size/ design to that demolished though with a raised floorplate.
  - Detached garage with a stated floor area of 20.4sqm and a height of 2.9m.
  - New perimeter fencing to the north, west and east of the site with a height of 1.9m and a timber gate entrance.
  - Upgrading of the existing wastewater treatment system on site.
  - Associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse permission for this development for a single reason as follows:

‘The application submission fails to justify the requirement for a replacement dwelling at this location. No verifiable documentary evidence was received; the development fails to satisfy planning criteria in relation to appropriate design (excessive height); and, the submission fails to demonstrate that the site shall not be liable to the impacts of climate change, including coastal erosion and flooding. Granting permission for the development to be retained would set an undesirable precedent, given the failure to demonstrate compliance with development plan standards, and the overall poor quality of the application submission. The development to be retained is therefore considered contrary to Section 14.12.4, and Objectives SPQHO44, DMSO47, DMSO163, DMSO256 and GINHO76 of the Fingal Development Plan 2023-2029. The development is therefore considered contrary to the proper planning and sustainable development of the area.’

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

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

- The Planning Authority considered the nature of the development and recommended refusal of permission on the basis that the applicant did not submit adequate supporting documentation to enable a full assessment of this development. Sufficient details were available to allow the Planning Authority to reach a decision to refuse permission as the development as submitted would contravene elements of the Fingal Development Plan 2023 – 2029.

#### **3.2.2. Other Technical Reports**

- Water Services: Further information sought in relation to flood risk details specifically coastal flooding, details on finished floor levels, and a clarification on the submitted site specific flood risk assessment. Details to also be provided on flood resilience measures, flood evacuation plans, mitigation measures and

recommendations to be implemented. No objection to surface water and waste water details subject to conditions.

- Transportation Planning Section: No objection subject to conditions in relation to available sightlines and gates to not open across the public footpath or roadway.
- Parks Department: No objection to the development.

### 3.2.3. Conditions

- The PA conditions are generally standard. Condition no 2. requires a written agreement under Section 47 of the Planning and Development Act 2000 as amended for an occupancy agreement for at least seven years to be put in place. Notification of first occupation to be made within two months of such occupation. This is a standard condition for a development of this nature.

### 3.3. Prescribed Bodies

- No requests made.

### 3.4. Third Party Observations

- None received.

## 4.0 Planning History

There are no recent, relevant applications on this site.

## 5.0 Policy Context

### 5.1. Development Plan

The subject site is zoned RU – ‘Rural’ in the Fingal Development Plan 2023 – 2029 with an objective, ‘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:

Protect and promote the value of the rural area of the County. This rural value is based on:

- Agricultural and rural economic resources

- Visual remoteness from significant and distinctive urban influences,
- A high level of natural features.

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage.

The following map objectives are relevant to this site:

### **Local Objective No.18**

‘Provide a maximum of 10 units per hectare, with a minimum site size area of 1000 sqm and a maximum roof height of 6.65 metres over the prevailing established ground level. All new houses to connect to mains drainage with no provision for on-site treatment systems.’

### **Local Objective No.21**

‘Housing should generally be single storey and subject to a maximum ridge height of 7 metres.’

I note that the above LO No.21 refers to RS and not the RU zoned lands. This LO is referenced in the Planning Authority report.

A Strategic Flood Risk Assessment is included with the Development Plan and clearly indicates that this site is located within Flood Zone A – Appendix A, Map no. 13.

The following policies/ objectives are noted as relevant to this development:

#### **Chapter 3: Sustainable Placemaking and Quality Homes**

##### **3.5.13 Compact Growth, Consolidation and Regeneration**

- Objective SPQHO44 – Retention, Retrofitting and Retention of Existing Dwellings: ‘The Council will encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type.’

### 3.5.15.7 Layout and Design for Housing in Rural Fingal

#### Policy SPQHP55 – Layout and Design of Rural Housing

- Objective SPQHO85 - Visual Impact Statement for Applications in GB or HA Zoned Areas: 'Ensure that any planning application for a house within an area which has a Greenbelt or High Amenity zoning objective is accompanied by a comprehensive Visual Impact Statement.'
- Objective SPQHO88 – Development of Coastal Sites: 'Ensure that the development of any coastal site through the extension or replacement of existing buildings or development of any new buildings is of an appropriate size, scale and architectural quality and that it does not detract from the visual amenity of the area or impact negatively on the natural or built heritage.'

## Chapter 5: Climate Action

### 5.5.2.3 Climate Action Energy Statements

Policy CAP8 – Retrofitting and Reuse of Existing Buildings: 'Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.'

Policy CAP9 – Energy Efficiency in Existing Buildings: 'Support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro-fitting of appropriate energy efficiency measures in the existing building stock.'

### 5.5.4.2 Construction and Demolition Waste

Policy CAP26 – Waste Management Plans for Construction and Demolition Projects: 'Have regard to existing Best Practice Guidance on Waste Management Plans for Construction and Demolition Projects as well as any future updates to these Guidelines in order to ensure the consistent application of planning requirements.'

## Chapter 9: Green Infrastructure and Natural Heritage

Policy GINHP29 – Development and the Coast: 'Protect the special character of the coast by preventing inappropriate development along the coast.'

Objective GINHO73 – New Development and the Coast: 'Prevent inappropriate development along the coast, particularly on the seaward side of coastal roads. New

development for which a coastal location is required shall, wherever possible, be accommodated within existing developed areas.'

Objective GINHO76 – Development and Risk of Coastal Erosion: 'Prohibit new development outside urban areas within the areas indicated on Green Infrastructure maps, which are within 100m of coastline at risk from coastal erosion, 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 proposed development on erosion, or deposition.'

#### Chapter 11: Infrastructure and Utilities

the immediate vicinity of the site.

- Objective IUO16 - OPW Flood Risk Management Guidelines

'Have regard to the OPW Flood Risk Management Guidelines 2009, as revised by Circular PL 2/2014, when assessing planning applications and in the preparation of statutory and non-statutory plans and to require site specific flood risk assessments to be considered for all new developments within the County. All development must prepare a Stage 1 Flood Risk Analysis and if the flooding risk is not screened out, they must prepare a Site-Specific Flood Risk Assessment (SSFRA) for the development, where appropriate.'

- Objective IUO17 –Strategic Flood Risk Assessment

'Implement and comply fully with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Fingal Development Plan 2023–2029.'

- Objective IUO18 - SFRA Recommendations

'All Flood Risk Assessments must comply with the recommendations from the SFRA report.'

#### Chapter 14: Development Management Standards

Residential Standards are provided in Section 14.6.4 of the Fingal Development Plan. The following are noted:

Objective DMSO23 – Separation: 'Distance A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be

observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.'

Objective DMSO27 – Minimum Private Open Space Provision: 'Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows: " 3 bedroom houses or less to have a minimum of 60 sq. m. of private open space located behind the front building line of the house. " Houses with 4 or more bedrooms to have a minimum of 75 sq. m. of private open space located behind the front building line of the house. Narrow strips of open space to the side of houses shall not be included in the private open space calculations.'

Section 14.12.3 refers to Design Guidelines for Rural Dwellings.

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.'

14.12.8 New Housing for the rural community other than those actively engaged in farming, details are provided in Table 14.10: 'Criteria for Eligible Applicants from the Rural Community for Planning permission for New Rural Housing'.

14.18 refers to Green Infrastructure and Natural Heritage

14.18.4 refers to New Development in Coastal Areas

Objective DMSO163 – Coastal Erosion: 'Prohibit new development outside urban areas within the areas indicated on Green Infrastructure Maps, which are within 100m of coastline at risk from coastal erosion, 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 proposed development on erosion or deposition and the predicted impacts of climate change on the coastline.'

Objective DMSO164 – Coastal Flooding: 'Prohibit development within areas liable to coastal flooding other than in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities 2009 issued by the Department of the Environment, Heritage and Local Government and the Office of Public Works. Prohibit development within areas liable to coastal flooding under existing to 1m sea-level rise flood scenarios other than in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities 2009 issued by the Department of the Environment, Heritage and Local Government and the Office of Public Works.'

Objective DMSO165 – Coastal Development: 'Protect the scenic character of the coast by limiting development on the seaward side of coastal roads. New development for which a coastal location is required shall, wherever possible, be accommodated within existing developed areas.'

14.19.1.2 Existing Buildings/Structures 'Where structures exist on a site their embodied carbon needs to form part of the considerations for any redevelopment to ensure the proposal adheres to sustainable development goals. Adaptive re-use and transformation of existing buildings should be the first consideration before demolition and replacement. The architectural or vernacular quality, style and materials of the buildings on the site should also form part of the evaluation as the Development Plan contains objectives to retain and re-use the historic building stock, vernacular structures and 20th century architecture of merit. An analysis of historic maps should be carried out where older buildings exist on a site to inform the assessment process (there are a number of online map viewers that have digital historic map layers).'

Objective DMSO256 – Retrofitting and Re-Use of Existing Buildings: 'Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.'

## 5.2. National Guidance

**Sustainable Rural Housing - Guidelines for Planning Authorities** (DoEHLG, 2005).

**The Planning System and Flood Risk Management** - Guidelines for Planning Authorities (Nov 09)

**National Planning Framework First Revision – April 2025** recognises the importance of rural Ireland.

National Policy Objective 28 is relevant to this development:

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

Also relevant is National Policy Objective 29:

‘Project the need for single housing in the countryside through the local authority’s overall Housing Need Demand Assessment (HNDA) tool and county development plan core strategy processes.’

EPA Code of Practice: Domestic Wastewater Treatment Systems, 2021

### **5.3. Natural Heritage Designations**

- Rogerstown Estuary pNHA (Site Code 000208) is located 150m to the east of the subject site.
- The nearest European Site is Rogerstown Estuary SAC (Site Code 000208) and which is 150m to the east of the subject site.
- Rogerstown Estuary SPA (Site Code 004015) is approximately 190m to the east of the subject site.

## **6.0 EIA Screening**

See Form 1 – Appendix A. The proposed development is of a Class under Schedule 5 and below threshold. Having regard to the nature, scale and location of the proposed development and the criteria set out in Schedule 7 of the Regulations, I have conducted a preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, 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**

The first party appeal makes the following points:

- The applicant/ appellant was under the impression that the replacement of a like for like structure on this site was generally a permitted development. She received planning advice from an unnamed planning consultant in this regard.

- It is now accepted that the demolition of the existing house and its replacement was an error that cannot be undone.
- The replacement house is in keeping with the character of existing houses in the area, the house has a low ridge height at under 3 metres, and the site is suitable for wastewater treatment on site.
- Reference is made to this being a brownfield site.
- It is considered that adequate information was provided to enable the Planning Authority to fully assess this development. Any missing information could be requested through a further information request. The appeal considers that 'due process and fair procedures were inadequately applied' by the Planning Authority.
- The reason for refusal is broken down under its different sections and elements are considered to be not relevant such as reference to SPQH044 which primarily refers to existing dwellings, and DMSO256 also refers to existing houses. Reference to Section 14.12.4 of the Fingal Development Plan is also primarily relevant to existing houses.
- The retention of a development is allowable under the Planning and Development Act 2000 as amended.
- The new house has a ground to ridge height of 2.9m over a finished ground floor level of 3.24m OD. The height is acceptable in terms of the Map Based Objective 21 which seeks a maximum height of 7m.
- The requirement for documentation would be for the previous owner, now deceased, to provide and not the current owner. Supporting documents are provided including from the ESB indicating that the house has a long term electricity supply. A supporting letter from a neighbour and from R. Doherty MEP have been included and I will refer back to this letter in my assessment.
- No issues of concern regarding flooding arise and full details are provided.
- Issues relating to coastal erosion are noted. The applicant considers that the Planning Authority have made an error due to a mapping error on Map – Sheet 15 and the coastline is moved inland towards the subject site. There are a

number of houses between the subject site and the coastline, and the site is more than 100m from the coastline. A report – ‘The Rogerstown Coastal Flood Erosion Risk Management Study Non-Technical Study’ (2020), found that up to 50 buildings were at risk from coastal erosion by 2100 but the subject site is not included in this.

- An updated addendum Flood Risk report has been prepared and submitted in support of the application. The report proposes that flood resistance measures be constructed above 3.75 OD, to a minimum level of 3.8m OD for mid-range future scenario 1 in 200 year tidal flood events. The report states that the replacement dwelling cannot fully comply with the minimum design level requirements for the 0.1% AEP for 1 in 1000 flood events. The report considered the development to be a minor development in the context of the existing site and the proposed measures will provide suitable mitigation for a previously developed site. Suitable mitigation measures are included in the applicant’s report.
- There will be no impact on any designated European sites.

Requests that permission be granted for this development.

## **8.2. Planning Authority Response**

The Planning Authority provided a detailed response to the appeal and the following points were made:

- The applicant has not demonstrated the necessity for a replacement dwelling in this location. No details are provided on the quality of the existing dwelling and if it could be improved rather than replaced. No structural details are provided. The Planning Authority clearly indicate that the procedural shortcomings rather than the design of the dwelling was the critical issue. They could not support the application in the absence of this information.
- The referenced objectives and policies in their report are relevant to this development as they seek to protect and retain existing housing stock rather than demolish and replace units without adequate justification.
- Further consultation between the Planning Authority and Fingal County Council Water Services Department has found that the correct required finished floor level would be 4.66m and the development is significantly less than this. Raising

the floor level and providing a 2.9m ridgeline height house would result in the development exceeding the 7m high ridgeline as per Local Objective No. 21 of the Fingal Development Plan 2023 – 2029.

- The failure of the applicant to follow correct procedures has resulted in the development of a house here that is non-compliant with a number of elements of the Fingal Development Plan 2023 -2029.
- The policies in the development plan seek to protect rural housing from widespread demolition and replacement.

Request that the decision of the Planning Authority be upheld.

## **9.0 Assessment**

9.1. The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Rural Housing Policy
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Wastewater Treatment and Water Supply
- Access and Transportation

### **9.2. Nature of the Development**

- 9.2.1. The development consists of the demolition of an existing house and the applicant is applying to retain a replacement dwelling on site. In addition, a detached garage has been provided here. No permission was sought for the demolition of the existing house or for the construction of the replacement unit here. The only application made was for the retention of the works described in the public notices. The Planning Authority refused permission for the single reason listed in my report.
- 9.2.2. The Burrow/ Portrane is located within the Dublin Metropolitan Area Strategic Plan (MASP) as detailed in Chapter 2 – ‘Planning for Growth Core Strategy Settlement

Strategy' of the Fingal Development Plan 2023 – 2029. I would consider this area to be under urban influence.

9.2.3. From the available information, the applicant bought/ took control of this property in 2023 and the works were undertaken subsequent to that. Other than a Planning Statement/ Report and an ESB Confirmation of Networks Connection, dated January 2025, there are no additional supporting documentation with this application. I have not found a single photograph of the house that was demolished on site, this would be the minimum piece of information that I would expect for such a development. Considering that the house was purchased in 2023, it should be possible to submit photographs of the interior and exterior of this house. Whilst I would expect that there was a house on this site, no definitive evidence is provided. The ESB details are noted, but they only confirm a connection, and no evidence of electricity use is provided. I note the appeal comments regarding who holds documentary evidence regarding this house.

9.2.4. I also note the supporting letter from R. Doherty MEP and which she refers to asbestos in the former house. As the house was allegedly demolished when in the applicant's control, the applicant should have received at a minimum notification indicating that the asbestos was removed and subsequently that the materials were properly disposed of. Again, this information would be recent as the house was purchased in 2023, and such documentation would be in the control of the applicant and not that of the former landowner.

9.2.5. I cannot therefore be certain that there was a house on this site, as no documentary evidence has been provided to demonstrate this simple fact. The development cannot be considered a replacement dwelling. As the lands are zoned RU – Rural, the provision of a house on such lands is subject to the requirements of the Rural Housing Policy for a new dwelling.

### 9.3. **Rural Housing Policy**

9.3.1. The Rural Housing Policy is set out in Section 14.12 – Rural Fingal in the Fingal Development Plan 2023 – 2029. As stated, the site is zoned RU - Rural. Details on requirement for replacement dwellings are provided in Section 14.12.4, however as I have reported, there is insufficient information and details to consider that this is a

replacement dwelling. From the available information the applicant works locally in Donabate at a Farm Trekking and Therapeutic Riding Centre. There is no indication that the applicant works in farming, but again such information is not definitive in either case.

9.3.2. I wish to bring to the attention of the Commission that this is a new issue that I have raised. The Planning Authority have refused permission but not for this reason and I consider that the absence of adequate information would require an assessment of the applicant's eligibility for a house in this rural location. Section 14.12.8 of the Fingal Development Plan 2023 – 2029 provides the requirements for 'New Housing for the rural community other than those actively engaged in farming' and Table 14.10 provides the relevant criteria for eligibility for a house in the rural area; I have summarised them as follows:

- One member of a rural family who need to live close to their family home by reason of close family times: From the submitted information it is indicated that the applicant has lived in Donabate most of her life, but no evidence that she is from a rural family.
- No other rural houses permitted since October 1999: No evidence either way.
- Provide documentary evidence of family connection – None provided.
- She has lived in the family home for fifteen years – No evidence of family connection.
- Person works full time in rural community/ economic related employment – No evidence of this provided.
- Need to live close to the family home due to exceptional health circumstances: No evidence of this provided.
- Bona fide applicant without a local connection or residency but has a need for employment reasons to live in the area: No evidence of this provided with the application.

9.3.3. Considering that insufficient information has been provided, I recommend that permission be refused as the applicant has not demonstrated that they comply with the requirements for a rural house in this location in Portrane. The site is zoned RU, and development here is subject to the requirements of the Fingal Development Plan.



#### **9.4. Design and Impact on the Character of the Area**

- 9.4.1. The house, for which retention is sought, is a modest structure and I am satisfied that it would not have a negative impact on the visual amenity or general character of the area. The unit is 4.1m in height and I consider this to be acceptable. The size of the site and the location of the house allows for good integration with its surroundings.
- 9.4.2. The Fingal Water Services Department have raised a concern about the potential impact of flooding on this dwelling. The proposed development is located within Flood Zone A and a justification test for vulnerable development should have been provided. The Fingal Water Services Department have reported that a house on these lands should have a minimum finished floor level of 4.66m, though as I have reported the overall height of this house is 4.1m, meaning the house would have to be significantly raised to meet the floor level requirements.
- 9.4.3. The Planning Authority refer to Local Objective 21 which requires houses within this area to have a maximum height of 7m. I consider this to be an error by the Planning Authority. From assessing Sheet No.7, Local Objective 21 only appears to refer to the RS zoned lands to the south of the RU lands and therefore does not refer to the subject site. The interactive map on the Fingal website indicates the point of Local Objective No.21 to be zoned RS – Residential. I note also that Local Objective No. 20 requires a density of 10-15 units per hectare, again on RS zoned lands and Local Objective No. 18 provides a maximum density of 10 units per hectare, this time on RU zoned lands and a maximum roof height of 6.65m. Therefore, the subject site requires to be 0.1 hectares and the maximum height of any unit to be 6.65m. The site area at 0.12 hectares demonstrates compliance with the site density of Objective No.18.
- 9.4.4. The house is less than the maximum height of 6.65m permissible on these lands but making provision for its location in Flood Zone A would raise the overall height to 8.76m, which is far in excess of 6.65m. Taking the maximum height as 6.65m and the minimum FFL to be 4.66, the provision of a house on this site would only allow for a unit of 1.99m which would not be acceptable in terms of the relevant Building Regulations and would provide for a poor quality of residential amenity. Drawing No. LD-04 indicates that the finished floor level is 3.24m, which is significantly short of

the required 4.66m. The retention of this house would not demonstrate compliance with requirements to mitigate against flooding. Raising the FFL would likely result in the provision of a house that would not comply with Local Objective 18 and a maximum ridge height of 6.65m.

#### **9.5. Impact on Residential Amenity**

- 9.5.1. The subject unit has no impact on the existing residential amenity of the area. No issues of overlooking or overshadowing arise. As stated this unit would comply with the requirements in relation to density on these lands.
- 9.5.2. The proposed unit is provided with adequate floor space and is provided with an adequate area of private amenity space to the front/ south of the subject dwelling house.

#### **9.6. Wastewater Treatment and Water Supply**

- 9.6.1. A WWTS Survey Engineering Report, dated January 2025, was submitted in support of the application. Trial hole tests were undertaken on the 23<sup>rd</sup> of July 2024. There is a scarcity of details regarding the ground conditions and water levels on site in this report. The applicant has submitted a 6PE Tricel Novo secondary package sewage treatment system with a pumped discharge, and a suitable percolation area is also provided. Details of the installed system and photographs of its installation are provided within the applicant's report.
- 9.6.2. The site is located in an area identified with an "High" vulnerability classification on the GSI Groundwater maps and is located within an area defined "Locally Important Aquifer – Bedrock which is Moderately Productive only in Local Zones", representing a Groundwater Protection Response of R1 under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2).
- 9.6.3. From the available information, the trial hole had a depth of 1.6m and no water table or bedrock was encountered at this depth. The T-Value is indicated in the range of 3-20min/ 25mm.
- 9.6.4. I note the submitted details, and I have no objection to the wastewater treatment system to be used here. The Fingal Water Services Department have raised no objection to this element of the development, the WWTS to be compliant with the

EPA Code of Practice. No issues were raised in relation to water supply; there is a public water supply system serving this area.

#### **9.7. Access and Transportation**

- 9.7.1. The Fingal Transportation Department reported that the site is located within an area with a 30kmh speed limit. They report that the development does not intensify access or car parking arrangements for this site and if there was any change in intensity, upgrade works would be required here. Sightlines in the area would benefit from improvement through the cutting back of roadside hedgerows/ verges, however these are outside of the control of the applicant. In conclusion the Fingal Transportation Department reported no objection to this development subject to conditions in relation to sightlines and provision of site access gates.
- 9.7.2. I note the submitted details and the report from Fingal County Council. The local road network consisting of narrow roads and cul-de-sacs is substandard, but it is a historical layout that has evolved over time but has not developed in accordance with the size, and numbers of modern cars etc.

#### **10.0 AA Screening**

- 10.1. I have considered the subject development, which comprises the construction of a replacement dwelling in light of the requirements S177U of the Planning and Development Act 2000 (as amended). The subject development is located in a rural area approximately 810m to the north of Portrane Green and approximately 2.7km to the north east of Donabate. The applicant has provided an Appropriate Assessment Screening Report with their application.
- 10.2. The subject development comprises a single dwelling and has no hydrological or other connection to any European site. The subject site is not located within a designated site. The nearest European Designated sites are:
- Rogerstown Estuary SAC (Site Code 000208) is 150m to the east of the subject site.
  - Rogerstown Estuary SPA (Site Code 004015) is approximately 190m to the east of the subject site.
  - The North West Irish Sea SPA (Site Code 004236) is approximately 3.3km to the east of the subject site.

- Malahide Estuary SAC (Site Code 000205) is approximately 2.2km to the south of the subject site.
- Malahide Estuary SPA (Site Code 004025) is approximately 3.8km to the south west of the subject site.
- Rockabill to Dalkey SAC (Site Code 003000) is approximately 3.2km to the east of the subject site.

There are surface and groundwater pathways to the Irish Sea and in turn the Rogerstown Estuary SAC/ SPA, the North West Irish Sea SPA and the Rockabill to Dalkey SAC, however no impact has arisen due to distance and dilution affect. Any pathways would be indirect due to development between the subject site and the designated sites. There are no direct pathways to any of the other designated sites. No direct habitat loss has occurred as a result of this development. No habitat disturbance has occurred, no issues due to pollution for the construction and operational phases have occurred and no cumulative impacts have been identified. No identified mitigation measure were put in place during the construction phase or subsequent operational phase of this development.

10.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- The scale and nature of the development;
- The distance to the nearest European site;
- Dilution effect and indirect nature of any pathways due to development between the subject site and the designated European sites; and
- Taking into account the screening determination of the Planning Authority.

10.4. 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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

## 11.0 Recommendation

I recommend that planning permission should be refused for the following reasons.

## 12.0 Reasons

1. The proposed development is for the retention of a replacement dwelling on land zoned RU – Rural in the Fingal Development Plan 2023 – 2029. The applicant has not provided any verifiable documentation, information or photographs to demonstrate that there was a house here on these lands. The proposed site was purchased in 2023 but no photographs of the former structure or details in relation to the removal of asbestos, which apparently were used in the construction of the former unit, have been provided. In the absence of such information, it is not possible to assess this application for a replacement dwelling and should be more properly considered as a new rural dwelling. There is no indication that the applicant is involved in farming and the provision of a house is therefore subject to Section 14.12.8 of the Fingal Development Plan 2023 – 2029 providing requirements for ‘New Housing for the rural community other than those actively engaged in farming’. Table 14.10 provides the relevant criteria for eligibility for a house in the rural area and the applicant has not demonstrated compliance with these requirements. The proposed development would be contrary to the stated provisions of Section 14.12.8 of the Fingal Development Plan 2023 – 2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The house, for which retention is sought, is provided with a stated Finished Floor Level of 3.24m. The site is located within Flood Zone A, Coastal Flooding and in order to comply with the requirements of the Fingal Strategic Flood Risk Assessment, the proposed finished floor level should be a minimum of 4.66m. Having regard to the location of the site in an area which is prone to flooding and on the basis of the information provided with the planning application and subsequent appeal, the Commission is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be

prejudicial to public safety and 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.

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Paul O'Brien

Inspectorate

18<sup>th</sup> August 2025

# Appendix 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-322514-25		
<b>Proposed Development</b> <b>Summary</b>	Retention of changes to a historic dwelling house and associated site works.		
<b>Development Address</b>	Cherryfield Lodge, Linder's Lane, Burrow, Portrane, Co. Dublin, K36 X667		
<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>	√
<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)?</b>			
<b>Yes</b>	Tick/or leave blank		Proceed to Q3.
<b>No</b>	Tick or leave blank	√	Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	√	Class 10, (b), (i) (threshold is 500 dwelling units)	Proceed to Q4

<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	√	Threshold is 500 units, the proposal is only for one unit.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	√	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		



## Appendix 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-322514-25
<b>Proposed Development Summary</b>	Retention of changes to a historic dwelling house and associated site works.
<b>Development Address</b>	Cherryfield Lodge, Linder's Lane, Burrow, Portrane, Co. Dublin, K36 X667
<p><b>The Board carried 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> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (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).</p>	<p>The proposal comprises the retention of a detached house, associated site works and wastewater treatment system on this site area of 0.12 hectares.</p> <p>The size of the house would not be described as exceptional in the context of the existing environment.</p> <p>The proposal will not give rise to the production of significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by</p>	<p>The proposed development is situated in a rural area. The proposed development is removed from</p>

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).	sensitive natural habitats, centres of population and sites of historic/cultural/archaeological importance.	
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the limited nature and scale of the proposed development (i.e. a single one-off dwelling), its location removed from sensitive habitats/features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects; there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	

**Inspector:**

**Date:**

### Appendix 3: AA Screening Determination

#### Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	<p>The development consists of:</p> <ul style="list-style-type: none"> <li>• The retention of the demolition of a historic dwelling house.</li> <li>• The retention of a replacement dwelling – this is a single storey unit with a stated floor area of 84.18sqm, providing for three bedrooms, a living/ dining/ kitchen area, utility and bathroom. The house is similar in size/ design to that demolished though with a raised floorplate.</li> <li>• Detached garage with a stated floor area of 20.4sqm and a height of 2.9m.</li> <li>• New perimeter fencing to the north, west and east of the site with a height of 1.9m and a timber gate entrance.</li> <li>• Upgrading of the existing wastewater treatment system on site.</li> <li>• Associated site works.</li> </ul>
<b>Brief description of development characteristics and potential impact mechanisms</b>	<p>The subject site area is 0.12 hectares. The nearest European Site is Rogerstown Estuary SAC (Site Code 000208) and which is 150m to the east of the subject site. Rogerstown Estuary SPA (Site Code 004015) is approximately 190m to the east of the subject site.</p>

Screening report		Y – Applicant has submitted an AA Screening dated January 2023 – though this more likely to be January 2025.		
Natura Impact Statement		N		
Relevant submissions		N		
Planning Authority primary report: Screened out need for AA and noting the absence of an obvious pathways.				
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests summarised (Full details on NPWS site)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
• Rogerstown Estuary SAC (Site Code 000208)	Estuaries, Mudflats and Sandflats, Salt Meadows, Shifting Sand dunes and Salicornia.	Is 150m to the east of the subject site.	None There are no watercourses on site providing a hydrological pathway to these habitats and species.	N
• Rogerstown Estuary SPA (Site Code 004015)	Geese, Shelduck, Oystercatcher and other waterbirds, Wetland and Waterbirds.	Is approximately 190m to the east of the subject site.	None There are no watercourses on site providing a hydrological pathway to these and species.	N
• The North West Irish Sea SPA (Site Code 004236)	Divers, Fulmars, Shearwater, Cormorant, Shag, Gulls, Kitiwake, Terns, Razorbills, Puffin, Little Gull and Little Tern.	Is approximately 3.3km to the east of the subject site.	None There are no watercourses on site providing a hydrological pathway to these and species.	N

• Malahide Estuary SAC (Site Code 000205)	Mudflats and Sandflats, Salt Meadows, Shifting Sand dunes, Salicornia and fixed coastal dunes.	Is approximately 2.2km to the south of the subject site.	None There are no watercourses on site providing a hydrological pathway to these and species.	<b>N</b>
• Malahide Estuary SPA (Site Code 004025)	Great Crested Grebe, Geese, Shelduck, Pintail, Goldeneye, Merganser, Plovers, Knot, Dunlin, Godwits, Redshank, wetland and waterbirds.	Is approximately 3.8km to the south west of the subject site.	None There are no watercourses on site providing a hydrological pathway to these and species.	<b>N</b>
• Rockabill to Dalkey SAC (Site Code 003000)	Reefs and Harbour Porpoise	Is approximately 3.2km to the east of the subject site.	None There are no watercourses on site providing a hydrological pathway to these and species.	<b>N</b>

**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

- (a) Identify potential direct or indirect impacts (if any) arising from the project alone that could have an effect on the European Site(s) taking into account the size and scale of the proposed development and all relevant stages of the project (See Appendix 9 in Advice note 1A).
- (b) Are there any design or standard practice measures proposed that would reduce the risk of impacts to surface water, wastewater etc. that would be implemented regardless of proximity to a European Site?
- (c) Identify possible significant effects on the European sites in view of the conservation objectives (alone or in combination with other plans and projects)

**AA Screening matrix**

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects

<b>Site 1:</b> Rogerstown Estuary SAC (Site Code 000208) Estuaries, Mudflats and Sandflats, Salt Meadows, Shifting Sand dunes and Salicornia.	Direct: None  Indirect: Negative impact through pollution/ emissions in groundwater discharging to designated site.	Disturbance/ displacement Changes to habitat quality/ function  Unlikely due to dilution effect and indirect pathway due to development between the subject site and the designated site.
	Likelihood of significant effects from proposed development (alone): <b>N</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? <b>N – Single detached house.</b>	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 2:</b> Rogerstown Estuary SPA (Site Code 004015) Geese, Shelduck, Oystercatcher and other waterbirds, Wetland and Waterbirds.	Direct: None  Indirect: Negative impact through pollution/ emissions in groundwater discharging to designated site.	Disturbance/ displacement Changes to habitat quality/ function  Unlikely due to dilution effect and indirect pathway due to development between the subject site and the designated site.
	Likelihood of significant effects from proposed development (alone): <b>N</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? <b>N – Single detached house.</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
I conclude that the proposed development (alone) would not result in likely significant effects on Rogerstown Estuary SAC and SPA. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.		
No mitigation measures are required to come to these conclusions.		

## **Screening Determination**

### **Finding of no likely significant effects**

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 retention of this development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Rogerstown Estuary SAC and SPA in view of the conservation objectives of these sites and is therefore excluded from further consideration.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site.

The reason for this conclusion is as follows:

- The scale and nature of the development;
- The distance to the nearest European site;
- Dilution effect and indirect nature of any pathways due to development between the subject site and the designated European sites; and
- Taking into account the screening determination of the Planning Authority.

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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required. No mitigation measures are required to come to these conclusions.

## Appendix 4: WFD IMPACT ASSESSMENT STAGE 1: SCREENING

### Step 1: Nature of the Project, the Site and Locality

<b>An Bord Pleanála ref. no.</b>	<b>ABP-322514-25</b>	<b>Townland, address</b>	Cherryfield Lodge, Linder's Lane, Burrow, Portrane, Co. Dublin, K36 X667
<b>Description of project</b>		Retention of a detached house, wastewater treatment system and associated site works.	
<b>Brief site description, relevant to WFD Screening,</b>		Area consists of detached houses and holiday homes. The subject site area is 0.12 hectares. There are no watercourses on or adjacent to the site.	
<b>Proposed surface water details</b>		Surface water is indicated as discharging to a soak pit.	
<b>Proposed water supply source &amp; available capacity</b>		Public watermain.	
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>		6PE Tricel Novo secondary package sewage treatment system with a pumped discharge	



Others?			N/A			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
e.g. lake, river, transitional and coastal waters, groundwater body, artificial (e.g. canal) or heavily modified body.	Underlying site	Swords Waterbody (IE_EA_G_011)	Good	Not at Risk	N/A	Discharge to Groundwater
	250m to the east	Northwestern Irish Sea	Good	Not at risk	N/A	Surface water run-off/ discharge

		(IE_EA_020_0000)					
<b>Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.</b>							
<b>CONSTRUCTION PHASE</b>							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	<b>Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.</b>
1.	Site clearance & Construction	Swords Waterbody (IE_EA_G_011)	Indirect impact via Potential hydrological pathway	Water Pollution Surface water run-off	Retention application – works complete.  Minor nature of the development	No	Screen out at this stage.

2.		Northwestern Irish Sea (IE_EA_020_00000)	Indirect impact via Potential hydrological pathway	Water Pollution Surface water run-off	Retention application – works complete.  Minor nature of the development and distance giving rise to dilution.	No	Screen out at this stage.
<b>OPERATIONAL PHASE</b>							
3.	Surface Water Run-off	Swords Waterbody (IE_EA_G_011)	Indirect impact via Potential hydrological pathway	Water Pollution	Minor nature of the development	No	Screen out at this stage.
	Surface Water Run-off	Northwestern Irish Sea (IE_EA_020_00000)	Indirect impact via Potential hydrological pathway	Water Pollution	Minor nature of the development and dilution	No	Screen out at this stage.

					due to distance.		
<b>DECOMMISSIONING PHASE</b>							
6.	N/A	N/A	N/A	N/A	N/A	N/A	N/A