



An
Coimisiún
Pleanála

Inspector's Report ABP-322669-25

Development	Retention of viewing pod and all associated site works.
Location	Cliff Haven, Thormanby Road, Howth, Co. Dublin, D13 H972
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F25A/0208E
Applicant(s)	Patrick and Sarah O'Sullivan
Type of Application	Retention
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Patrick and Sarah O'Sullivan
Observer(s)	None
Date of Site Inspection	14 th August 2025
Inspector	Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site is located on the south side of Thormanby Road in Howth, Co. Dublin and is screened from the public view by high boundary walls and entrance gates.
- 1.2. The site is situated c. 160m to the south-east of the junction of the R-105 (Carrickbrack Road) and Thormanby Road, with Howth village being located c. 2.5km to the north.
- 1.3. The site is adjoined to the west and east by large detached residential properties on substantial sites and to the south by the Howth coastal cliffside walk, which is a public right of way.
- 1.4. The appeal site is c. 0.047ha in area and comprises of a large, detached multi-storey house set within steeply sloped landscaped grounds which transition into an area of cliffside heath. The lands to the immediate south of the appeal site are also in the ownership of the applicant and border the Howth cliff walk.
- 1.5. The property's rear garden includes a standalone single storey 'bunker type' viewing pod (c. 45sq.m GFA) which is partially embedded into the site gradient (on its west side, rear and top) and located downhill from the main dwelling. The pod features a flat roof and glass patio-type doors facing south.
- 1.6. The site comes within the area covered by the Howth Special Amenity Area Order (SAAO) 1999.

2.0 Proposed Development

- 2.1. The proposed development comprises of the retention of (i) 1 no. flat-roofed viewing pod (c. 3.19m in height, c. 7.5m in length and c. 6m in width) situated within the rear garden which, it is stated, has replaced a pre-existing garden room at the same location which was demolished prior to the construction of the pod; and, (ii) all associated site works, including boundary treatments and landscaping (native tree planting around the structure) necessary to facilitate the development.
- 2.2. I wish to draw the Commission's attention to the fact that the current proposal subject of this appeal is largely identical to the retention proposal previously refused permission under ABP-319665-24.

3.0 Planning Authority Decision

3.1. Decision

Retention permission refused on 06/05/2025 for 4 no. reasons as follows:

1. The viewing pod proposed for retention is located within lands zoned HA - High Amenity and by virtue of amendments to land levels has resulted in a significant intervention into a protected landscape of exceptional value and high sensitivity. The viewing pod proposed for retention has also resulted in the removal of maritime heathland which is characteristic of the landscape type in Howth. The development proposed for retention would therefore materially contravene Policy GINHP28 and Objective GINHO67 the Development Plan which require protection of High Amenity areas from inappropriate development and would accordingly be contrary to the proper planning and sustainable development of the area.
2. The proposed retention of the pod by virtue of the level of excavation undertaken, amendments to land levels, earthworks subsequently carried out for maintenance purposes, and the level of re-landscaping required has resulted and would result in serious injury to the visual amenities of this high amenity landscape of outstanding scenic value and be out of character within the Howth SAAO. The proposed development would not comply with the objective for 'Other Areas' within the SAAO to preserve the beauty and distinctive natural character of the area.
3. The construction, retention, and continued maintenance of the pod has resulted in the removal of a significant section of protected maritime heathland. As such the proposed development contravenes Objective 2.4 and Policy 2.4.1 of the Howth SAAO which require the protection, preservation, and retention of this habitat.
4. The pod proposed for retention has resulted in the construction of a significant structure within a high amenity area of outstanding natural beauty, exceptional landscape value and high sensitivity and through land level amendments, subsequent works for maintenance purposes, and the nature of the structure has resulted in the introduction of a significant unnatural man-made structure into a landscape with a distinctive character. Having regard to the location of the site and of similar lands in the vicinity, it is considered that the development, if permitted for retention would result in an unacceptable development precedent in terms of

undermining of the High Amenity zoning objective and the SAAO and the protections afforded to high value landscapes in the vicinity as a consequence.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report (dated 06/05/2025) forms the basis of the assessment and recommends that retention permission be refused. Points of note in the report include:

- *Zoning* – viewing pod is not a class of use which is permitted or open for consideration on HA zoned lands or under Schedule 3 of Howth SAAO.
- *Principle of Development* –
 - pod structure is largely identical to that refused under ABP-319665-24 and P.A. Ref. F18A/0145.
 - rationale put forward to justify its retention is modified and expanded in current application and supported by aerial images of the pre-existing structure and a demolition method plan which argues the removal of pod would be environmentally damaging.
 - The existence of a previous structure on site (which was removed years before the subject structure was built) does not make the proposal acceptable.
 - The viewing pod and the physical interventions in the landscape that it necessitates are unauthorised interventions in highly sensitive area which are contrary to the Fingal Development Plan 2023-2029 (FDP) and Howth SAAO.
 - The potential for the demolition of the viewing pod to give rise to environmental impacts does not outweigh the public interest in upholding integrity of planning system, the FDP and the Howth SAAO.
 - The structure proposed for retention has previously been refused permission and nothing in the subject proposal would warrant a different decision.
- *Green Infrastructure* – viewing pod is unacceptable on account of its visibility, particularly from the cliff path to the south.
- *Water and Drainage* – proposal is acceptable in terms of water and drainage subject to the attachment of standard conditions.

- *EIA* – proposal by virtue of its size and scale does not require an EIAR.
- *Appropriate Assessment* – proposal is sited close to 3 no. European sites. The AA screening report submitted with the application assesses the impact on same to the satisfaction of the PA and they conclude that there was, and is, no likelihood of significant effects on same during the construction or operation of the proposal.

3.2.2. Other Technical Reports

- *Parks and Green Infrastructure Division (report of 03/04/2025)* – raises concerns with the proposal on account of the site's location on high amenity zoned lands within a highly sensitive landscape which forms part of the Howth SAAO. The viewing pod would be visible from the coastal cliff walk and its siting contravenes the objective to preserve views at this location.
- *Water Services Department (report of 10/04/2025)* – no objection subject to standard surface water and foul drainage conditions.

3.3. Prescribed Bodies

No submissions on file.

3.4. Third Party Observations

1 no. submission was received at PA stage and raised the following issues:

- Site planning history of FCC and ABP refusing permission for pod's retention following enforcement action.
- Unauthorised pod is a visually intrusive structure within a designated high amenity area where the landscape is subject to protection under the Howth SAAO.
- The pod is highly visible from the adjoining coastal cliff path to the south.
- A grant of retention for the pod would seriously undermine the SAAO.

4.0 Planning History

4.1. Appeal Site

The application site has an extensive planning history. The most relevant applications are detailed below:

Pod-Related Applications

P.A. Ref. F24A/0120 & ABP-319665-24 – Retention permission for viewing pod situated within the rear garden and all associated site works **refused** on appeal on 31/10/2024 for a single reason: “1. *Having regard to the grounds of appeal, the reasons for refusal, the observation of a third party, the HA (High Amenity) zoning objective, which seeks to protect and enhance high amenity areas, the location of the development within the Howth SAAO designation, which, inter alia, seeks to protect its natural and cultural assets, including characteristic heathland of the receiving landscape and the policy framework provided by the Fingal County Development Plan 2023-2029, it is considered that the development proposed to be retained comprising in part a subterranean covered structure elevating south with a floor area of 45 square metres would not be in accordance with the policy objectives of the Fingal County Development Plan 2023-2029 in particular Policy GINHP28 and Objective GINHO67, would not be in accordance with the policy and objective of the Howth SAAO and would be out of character with the protected heathland, comprising maritime grass land in the vicinity of the site, by reason of introducing a man-made structure in to a natural landscape of distinctive character and would therefore, not be in accordance with the proper planning and sustainable development of the area*”.

P.A. Ref. F18A/0145 – Permission and retention permission south for alterations to previously approved development under P.A. Ref. F16A/0225, including the retention and completion of a partially subterranean viewing pod in the rear garden. Split decision issued on 12/12/2018, with permission for certain aspects of the development (incl. the viewing pod and associated amendments to land levels) being **refused** for 5 no. reasons, 4 no. of which were relevant to the pod: 1. Material contravention of Objectives NH36, NH51 and NH52 of the FDP which require the protection of high amenity areas; 2. Impact on visual amenity and non-compliance with the objective for ‘other areas’ within the Howth SAAO and material contravention of Objective NH44; 3. Removal of heathland contravenes Objective 2.4 and Policy 2.4.1 of Howth SAAO together with Objective NH44 of FDP; and, 4. Design and siting of structure would undermine HA zoning and SAAO.

The PA's decision was subject to a third party appeal to ABP (PL06F.303470) with this appeal subsequently being withdrawn on 14/05/2019.

Other Applications

P.A. F23A/0519 & ABP-318472-23 - Planning permission for the following: (1) Construction of a pool house extension at basement level to rear of dwelling and associated works; (2) extension of ground floor level terrace to rear; (3) removal and replacement of external steps to side and (4) all associated site works granted permission by PA on 23/10/2024. Case subject to 3rd party appeal with a decision due date of 29/03/2024. Decision still awaited.

P.A. Ref. F19A/0447 & ABP-306073-19 (appeal on condition) – Retention permission for alterations to previously approved development (Reg. Ref. F16A/0225) granted on 28/02/2020 subject to 6 no. conditions (PA condition No 4 re: bay window omission removed by ABP on appeal). Proposal permitted extensive re-landscaping of the appeal site.

Enforcement

P.A. Ref. 18/009B – planning enforcement file currently open on the site.

4.2. Neighbouring Sites

No relevant planning decisions found.

5.0 **Policy Context**

5.1. **National Policy**

Project Ireland 2040 – National Planning Framework (2025)

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

5.2. **Regional Policy**

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031

5.3. Development Plan

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

Zoning

- Section 13.5 (Zoning Objectives, Vision and Use Classes)
- The southern portion of the site incorporating the viewing pod is zoned '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 northern portion of the site incorporating the main dwelling house is zoned 'RS - Residential' with the Objective 'To provide for residential development and protect and improve residential amenity'.
- 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.
- Policy GINHP27: Howth and Liffey Valley Amenity Orders - Protect and enhance the special amenity value of Howth and the Liffey Valley, including its landscape, visual, recreational, ecological, geological, and built heritage value, as a key element of the County's Green Infrastructure network and implement the provisions of the Howth and Liffey Valley Special Amenity Area Orders (SAAO).
- Objective GINHO58: Sensitive Areas - Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks, and campsites, and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.
- Objective GINHO67: Development and High Amenity Areas – ensure development reflects and reinforces distinctiveness and sense of place of such areas.

- Policy CSP23: Howth SAAO: Protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand.

Landscape and Views/ Prospects

- The site is located within a 'Highly Sensitive (Coastal) Landscape' as per Sheet 14 (Green Infrastructure)
- Zoning Map 10 (Baldoyle/ Howth) designates the public footpath to the south of the site a 'Coastal Walk' with the objective to 'Preserve Views' along the extent of the walk.

Special Objectives

The site is located within the Howth SAAO and the following SAAO objectives apply to same:

Objective 1.1 - To manage the area in order to, inter alia, conserve its natural and cultural assets.

Schedule 2 – Objectives for the preservation of the character or special features of the area.

Objective 2.1 – To preserve views from public footpaths and roads.

Policy 2.1.1 – Council will preserve views from the network of footpaths and roads shown on Map B...The Council will not permit development which it considers would have a significant negative effect on the view from a footpath or road (...).

Objective 2.4 – To preserve existing areas of heathland and maritime grass land.

Policy 2.4.1 – Development which would reduce existing areas of heathland and maritime grassland will not be permitted accept for reasons of over-riding public interest. These areas are shown on Map B which indicates that the southern portion of the appeal site, which includes the viewing pod structure, comprise heathland and maritime grassland.

The SAAO is divided up into three general classifications – Residential areas, other areas and land used for agriculture or forestry. The part of the appeal site containing the viewing pod comes within the 'Other Area' classification.

Schedule 3 – Development in other areas

Policy 3.1.2 – New buildings should generally be in-keeping with the character of other buildings in the vicinity. However, favourable consideration may be given to buildings of contemporary design, provided that the design is of high quality and that, in visual terms, it subordinates the building to the surrounding natural environment.

Objective 3.4 – To preserve the beauty and distinctive character of the natural, semi-natural and other open areas within the special amenity area.

Policy 3.4.2 – Design guidelines will apply to new development...New buildings should be as inconspicuous as possible... This effect may be achieved by using a combination of appropriate elevational treatments, using suitable materials and colours and by sensitive planting. Substantial engineering to reconfigure the profile of the landform is not an acceptable form of mitigation. Roofs of dwellings and outhouses, which should preferably have a symmetrical A-frame cross-section, should be constructed of materials which blend with the local landscape (...).

5.4. 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:

- Howth Head SAC (Site Code 000202) – approx. 30m
- North-West Irish Sea SPA (Site Code 004236) – approx. 100m
- Rockabill to Dalkey Island SAC (Site Code 003000) – approx. 100m
- Howth Head Coast SPA (Site Code 004113) – approx. 500m

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

- Howth Head pNHA (Site Code 000202) – approx. 30m

6.0 EIA Screening

The 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 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 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 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

A first party appeal submission was received on 03/06/2025 and seeks to address the PA's reasons for refusal. The grounds of appeal can be summarised as follows:

Principle of Development

- Viewing pod is not a new structure and replaces a pre-existing garden room structure on site (being constructed on footprint of same) which can be seen on a 2015 Land Registry map submitted with the appeal.
- Pre-existing structure was c. 36sq.m in area with a height of 2.4m-2.8m and was constructed prior to 2000.
- Pre-existing structure was weather damaged in early 2010s and subsequently removed but its concrete base remained in-situ being covered with astroturf in the intervening period.
- Existing viewing pod structure was constructed in 2018 as part of the wider redevelopment of the site permitted under P.A. Ref. F18A/0145 and it is small in scale and sensitively designed and has since successfully bedded into the site.
- Use of the pod is limited to a relaxation/ lookout area ancillary to the use of the main dwelling only.

- Proposal does not contravene Policy GINHP28 or Objective GINHO67.
- Proposal does not give rise to negative impacts on neighbouring residential amenity.

Howth SAAO/ Environmental Impact

- Construction of pod on the footprint of a pre-existing structure did not result in a significant level of intervention into a landscape protected by the Howth SAAO.
- Pod was constructed on an area of lawn (manicured grassland) rather than heathland and its construction did not lead to the removal of a significant section of protected maritime heathland or otherwise interfere with this protected landscape or with nearby European sites.
- Retention of pod would not result in the removal of protected maritime heathland.
- Demolition and removal of pod would result in damage to and destruction of vegetation and particularly to Howth's protected maritime grassland/ heathland and ecological loss as structure is now embedded in the landscape.
- Lawn area around the pod has been re-wilded by the appellant in line with SAAO and has resulted in ecological gain.
- Extent of site re-landscaping permitted by PA and ABP under P.A. Ref. F19A/0447 & ABP-306073-19 was much more impactful on protected maritime heathland than the proposal subject of this appeal.
- Removal of pod would necessitate use of a digger, rock breaking and ground re-profiling with potential to give rise to noise and dust emissions etc. proximate to an SPA and SACs and may necessitate the use of a construction access route which could damage local biodiversity.

Visual Impact

- Pod is designed to be visually subordinate to the main dwelling and surrounding environment and to integrate within the landscape and has no impact on the visual amenity of the area or on views toward the coast/ cliff face from the adjoining cliff walk (a protected view under the Howth SAAO).
- Pod structure is minor in scale relative to much larger, often multi-level, structures (houses) in the vicinity granted by PA/ ABP and is not visible from Carrickbrack

Road or from the cliff walk on account of its siting (being embedded in the landscape), the site topography and boundary treatments/ separation distance to boundaries. It is also imperceptible when viewed from the bay.

- Given its scale/ size, design and separation from site boundaries, the pod is obscured from publicly accessible viewpoints and, as such, and could not therefore affect visual amenity or have a negative visual impact on the character of the area.
- Protected views and prospects do not prohibit new development but seek only that new development does not hinder or obstruct same/ minimal impact on same.

Procedural Issues

- PA did not assess the proposal on its own merits and relied on refusal reasoning which related to the preceding application for retention permission (P.A. F24A/0120) and were therefore predisposed to refuse permission.
- PA's concerns re: granting retention setting an undesirable planning precedent for a new structure on HA zoned lands is rejected on basis that pod is a replacement structure and much more minor in scale than neighbouring permitted structures.
- Revised/ different decision is now warranted on basis of expansion of arguments in favour of the structure's retention.
- PA Enforcement Officer did not gain entry to site and relied upon images of the viewing pod taken from outside the site by a camera stick on the basis that the pod was not visible from the cliff path and views north from the cliff walk are restricted by dense vegetation.
- Noted that representatives of the PA and the observer(s) are both part of the Howth Special Amenity Area Management Committee and concerns expressed that live planning applications and enforcement cases are discussed at committee meetings with no opportunity for appellants to make submissions/ representations.

The grounds of appeal are accompanied by a copy of the PA's decision to refuse; a 2015 Land Registry Map; details of planning precedents; a Demolition Management Plan; a booklet of aerial photographs (from 2009-present); and, a letter from the applicant's ecologist.

8.2. Planning Authority Response

The PA, in their response received 01/07/2025, reiterate the basis for their decision to refuse and seek that the Commission uphold same. In the event that their decision is overturned by the Commission they seek that, where relevant, conditions relating to the payment of a Section 48 Development Contribution, a bond/ cash security, tree bond and a payment in lieu to compensate for a shortfall in play facilities be applied.

8.3. Observations

None received.

8.4. Further Responses

None received.

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/ Zoning
- Impact on Protected Sites
- Procedural Issues

9.1. Principle of Development/ Zoning

Background

- 9.1.1. The appellant contends that the viewing pod is not a new structure and replaces a pre-existing garden room structure on site (being constructed on footprint of same as demonstrated in imagery submitted as part of the grounds of appeal). No further supporting evidence such as plans or detailed photographs of this pre-existing structure are provided with the grounds of appeal.
- 9.1.2. The PA consider that the existence of a previous structure (slightly smaller and removed in interim) does not make the subject proposal acceptable.

- 9.1.3. I note that the proposal for a viewing pod and ancillary works at this exact location has previously been refused retention permission by both the PA and the Commission (details provided in Section 4.1 of this report) and that retention permission is again being re-sought for the same proposal with no change in the nature or extent of same in the intervening period.

Compliance with High Amenity Zoning

Background

- 9.1.4. Refusal reason No. 1 refers to the proposal's material contravention of Policy GINHP28 and Objective GINHO67 of the Development Plan which require protection of High Amenity areas from inappropriate development, with their refusal reason No. 3 stating that if retention were permitted it would set an unacceptable precedent in terms of undermining of the High Amenity zoning objective (and the SAAO) and the protections afforded to high value landscapes in the vicinity.
- 9.1.5. The PA raised serious concerns about the extent of amendments to land levels (excavation/ earthworks and re-landscaping) necessitated by the subject proposal given the environmental sensitivity and amenity value of the site. For this reason, the PA considered that the proposal gave rise to serious injury to the visual amenities of the high amenity landscape and, as such, was out of character and non-compliant with the Howth SAAO.
- 9.1.6. The appellant argues that the proposal is minor in scale relative to the wider redevelopment of the site permitted under P.A. Ref. F18A/0145 and the more extensive landscaping changes previously permitted on site under F19A/0447 and ABP-306073-19. I note that these landscaping changes related predominantly to the northern residentially zoned portion of the site and not to the southern HA zoned portion of the site where the subject proposal is located.
- 9.1.7. In respect to visual impact, the appellant argues that the pod is visually subordinate to the main dwelling and that it is relatively minor in scale relative to surrounding properties granted by the PA and the Commission despite their location in the Howth SAAO and visibility from public observation points. Whilst the appellants arguments in this regard are noted, I also note that the majority of these properties are replacement dwellings permitted and located on lands zoned for residential development rather

than high amenity – with no relevant examples of ancillary ‘viewing pods’ being evidenced.

- 9.1.8. I have considered the proposal against the stated objective of the site’s ‘HA - High Amenity’ zoning; the intention of Policy GINHP28 (Protection of High Amenity Areas); the requirements of Objectives GINHO58 (Sensitive Areas) and GINHO67 (Development and High Amenity Areas); and, the Howth SAAO.

Visual Impact/ Impact on Neighbouring Amenity

- 9.1.9. Having visited the site and reviewed the documentation on file, including the Arch FX photographs of the site taken in November 2023 (winter), I do not consider that the viewing pod structure in itself interferes with or gives rise to a negative effect on a view or prospect of special amenity value or that it negatively impacts on visual amenity of the high amenity landscape (as cited in refusal reason no. 2) or the residential amenities of neighbouring properties. This conclusion is reached on the basis of my visit to the site and its surrounds on the 14/08/2025, my consideration of the scale, materiality and part-subterranean siting of the pod relative to adjoining properties and, a review of the documentation on file including the site photographs provided in the grounds of appeal. These demonstrated that the structure was not visible from either Thornaby Road, from the adjoining cliffside walk or from adjoining properties on account of its form, siting and the screening effect of the gradient coupled with the existence of dense vegetation between it and the coastal path.

Landscape Impact

- 9.1.10. However, I am of the view that the extensive re-landscaping, gradient alterations and groundworks that the ‘embedding’ of the proposal has necessitated have materially changed and interfered with the natural topography and character of this highly sensitive area. This change is clearly evidence in the grounds of appeal when comparing Figures 19 and 20 (aerial images) which show the site of the pod in 2017 prior to the construction/ installation of the existing structure, with the contemporary images of the area in and around the pod shown in Figures 11-18. Overall, I note that there has been significant intervention in the ground levels in and around the structure resulting from these enabling works, with Figure 7.0 (aerial image of site from 2018) showing significant disturbance and groundworks in and around the pod (as per refusal reason No. 2).

9.1.11. In terms of the impact on the character of the area, whilst I acknowledge that the appellant has made a demonstrable effort to screen and visually integrate the proposal into the site and its context, given the extent of works and development undertaken in and around the viewing pod within an environmentally and visually sensitive area, I am not satisfied that proposal is compliant with site's 'HA - High Amenity' or with Policy GINHP28 (Protection of High Amenity Areas) or Objectives GINHO58 (Sensitive Areas) and GINHO67 (Development and High Amenity Areas) of the FDP. It is also not compliant with the requirements of Howth SAAO which seek to prevent engineering works which would interfere with the topography and distinctive character of the special amenity area. I consider that retention permission should be refused on this basis.

Conclusion

9.1.12. In light of my assessment above, I consider the proposal to be non-compliant with Schedule 1, Objective 1.1 of the Howth Special Amenity Area Order, 1999, which seeks to manage and conserve its natural assets, with Schedule 3, Objective 3.4 and Policy 3.4.2 of the Howth Special Amenity Area Order, 1999 which seek to preserve the distinctive character of the special amenity area and which deem as inappropriate substantial engineering mitigation works which would reconfigure the profile of the landform and, with Policy GINHP28 and Objectives GINHO58 and GINHO67 of the Fingal County Development Plan 2023-2029 and, in turn, with the site's 'HA' – High Amenity zoning. I therefore recommend a refusal of retention permission as per the PA's determination on the application and, in line with the Board's refusal reasoning in respect of ABP-319665-24. Furthermore, whilst I note that the PA have recommended a refusal of permission for the retention proposal on the basis of 4 no. reasons, I consider that their reasons No's 1, 2 and 4 can be amalgamated into one refusal reason (see Section 12 of this report for further details).

9.2. Impact on Protected Sites

Background

9.2.1. Refusal reason No. 3 centred on how the proposal has resulted in the removal of a significant section of protected maritime heathland in contravention of Objective 2.4 and Policy 2.4.1 of the Howth SAAO which require the protection, preservation, and retention of this habitat.

- 9.2.2. The appellant contends that the proposal was constructed on an area of lawn rather than on an area of protected heathland/ maritime grassland and, on this basis, that its construction did not interfere with a protected landscape or necessitate the removal of a significant section of this protected habitat. Furthermore, they observe that, given the location and materiality of the structure, its removal would necessitate the use of construction/ demolition machinery and techniques with the potential to give rise to noise and dust emissions etc. proximate to an SPA and SACs and may necessitate the use of a construction access route which could damage local vegetation and biodiversity. Notwithstanding these views, I note that the impacts of same are not assessed or considered in the application documentation.

Protected Maritime Heathland

- 9.2.3. Notwithstanding the appellants' submission, and efforts to re-wild the area surrounding the viewing pod with native vegetation, the fact is that the site of the viewing pod is shown on Map B of the Howth SAAO to comprise of heathland (i.e. bracken and scrub) and maritime grassland. Whilst the photographic evidence of the site sourced from Google maps and provided in the grounds of appeal is of relatively poor definition, the existence of protected heathland vegetation in and around the said area prior to the construction of the extant structure is evident (see for example Figures 3 – 5 and 7 which show the aftermath of clearance of the heath on the southern portion of the appeal site relative the that which remains on the adjoining sites to the west and south). Therefore, given the history of this portion of the site (re: site being cleared of maritime grass on account of the pre-existing structure and hardstanding area etc.) as described by the appellant in their grounds of appeal and, as per the concerns raised by the previous Planning Inspector under ABP-319665-24, I am not satisfied on the basis of the information before me that no protected heathland habitat was removed during the demolition and construction processes which applied to the appeal site. On this basis, I consider the proposal for retention of the pod and related site works (i.e. to partially bury and plant over the pod etc.) to be non-compliant with Schedule 2, Objective 2.4 and Policy 2.4.1 of the Howth SAAO which seeks to preserve existing areas of heathland and maritime grassland. I recommend that retention permission be refused on this basis and in line with the Board's determination on ABP-319665-24 and the PA's refusal reason no. 3.

European sites

- 9.2.4. Furthermore, whilst I note the appellants arguments in respect to the potential for the demolition and removal of the viewing pod to give rise to effects on nearby European sites, the proposal for assessment before the Commission relates only to the retention of the structure and ancillary works i.e. the development to be retained as described in the statutory notices. See Appendix 2 for further details of the AA screening assessment carried out in respect of the appeal.

9.3. Procedural Issues

- 9.3.1. The appellant has raised various procedural issues around the PA's dealings with their planning application. The details of which are set out under Section 8.1 of this report. Whilst I note the nature and extent of the concerns raised, I am satisfied that I have given full consideration to the merits of the subject proposal only and have not been unduly influenced in coming to a decision on same.

10.0 AA Screening

- 10.1. 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 development to be retained individually or in combination with other plans or projects would not be likely to give rise to significant effects on the following European Sites: Howth Head SAC (Site Code 000202), North-West Irish Sea SPA (Site Code 004236), Rockabill to Dalkey Island SAC (Site Code 003000) and Howth Head Coast SPA (Site Code 004113) 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 (on the site of a previous structure) 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. The viewing pod proposed for retention is located within lands zoned HA - High Amenity and, by virtue of its ancillary works including amendments to land levels and re-landscaping, has resulted in significant physical intervention into a protected landscape of outstanding natural beauty, exceptional landscape value and high sensitivity and, has damaged the distinctive character and visual amenity of same. The development proposed for retention is therefore non-compliant with Schedule 1, Objective 1.1 and Schedule 3, Objective 3.4 and Policy 3.4.2 of the Howth Special Amenity Area Order, 1999 and with the site's 'HA' – High Amenity zoning, Policy GINHP28 and Objectives GINHO58 and GINHO67 of the Fingal County Development Plan 2023-2029. The proposed development to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The construction, retention, and continued maintenance of the pod has resulted in the removal of a significant section of protected maritime heathland. As such the proposed development contravenes Objective 2.4 and Policy 2.4.1 of the Howth Special Amenity Area Order, 1999 which requires the protection, preservation, and retention of this natural habitat. The proposed development to be retained 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
22nd August 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ABP-322669-25
Proposed Development Summary	Retention of viewing pod and all associated site works
Development Address	Cliff Haven, Thormanby Road, Howth, Co. Dublin, D13 H972
	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, Schedule 5 or a prescribed type of proposed road	

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

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-322669-25
Proposed Development Summary	Retention of viewing pod and all associated site works
Development Address	Cliff Haven, Thormanby Road, Howth, Co. Dublin, D13 H972
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 comprises of the retention of 1 no. viewing pod situated within the rear garden which replaced a pre-existing garden room at the same location; and, all associated site works, including boundary treatments and landscaping necessary to facilitate the development. It comes forward as a standalone project, does not significant require demolition works or the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. 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 larger brownfield, residential site and surrounded by amenity lands adjoining the coastline within Howth in Co Dublin. The development is removed from dense centres of population as per the County Development Plan but is located in close proximity to a number of European sites and sensitive natural habitats as per Section 6.0 of this report. It is also located in an area designated as a 'highly sensitive landscape' due to its 'coastal character type'.
Types and characteristics of potential impacts (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 nature of the development to be retained, its location removed from sensitive habitats/features of relevance to EIA, 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.

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 for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	<p>Normal planning appeal.</p> <p>Retention of a viewing pod and all associated site works at Cliff Haven, Thormanby Road, Howth, Co. Dublin – see Section 2.0 of Inspector's Report for further details.</p>
Brief description of development site characteristics and potential impact mechanisms	<p>The appeal site is brownfield and ancillary residential and set within a coastal environment.</p> <p>The domestic nature and scale of the proposed development is not exceptional in the context of the existing environment.</p> <p>The following watercourses/ ecological features in the vicinity of the site are of note:</p> <ul style="list-style-type: none"> - Howth River is located c.300m to the north-east of the appeal site however there is no physical or functional connectivity with same with no potential to act as a pathway to the following nearby European sites: <ul style="list-style-type: none"> o Howth Head SAC (Site Code 000202) – approx. 30m o North-West Irish Sea SPA (Site Code 004236) – approx. 100m o Rockabill to Dalkey Island SAC (Site Code 003000) – approx. 100m o Howth Head Coast SPA (Site Code 004113) – approx. 500m <p>The abovementioned European sites are separated from the appeal site by a dense band of vegetation, trees and foliage which runs along the coast at this location.</p>
Screening report	<p>Yes, submitted with the application.</p> <p>Fingal County Council screened out the need for AA.</p>
Natura Impact Statement	No
Relevant submissions	<p>AA screening note from the appellant's ecologist concludes that, despite the proximity of the appeal site to the aforementioned European sites, there is no direct hydrological pathway to any of these sites. The note outlines the existence of an intact biodiversity corridor (dense vegetation) between the south site boundary and 3 no. of the SACs and SPAs which also acts as natural buffer to these European sites. Therefore, notwithstanding the proposal's proximity to</p>

	<p>same, given the small-scale nature of the viewing pod & site works and lack of identified hydrological pathways, the Zone of Influence of the construction project was contained within the appeal site and did not extend to the designated sites or give rise to a likelihood of significant effects on the European sites. The note concludes that the existence and retention (operation) of the pod poses no significant risk to the qualifying objectives of the European sites.</p> <p>The note also goes on to state that the demolition and removal of the viewing pod has the potential to give rise to potential adverse effects on biodiversity in the vicinity of North-West Irish Sea SPA and Howth Head SAC.</p>
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Step 2. Identification of relevant European sites using the Source-pathway-receptor model

The appeal site is located c. 30m from Howth Head SAC (Site Code 000202), c. 100m from North-West Irish Sea SPA (Site Code 004236), c. 100m from Rockabill to Dalkey Island SAC (Site Code 003000) and c. 500m from Howth Head Coast SPA (Site Code 004113).

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Howth Head SAC (Site Code 000202)	To maintain the favourable conservation condition of: Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030] Source: <u>Howth Head SAC National Parks & Wildlife Service</u> (accessed 08/08/2025)	c. 30m	No direct connection. Potential indirect connection as above via biodiversity corridor (dense vegetation).	Yes
North-West Irish Sea SPA (Site Code 004236))	To restore or maintain the favourable conservation condition of: Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065]	c. 100m	No direct connection. Potential indirect connection as above via biodiversity corridor (dense vegetation).	Yes

	<p>Black-headed Gull (Chroicocephalus ridibundus) [A179] Common Gull (Larus canus) [A182] Lesser Black-backed Gull (Larus fuscus) [A183] Herring Gull (Larus argentatus) [A184] Great Black-backed Gull (Larus marinus) [A187] Kittiwake (Rissa tridactyla) [A188] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Guillemot (Uria aalge) [A199] Razorbill (Alca torda) [A200] Puffin (Fratercula arctica) [A204] Little Gull (Hydrocoloeus minutus) [A862] Little Tern (Sternula albifrons) [A885]</p> <p>Source: https://www.npws.ie/protected-sites/spa/004236 (accessed 08/08/2025)</p>			
Rockabill to Dalkey Island SAC (Site Code 003000)	<p>To maintain the favourable conservation condition of: Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351] Source: https://www.npws.ie/protected-sites/sac/003000 (accessed 08/08/2025)</p>	c. 100m	<p>No direct connection.</p> <p>Potential indirect connection as above via biodiversity corridor (dense vegetation).</p>	Yes
Howth Head Coast SPA (Site Code 004113)	<p>To restore the favourable conservation condition of: Kittiwake (Rissa tridactyla) [A188] Source: Howth Head Coast SPA National Parks & Wildlife Service (accessed 08/08/2025)</p>	c. 500m	<p>No direct connection.</p> <p>Potential indirect connection as above via biodiversity corridor (dense vegetation).</p>	Yes
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites AA Screening matrix				

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Howth Head SAC (Site Code 000202) As above	<u>Direct:</u> None <u>Indirect:</u> Localised, temporary to long-term low magnitude indirect impacts from dust emissions, increased human activity, noise and lighting.	The scale and siting of the proposal, distance from and buffer area between the site and the SAC make it highly unlikely that the proposal could generate impacts of a magnitude that could affect habitat quality within the SAC for the QIs listed. Conservation objectives would not be undermined.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
North-West Irish Sea SPA (Site Code 004236)) As above	<u>Direct:</u> None <u>Indirect:</u> Localised, temporary to long-term low magnitude indirect impacts from dust emissions, increased human activity, noise and lighting.	The scale and siting of the proposal, distance from and buffer area between the site and the SPA make it highly unlikely that the proposal could generate impacts of a magnitude that could affect habitat quality within the SPA for the SCIs listed. Conservation objectives would not be undermined.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Rockabill to Dalkey Island SAC (Site Code 003000 As above	<u>Direct:</u> None <u>Indirect:</u> Localised, temporary to long-term low magnitude indirect impacts from dust emissions, increased human activity, noise and lighting.	The scale and siting of the proposal, distance from and buffer area between the site and the SAC make it highly unlikely that the proposal could generate impacts of a magnitude that could affect habitat quality within the SAC for the QIs listed. Conservation objectives would not be undermined.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Howth Head Coast SPA (Site Code 004113) As above	<u>Direct:</u> None <u>Indirect:</u> Localised, temporary to long-term low magnitude indirect impacts from dust emissions, increased human activity, noise and lighting.	The scale and siting of the proposal, distance from and buffer area between the site and the SPA make it highly unlikely that the proposal could generate impacts of a magnitude that could affect habitat quality within the SPA for the SCIs listed. Conservation objectives would not be undermined.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		

Due to the siting of the proposal and the presence of an adjoining buffer area (i.e. bands of trees and shrubbery which would intercept dust emissions etc. and provide for physical and visual screening of increased human activity, noise and lighting) between the appeal site and the above listed European sites, I consider that the proposal would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited zone of influence on any ecological receptors.

I conclude that the proposal (alone or in combination with other plans and projects) would not result in likely significant effects on a European site.

No mitigation measures are required to come to these conclusions.

Screening Determination

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 individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites namely, Howth Head SAC (Site Code 000202), North-West Irish Sea SPA (Site Code 004236), Rockabill to Dalkey Island SAC (Site Code 003000) and Howth Head Coast SPA (Site Code 004113) or any other European site, in view of these sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development (on the site of a previous structure) 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.

Appendix 3

Screening the need for Water Framework Directive Assessment Determination.

The appeal site is located in Howth, Co. Dublin.

The nearest watercourse is the Howth River (located c.300m to the north-east) which is delineated from the appeal site by the Thormanby Road together and by a number of other existing residential properties. There is no direct connection between the appeal site and this watercourse. The site is also situated within the Dublin groundwater body whose WFD 'risk' is under review but which is identified as having a 'good' WFD status under the 2016-2021 monitoring period¹.

The proposal comprises of the retention of a viewing pod and all associated 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 retention permission (described above) at Cliff Haven, Thormanby Road, Howth, 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 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.

¹ Source: [EPA Maps](#) accessed 06/08/2025