



Case No.: ABP-317659-23

Date: 8th August 2023

F.A.O. Anthony McNally,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

Dear Anthony,

We acknowledge receipt of your letter dated 28th July 2023 in connection with case no. ABP-317659-23. The information you requested is as follows:

- (i) There have been no decisions made in relation to planning applications for the subject site. A Section 5 Declaration was previously made in 2007. Please find attached documents relating to the Section 5 application from 2007. A Decision on Enforcement was made under Section 153 and Section 154 of the 2000 Act (as amended) dated 13th March 2020. Please find attached copies of same.
- (ii) Fingal County Council are not currently in receipt of any application made under Section 5 of the 2000 Act (as amended) for the subject site. A Section 5 Declaration was previously made in 2007. Please find attached documents relating to the Section 5 application from 2007.
- (iii) Mr. Philip Farrelly,
10 Burrow Road,
Sutton,
Dublin 13.

Mortgages against the property are in the names of Philip & Sylvia Farrelly but Sylvia Farrelly passed away in 2008.
- (iv) Fingal County Council are not currently in receipt of an application made under Section 5 of the 2000 Act (as amended) for the subject site. However, a Section 5 application was decided in 2007, please see attached copy of same. The following applicant was notified:

Philip Farrelly,
10 Burrow Road,
Sutton,
Dublin 13.

Comhairle Contae Fhine Gall
Fingal County Council

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



(v) See response to (iv) above.

Yours faithfully,

Authorised Officer
Planning Enforcement



ENF No: 19/59B

CRM No: 21008/19

S153 CE No.
PENF/ 20 /2020

S154 CE No.:
PENF/ 21 /2020

COMHAIRLE CONTAE FHINE GALL

FINGAL COUNTY COUNCIL

ENFORCEMENT NOTICE

S154 ENF 1 DNP

SECTION 154 OF THE PLANNING AND DEVELOPMENT ACTS 2000 AS AMENDED

DEVELOPMENT CARRIED OUT WITHOUT A GRANT OF PLANNING PERMISSION

RE: Lands at 10 Burrow Road, Sutton, Dublin 13

WHEREAS Fingal County Council (hereinafter called "the Council") being the Planning Authority for the area in which the above mentioned land is located having considered only the proper planning and sustainable development of its area including the preservation and improvement of the amenities thereof, regard being had to the provisions of the County Development Plan 2017 - 2023, any representations made to the Planning Authority under Section 152 (1)(a) of the Planning and Development Act, 2000 as amended, any submissions or observations made under Section 152 (4)(b) of the Planning and Development Act 2000 as amended, and any other material considerations, and having investigated the matter has, in accordance with Section 153 of the Planning and Development Act 2000 as amended, decided to issue this Enforcement Notice.

AND WHEREAS subsequent to the 1st day of October 1964 and within seven years immediately preceding the date of this Notice, the following development has been carried out on the said lands without a grant of permission under Part III of the Planning and Development Act 2000 as amended:

1. **The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.**
2. **The unauthorised widening of the vehicular access, from 3 metres (approximately) to 3.25 metres (approximately), to the front of the property without the benefit of Planning Permission.**

AND WHEREAS the said development is not exempted development.

AND WHEREAS the said development carried out on the said lands constitutes Unauthorised Development.

YOU ARE HEREBY REQUIRED, pursuant to Section 154 of the Planning and Development Act 2000 as amended,;

Shall require within a period of 4 (four) months of the date of the service of this Notice to;

- A)
1. **Remove the large unauthorised structure measuring approximately 11.7 metres by 7.4 metres to the rear and side of 10 Burrow Road, Sutton.**
 2. **Re-instate the vehicular access at the front of the property to its original width of 3 metres.**
- B) To refund the Council the sum of **€350.00** being the sum of the costs and expenses reasonably incurred by it in relation to the investigation, detection and issue of this Enforcement Notice and any Warning Letter issued under Section 152 of the Planning and Development Act 2000 as amended, including costs incurred in respect of the remuneration and other expenses of its employees, consultants and/or advisors pursuant to Section 154(5)(d) of the Planning and Development Act 2000 as amended.

AND TAKE NOTICE that if, within the said period above, or within such extended period (not being more than six months) the steps specified in this Notice to be taken by you have not been so taken, the Council may enter on the said lands and take such steps, including the removal, demolition or alteration of any structure and may recover any costs reasonably incurred by it on that behalf.

TAKE FURTHER NOTICE that if, within the said period above, or within such extended period (not being more than six months as may be allowed by the Council) the steps specified in this Notice to be taken by you have not been so taken, you may be guilty of an offence. **If the Council decides to prosecute you for non-compliance with this Notice and you are found guilty of an offence by the Courts, you may be liable on summary conviction to a fine not exceeding €5,000 and/or imprisonment for a term not exceeding 6 months or both or on conviction following trial on indictment to a fine not exceeding €12,697.381 and/or a term of imprisonment not exceeding 2 years or both. You will be liable on conviction for the costs and expenses of such prosecution.**

DATED this 13th day of MARCH, 2020

SIGNED



SENIOR EXECUTIVE OFFICER

To whom the appropriate powers have been delegated by Order of CE 7649 of the Chief Executive, Fingal County Council.

To be served upon the following:

On: Philip Farrelly

At address at: 10 Burrow Road, Sutton, Dublin 13

being the owner and person carrying out the unauthorised development.

PENF/21/2020

ENF No: 19/59B

CRM No: 21008/19

PENF/ 21 /2020

COMHAIRLE CONTAE FHINE GALL
FINGAL COUNTY COUNCIL

S154 CE 1 DNP
TO BE READ WITH PEI 1

RECORD OF CHIEF EXECUTIVE'S ORDER

SECTION 154 OF THE PLANNING AND DEVELOPMENT ACTS 2000 AS AMENDED

DEVELOPMENT WITH NO PERMISSION

Section 154 – Enforcement Notice

SUBJECT:

Preparation and Service of Enforcement Notice pursuant to Section 154 of the Planning and Development Act 2000, as amended, in respect of lands located at:

- 10 Burrow Road, Sutton, Dublin 13

Development consisting of:

1. The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.
2. The unauthorised widening of the vehicular access from 3 metres (approximately) to 3.25 metres (approximately) to the front of the property without the benefit of Planning Permission.

is being carried out. As this development does not have the benefit of planning permission, nor can it be considered exempted development, it is therefore unauthorised.

Following the decision of the Planning Authority to issue an Enforcement Notice pursuant to Section 153 of the Planning and Development Act, 2000, as amended, I hereby recommend, pursuant to Section 154 of the Planning and Development Act 2000, as amended, that an Enforcement Notice be prepared and served in accordance with Section 154 of the Planning and Development Act 2000, as amended.



Authorised Officer



Date

ORDER:

Having considered only the proper planning and sustainable development of the administrative area of Fingal County Council including the preservation and improvement of the amenities thereof, regard being had to the provision of the Development Plan 2017 – 2023, any representations made to the Planning Authority under Section 152 (1)(a) of the Planning and Development Act 2000, as amended, any submissions or observations made under Section 152 (4)(b) of the Planning and Development Act 2000, as amended, and any other material considerations, and following the decision to issue an Enforcement Notice pursuant to Section 153 of the Planning and Development Act 2000, as amended, it is hereby decided that Fingal County Council, in exercise of the powers conferred on it by Section 154 of the Planning and Development Act 2000, as amended, shall prepare and serve an Enforcement Notice in accordance with Section 154 of the Planning and Development Act 2000, as amended.

On: Philip Farrelly

At address at: 10 Burrow Road, Sutton, Dublin 13

being the owner and person carrying out the unauthorised development.

And shall require within a period of 4 (four) months of the date of the service of this Notice to;


- 1. Remove the large unauthorised structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of 10 Burrow Road, Sutton.**
- 2. Re-instate the vehicular access at the front of the property to its original width of 3 metres.**

NOW THEREFORE being of the opinion that it is necessary to do so, I direct that an Enforcement Notice in the same terms shall be issued and served upon;

On: Philip Farrelly

At address at: 10 Burrow Road, Sutton, Dublin 13

being the owner and person carrying out the unauthorised development.



Senior Executive Officer

13/3/20

Date

To whom the appropriate powers have been delegated by Order of CE 764 of the Chief Executive, Fingal County Council.

Submission	Date:	
Prepared:	Toni Hogan	13/3/2020
Checked:	A. Hankey	15-3-2020
Submitted:	Kevin P. A. J.	13-3-20

PENF/20/2020

S153 CE 1
TO ISSUE

ENF No: 19/59B

CRM No: 21008/19

S153 CE No.

PENF/20/2020

COMHAIRLE CONTAE FHINE GALL
FINGAL COUNTY COUNCIL

RECORD OF CHIEF EXECUTIVE'S ORDER

SECTION 153 OF THE PLANNING AND DEVELOPMENT ACTS 2000 AS AMENDED

Section 153 – Decision on Enforcement

LAND LOCATED AT: 10 Burrow Road, Sutton, Dublin 13

NATURE OF ALLEGED UNAUTHORISED DEVELOPMENT:

The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

The unauthorised widening of the vehicular access from 3 metres (approximately) to 3.25 metres (approximately) to the front of the property without the benefit of Planning Permission.

REPRESENTATION UNDER SECTION 152 (1)(a)

Yes

No

DATE OF REPRESENTATION

8th March 2019

DID WARNING LETTER ISSUE

Yes

No

DATE OF WARNING LETTER

15th March 2019

12th February 2020

SUBMISSION / OBS UNDER SECTION 152(4)(b)

Yes

No

DATE OF SUBMISSION

15th April 2019

10th March 2020

Reasons for issuing an Enforcement Notice:

Inspections including inspections carried out on 10th of December 2019 and 12th March 2020 found there has been unauthorised development undertaken to the side and rear of 10 Burrow Road, Sutton, Dublin 13 as follows;

The demolition and reconstruction of a habitable area to the side and rear of No. 10 Burrow Road, and the construction of a side and rear extension at ground floor level and first floor level in excess of the areas which are permitted under Class 1 of the Planning and Development Regulations 2001, as amended when added to the area of demolished habitable space.

The extension as constructed did not avail of the existing foundations and was constructed in excess of circa 1 metre off the rear wall associated with the existing house and moved circa 1 metre westwards. There is only a ground floor link to this development with no link at first floor level. The development on site far exceeds the exemption limits associated with exempt development.

A large window has been constructed on the first floor west facing elevation of the extension. The window is less than 11 metres from the boundary it faces and consequently does not constitute exempt development under Class 1 of the Planning & Development Regulations 2001, as amended.

The extension and its associated works have been constructed without the benefit of Planning nor can they be considered exempt development.

The unauthorised widening of the vehicular access to the front of the property without the benefit of Planning Permission.

RECOMMENDATION of the SENIOR EXECUTIVE PLANNER: The Senior Executive Planner recommended that an Enforcement Notice pursuant to Section 154 of the Planning and Development Acts 2000 as amended be issued.

SUBJECT

Whether to issue an Enforcement Notice.

Following investigation by the Planning Authority including a site inspection and having considered any representations made to the Planning Authority under Section 152 (1)(a) of the Planning and Development Act 2000, as amended, any submissions or observations made under Section 152 (4)(b) of the Planning and Development Act 2000, as amended, and any other material considerations, I recommend that, pursuant with Section 153 of the Planning and Development Act 2000, as amended, a decision be made TO ISSUE an Enforcement Notice in accordance with Section 154 of the Planning and Development Act 2000, as amended, for the following reason(s);

The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

The unauthorised widening of the vehicular access from 3 metres (approximately) to 3.25 metres (approximately) to the front of the property without the benefit of Planning Permission.

Gerrard

Authorised Officer

13/3/20

Date

ORDER:

Having considered only the proper planning and sustainable development of the administrative area of Fingal County Council including the preservation and improvement of the amenities thereof, regard being had to the provision of the Development Plan 2017 – 2023, any representations made to the Planning Authority under Section 152 (1)(a) of the Planning and Development Act 2000, as amended, any submissions or observations made under Section 152 (4)(b) of the Planning and Development Act 2000, as amended, and any other material considerations, it is hereby decided that Fingal County Council, in exercise of the powers conferred on it by Section 153 of the Planning and Development Act 2000, as amended, shall issue an Enforcement Notice in accordance with Section 154 of the Planning and Development Act 2000, as amended, for the following reason(s);

The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

The unauthorised widening of the vehicular access from 3 metres (approximately) to 3.25 metres (approximately) to the front of the property without the benefit of Planning Permission.

[Signature]

Senior Executive Officer

13/3/20

Date

To whom the appropriate powers have been delegated by Order of CE *7649* of the Chief Executive, Fingal County Council.

Submission	Date:	
Prepared:	<i>Tori Hogan</i>	<i>13/3/2020</i>
Checked:	<i>Gerrard</i>	<i>13/3/20</i>
Submitted:	<i>[Signature]</i>	

ENF No: 19/59B

CRM No: 21008/19

S153 CE No.

COMHAIRLE CONTAE FHINE GALL
FINGAL COUNTY COUNCIL

DERS 1

DECISION ON ENFORCEMENT REGISTER SHEET

SECTION 153 OF THE PLANNING AND DEVELOPMENT ACTS, 2000 AS AMENDED

- **LANDS LOCATED AT: 10 Burrow Road, Sutton, Dublin 13**

1. Name and Address of person against whom Warning Letter issued:-

Name:- **Mr Philip Farrelly**

Address:- **10 Burrow Road,
Sutton
Dublin 13**

2. Name: **Sylvia Farrelly**
Address: **10 Burrow Road
Sutton
Dublin 13**

3. Decision on whether to issue Enforcement Notice

TO ISSUE

NOT TO ISSUE

4. Reasons for issuing Enforcement Notice;

The carrying out of demolition works to the rear and side of No. 10 Burrow Road, Sutton, Dublin 13 and the construction of a large structure, measuring approximately 11.7 metres by 7.4 metres, to the rear and side of No. 10 Burrow Road, without the benefit of Planning Permission and which does not comply with the conditions and limitations of Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

The unauthorised widening of the vehicular access from 3 metres (approximately) to 3.25 metres (approximately) to the front of the property without the benefit of Planning Permission.