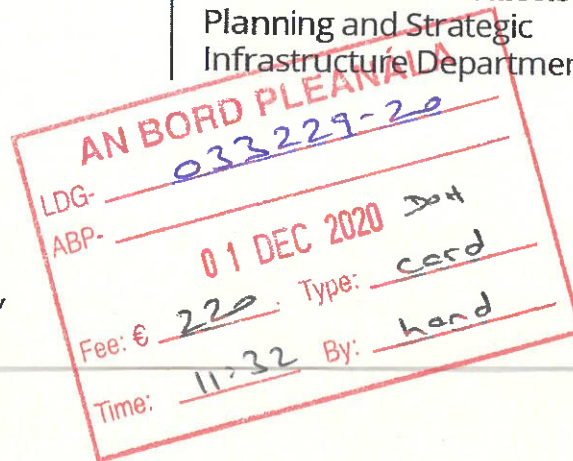




An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01V902.



25 November 2020

**Re: Referral under Section 5(4) of the Planning and Development Act 2000, as amended
Fingal County Council Ref. FS5W/20/20**

Dear Sir/Madam,

Fingal County Council wishes to refer an application for a declaration of exempted development to An Bord Pleanála in accordance with Section 5(4) of the Planning and Development Act 2000, as amended.

The application was made to Fingal County Council on 4th November 2020. The description of the development is stated in the application form as a "Whether the restoration of the previously permitted pre 1963 dwelling to its previous condition at Somerton Lane/ Lower Lucan Road, Strawberry Beds, Dublin 15 is development or exempted development".

Fingal County Council has considered two previous Section 5 applications on this site which deemed that a series of works were not exempted development as follows:

FS5W/02/19: The following were deemed not to be exempted development:

- 1. Major land moulding has recently been completed with the transfer of soil from the lower part of the site to the upper part of the site adjacent to my property and the construction of a substantial retaining wall. This wall is in excess of 3 meters high and 2 feet wide. While the front of the wall has been completed is a nice stone finish the back of the wall which is visible from my property is completed in redbrick. Please see images Wall 1 to Wall 7.*
- 2. Two sheds have been located on the upper levels of the site and are being used to store materials Please see images Shed 1 Feb 2019 and Shed 1&2 Feb 2019*
- 3. The manner in which the ongoing development has been completed has resulted in the property looking like more like a scrap yard than a residential property in an area of outstanding natural beauty. Please see images of Site 1 to Site 11.*
- 4. It is the intention of the owner to now build a log cabin structure on the site. This is currently covered under tarpaulin behind metal fencing to the right of the entrance to my*

property. This fencing has been in place for approximately 4 years now. Please see images Fencing & Log Cabin Feb 1 to Fencing and Log Cabin 3.

FS5W/07/19: The following was deemed not to be exempted development:

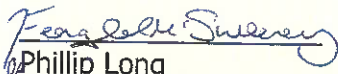
The use of a site at Somerton Lane / Lower Road, Castleknock.

The assessment of application Reg. Ref. FS5W/07/19 was interpreted as seeking a declaration on the residential nature of the site and it was considered that the use of the former dwelling house on the site as a residential building had been abandoned.

Details of these applications can be found on the website of Fingal County Council (www.fingal.ie)

The development site has also been subject to investigation by the Enforcement Section of Fingal County Council.

Yours sincerely,


Phillip Long
Senior Executive Officer



Peter Rafter
32, Block C
Southmede
Ballinteer Road
Dundrum
Dublin
D16 CN45

NOTIFICATION OF DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Decision Order No. PF/1672/20	Decision Date: 24-Nov-2020
Ref: FS5W/20/20	Registered: 04-Nov-2020

Area: Blanchardstown Mulhuddart

Applicant: Peter Rafter

Development: Whether the restoration of the previously permitted pre 1963 dwelling to its previous condition at Somerton Lane/ Lower Lucan Road, Strawberry Beds, Dublin 15 is development or exempted development

Location: Lower road/Somerton Lane, Strawberry Beds, Castleknock, Dublin 15

Application Type: Request for Declaration Under Section 5

Dear Sir/ Madam

With reference to your request for a **DECLARATION** under Section 5 (1) received on 04-Nov-2020 in connection with the above, I wish to inform you that the

Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin \K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
e: planning@fingal.ie www.fingal.ie

Bóthar an Gharráin, Baile Bhlainséir, Átha Cliath 15 / Grove Road, Blanchardstown, Dublin 15 D15 W638
Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

Ref No: FS5W/20/20

above proposal **Decision to be Made by Other Body** under Section 5(1) of the Planning and Development Act 2000 for the following reason(s):

NOTE: Where a declaration is issued under section 5 (1) any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such a fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Signed on behalf of Fingal County Council.

 25-Nov-2020
for Senior Executive Officer

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.
2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.
3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).
4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.
5. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.
6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type

Planning Acts

(a) Appeals against decisions of Planning Authorities

Appeal

(i) 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 in EIS or NIS involved
(iii) 1 st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1 st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act)	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at (01) 8588 100.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

PS/1672/20

Section 5 Reference: FS5W/20/20

Area: Blanchardstown Mulhuddart

Date of Registration: 4 November, 2020

Correspondence: Peter Rafter 32, Block C, Southmede, Ballinteer Road, Dundrum, Dublin, D16 CN45

Development: Whether the restoration of the previously permitted pre 1963 dwelling to its previous condition at Somerton Lane/ Lower Lucan Road, Strawberry Beds, Dublin 15 is development or exempted development

Location: Lower road/Somerton Lane, Strawberry Beds, Castleknock, Dublin 15

Applicant: Peter Rafter

Application Type: Dec Under Section 5

Planning Officers Report:

DF/AF

Report of the Planning Officer typed 23rd November 2020.

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to determine:

Whether the restoration of the previously permitted pre 1963 dwelling to its previous condition at Somerton Lane/ Lower Lucan Road, Strawberry Beds, Dublin 15 is development or exempted development by Peter Rafter

Planning History

FS5W/02/19: The following were deemed not to be exempted development:

1. Major land moulding has recently been completed with the transfer of soil from the lower part of the site to the upper part of the site adjacent to my

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/20/20

property and the construction of a substantial retaining wall. This wall is in excess of 3 meters high and 2 feet wide. While the front of the wall has been completed is a nice stone finish the back of the wall which is visible from my property is completed in redbrick. Please see images Wall 1 to Wall 7.

2. Two sheds have been located on the upper levels of the site and are being used to store materials Please see images Shed 1 Feb 2019 and Shed 1&2 Feb 2019

3. The manner in which the ongoing development has been completed has resulted in the property looking like more like a scrap yard than a residential property in an area of outstanding natural beauty. Please see images of Site 1 to Site 11.

4. It is the intention of the owner to now build a log cabin structure on the site. This is currently covered under tarpaulin behind metal fencing to the right of the entrance to my property. This fencing has been in place for approximately 4 years now. Please see images Fencing & Log Cabin Feb 1 to Fencing and Log Cabin 3.

FS5W/07/19: The following was deemed not to be exempted development:

The use of a site at Somerton Lane / Lower Road, Castleknock.

There is also enforcement history on this site under Reg. Refs 11/113B and 16/196B.

Matters Arising

Fingal County Council has considered two previous Section 5 applications on this site which deemed that a series of works were not exempted development. The assessment of application Reg. Ref. FS5W/07/19 was interpreted as seeking a declaration on the residential nature of the site and it was considered that the use of the former dwelling house on the site as a residential building had been abandoned.

In light of the planning and enforcement history on the site, it is considered that the application should be referred to An Bord Pleanála in accordance with Section 5(4) of the Planning and Development Act 2000, as amended.

Recommendation:

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/20/20

It is recommended that the application be referred to An Bord Pleanála in accordance with Section 5(4) of the Planning and Development Act 2000, as amended.

RECOMMENDATION

I recommend that in accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/20/20

Dillon
Senior Executive Planner

Endorsed:

Fergal McQuinn
Administrative Officer

Order: In accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.

Dated: 26th November, 2020

Cannon
Senior Planner

Thereunto empowered by order of the Chief Executive, Fingal County Council C.E. No. 7844 delegating to me all powers, functions & duties in relation to the council of the County of Fingal in respect of this matter.



Peter Rafter
32, Block C
Southmede
Ballinteer Road
Dundrum
Dublin
D16 CN45

Date: 11 November, 2020

PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Register Reference: FS5W/20/20

Area: Blanchardstown Mulhuddart

Development: Whether the restoration of the previously permitted pre 1963 dwelling to its previous condition at Somerton Lane/ Lower Lucan Road, Strawberry Beds, Dublin 15 is development or exempted development

Location: Lower road/Somerton Lane, Strawberry Beds, Castleknock, Dublin 15

Applicant: Peter Rafter

Application Type: Dec Under Section 5

Date Received: 04-Nov-2020

Dear Sir/Madam,

I wish to acknowledge receipt of your application for a Declaration under Section 5(1) of the Planning and Development Act 2000, which was received by this Department on 04-Nov-2020.

Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
e: planning@fingal.ie www.fingal.ie

Bóthar an Gharráin, Baile Bhlainséir, Átha Cliath 15, / Grove Road, Blanchardstown, Dublin 15 D15 W638
Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

Comhairle Contae Fhine Gall
Fingal County Council

**An Roinn um Pleanáil agus
Infrastruchtúr Straitéiseach**
Planning and Strategic
Infrastructure Department



This matter is presently being examined and I will be in touch with you within the prescribed period.

Yours faithfully,

Brian Molloy

for Senior Executive Officer

Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
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Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

04 NOV 2020

RECEIVED



FSSW/20/20

**Application Form for Declaration Under
Section 5 of the Planning & Development Act 2000**
Declaration on Development and Exempted Development

1. Applicants' Name: Peter Rafter
2. Location of Proposed Development: Lower Road / Somerton Lane
Strawberry Beds,
Castleknock, Dublin 15.
3. Agents' Name: N/A
4. Correspondence Address: 32 Block C, Southmede,
Ballinteer Road,
Dundrum, Dublin, D16CN45.
5. Description of Proposed Development: Whether the restoration of the
previously permitted pre 1963 dwelling to its previous condition at
Somerton Lane / Lower Lucan Road, Strawberry Beds, Dublin 15
is development or exempted development"
6. Is the Proposed Development Situated in a Special Amenity Area? Yes
7. Is this a Protected Structure, Proposed Protected Structure or within the Curtilage of a Protected Structure? No

8. If yes to 6 above, has a Declaration Under Section 57 (works affecting character of a Protected Structure(s) or Proposed Protected Structure(s)) of the Planning & Development Act 2000 (as amended) been Requested or issued for the property by the Planning Authority?

N/A

9. Documents Submitted with this Application are as Follows: _____
Site Map, Picture of House and coach-house on Lower Road taken
_____ from 'Street-view' on Google maps.

(See confidential Details, Page 3)

Please Note:

Documents to submit include:

- Completed application form
- 4 copies of site location map with site clearly outlined in red
- 4 copies of site plan/block plan/site layout plan, drawn to a scale of not less than 1:500
- 4 copies of drawing of proposed development, preferably drawn to a scale of not less than 1: 200 and any other particulars required to describe the works to which the development relates.
- Fee of €80

Applications shall be assessed on the basis of the drawings and plans submitted. Drawings/ Plans which are not clearly legible shall result in the referral of the application back to the applicant and may result in the delay of the processing of the application.

Send Application to:
Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
County Hall
Swords
Co. Dublin
K67 X8Y2

For Dublin 15 Area Send to:
Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
Grove Road
Blanchardstown
Dublin 15
D15 W638



CONFIDENTIAL DETAILS

- Not for Publication -

10. Is the Applicant the owner and occupier of these lands at above location?

Yes No

If 'No' to 10 above, please supply Name and Address of Owner.

Applicants' Address: _____
(if different from no. 2 above, page 1)

Applicants' Details:

Fax: _____ E-mail: _____

Agents' Details:

Tel: _____ Fax: _____ E-mail: _____

Signed: *Peter Pyle* Date: 03/10/2020

The use of personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Acts 1988 - 2003 and may result in action from the Data Protection commissioner against the Sender, including prosecution.

* The details contained on this page will not appear on the Councils' Website



Juliana Harun and Peter Rafter - Property Location Map



Map shows our site, bounded by the Somerton Road and the Lower Road along the Strawberry Beds.

Located in the near vicinity are the Castleknock Hotel, the Castleknock Golf Club, St. Bridget's GAA sport club, the Strawberry Hall public house and several residential properties.



The Property
Registration Authority
 An tÚdarás
 Clárúcháin Maoiné
 Folio: DN212844F



This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI, published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.pra.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

- (centre-line of parcel(s) edge)
- Freehold
 - Leasehold
 - Sub-Leasehold
- Burdens (may not all be represented on map)**
- Right of Way / Wayleave
 - Turbary
 - Pipeline
 - Well
 - Pump
 - Septic Tank
 - ▽ Soak Pit

A full list of burdens and their symbology can be found at:
www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

