Comhairle Contae Fhine Gall Fingal County Council

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



Councillor David Healy
By email: david.healy@cllrs.fingal.ie

11th September 2024

Re: AIE Request AIE/2024/008

Dear Councillor Healy,

I refer to your request which you made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations) for access to records held by Fingal County Council relating to:

Enforcement File reference 24/095

Dear Claire,

Thanks for that information. I'm making a formal request under the Access to Information on the Environment Regulations for

- any documentation relating to compliance with condition 17 and condition 18 of F16A/0412 ABP PL06F.248970;
- any documentation relating to the warning letter issued on 14th May 2023.
- any documents on enforcement file ENF24/095.

Thanks for your assistance,

Best regards,

David

Summary of Decision

I made a decision on your request on 11th of September 2024. I have decided to grant and part grant access to 9 records, with some information redacted by reason of the Articles 8 (i) and 8 (iv):

Bosca 174, Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath P.O. Box 174, County Hall, Swords, Fingal, Co. Dublin K67 X8Y2 t: (01) 890 5000 f: (01) 890 5809 e: info@fingal.ie fingal.ie

- 8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information(a) would adversely affect—
 - (i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law....
- ...(iv) without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts).

Schedule of records

I have attached a schedule of records with this letter. This lists the records that I consider relevant to your request. It provides a brief description of each record and the decision I have made on each record.

Fees

The regulations allow a public authority to charge a reasonable fee for the cost of supplying environmental information. Details of charges that apply will be advised in the final decision letter.

Right of Review

Under Article 11 of the AIE Regulations you have a right to request an internal review of a decision. An internal review involves a complete reconsideration of the matter by a member of the staff of Fingal County Council, unconnected with the original decision, of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision.

If you do not receive a decision by the specified date above, you can request an internal review, you can do so by writing to FOI/AIE Officer, Information & Data Management Office, Corporate Affairs & Governance Department, Fingal County Council, Civic Offices, Grove Road, Blanchardstown, Dublin, D15 W638 or by e-mail to foi@fingal.ie quoting the AIE reference number. This request must be made within one month of the date the decision was due to be received. The decision of an internal review will be communicated to you within one month of receipt of your request for an internal review.

Should you wish to discuss the above, please contact the undersigned.

Yours sincerely,

Fearghal McSweeney

Fearghal McSweeney

Administrative Officer,
Planning & Strategic Infrastructure Department

Bosca 174, Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath P.O. Box 174, County Hall, Swords, Fingal, Co. Dublin K67 X8Y2 **t:** (01) 890 5000 **f:** (01) 890 5809 **e:** info@fingal.ie **fingal.ie**

Access to Information on the Environment (AIE) Schedule of Records - Summary of Decision Making

AIE Request Reference 203

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Emissions - where information is refused under Article 8 and/or 9(1)(c)							1
Public Interest		1 5 X					
Basis for refusal - Article of Regulation		8(a)(iv), without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts).		8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information— 3 would adversely affect—(i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.		8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information— (a) would adversely affect—(i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.	8(a)(iv), without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts).
Decision - Grant/Part Grant/Refuse	Grant	Refuse	Grant	Part Grant	Grant	Refuse	Refuse
Brief description of record	Initial Complaint Correspondence	Internal Initial Complaint Correspondence	Internal Correspondence- Reference Request Grant Information	Warning Letter	External Correspondence- Ack of Warning letter to complainant	External Correspondence from representative Refuse of the owner	Internal Correspondence
Record No. Date of Record	8th of April 2024 to 14th of May 2024	8th of May 2024 .	10th of May 2024	14th of May 2024	24th of May 2024	10th of June 2024	11th of June 2024
Record No.	1 to 8	o o	10	11 to 14	15 to 24	25	26

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	8. A public authority shall not make available environmental information in accordance with an 7 where disclosure of the Information—(a) would adversely affect—(i) the confidentiality personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.	8. A public authority shall not make available environmental information in accordance with ar 7 where disclosure of the information—(a) would adversely affect—(i) the confidentiality personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.	8. A public authority shall not make available environmental information in accordance with ar 7 where disclosure of the information—(a) would adversely affect—(i) the confidentiality personnel information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.			8(a)(iv), without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts).	8(a)(iv), without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of information Acts 1897 and 2003 with respect to exempt records within the meaning of those Acts).		
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No. of Property and Party									A
	12th of June 2024	14th of June 2024	24th June 2024	23rd of July 2024	23rd of July 2024	15th of August 2024	15th of August 2024	15th of August 2024	15th of August 2024
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Claire Byrne

From:

Fearghal McSweeney

Sent:

14 May 2024 15:02

To:

Cllr David Healy (con)

Subject:

FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of

F16A/0412

Dear Councillor Healy,

I wish to acknowledge receipt of your correspondence in relation to your email of 8th April 2024.

Section 152 (3) of the Planning and Development Act 2000, as amended, states that the planning authority shall issue the warning letter under subsection (1) as soon as may be but not later than 6 weeks after receipt of the representation,

It is the objective of the Planning Enforcement section to issue a warning letter where appropriate as soon as is possible. Some investigations may be more protracted and involved, as is the case here, and each case is examined on a case by case basis.

We will update you, in writing, following any further action taken by the Planning Enforcement section in relation to this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Conta Fhing Gall Fingal County Council



From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie >

Sent: Friday, May 3, 2024 11:38 AM

To: Brian Murray < Brian. Murray@fingal.ie >

Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Brian.

It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcement of 8th April (below). That letter followed emails of 5th and 6th March which have not been answered, and emails from me on 4th December and from Myrtle Residents of 11th September. The September correspondence followed years of engagement by residents and councillors with the Council Executive which have always been directed to and handled by Planning Enforcement.

At the briefing on Planning Enforcement, Fearghal told us that "in 95% of cases, a warning letter is issued within a week of receiving a complaint."

Why is the handling of this extremely important case so far from that level of service? Thanks, David Cllr. David Healy +353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. www.davidhealy.com @davidhealyv ----- Forwarded message ------From: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie > Date: Fri, 3 May 2024 at 10:42 Subject: RE: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412 To: Cllr David Healy (con) < David. Healy@cllrs.fingal.ie> CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe. Dear Cllr. Healy, I wish to acknowledge receipt of your correspondence dated 8th April 2024, The matter is currently under investigation by the Planning Enforcement section, and we will update you in due course on this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie >

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie >; Colm McCoy < Colm.McCoy@fingal.ie >; Fearghal

McSweeney < Fearghal. McSweeney@fingal.ie >

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

A compliance submission in relation to this condition was submitted to Fingal county Council in December 2019 and rejected by the Council in August 2020. I enclose a copy of the relevant documentation from the

online planning file. There is no further compliance documentation in relation to this condition on the website.
I request that appropriate enforcement action is taken as a matter of urgency.
Le meas,
Cllr. David Healy
+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.
www.davidhealy.com
@davidhealyv
From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie > Date: Wed, 6 Mar 2024 at 17:24 Subject: Fwd: Access between Baldoyle and Clongriffin, including Clongriffin station To: Colm McCoy < colm.mccoy@fingal.ie >
Dear Colm,
This is the email discussed at our meeting today including reference to the enforcement file 23/279B.
Regards,
David
From: David Healy / Daithí Ó hÉalaithe <david.healy@cllrs.fingal.ie> Date: Tue, 5 Mar 2024 at 20:05 Subject: Access between Baldoyle and Clongriffin, including Clongriffin station To: Matthew McAleese <matthew.mcaleese@fingal.ie>, Fearghal McSweeney <fearghal.mcsweeney@fingal.ie> Cc: Joan Hopkins <joan.hopkins@cllrs.fingal.ie>, Brian McDonagh OBrien <fearghal.mcsweeney@fingal.ie>, Cllr Foghan OBrien@cllrs.fingal.ie>, Anthony Lavin@cllrs.fingal.ie>, Cllr Aoibhinn Tormey</fearghal.mcsweeney@fingal.ie></joan.hopkins@cllrs.fingal.ie></fearghal.mcsweeney@fingal.ie></matthew.mcaleese@fingal.ie></david.healy@cllrs.fingal.ie>

Dear Fearghal and Matthew,

As there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it would be useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where the issue of the access is again on the agenda.

Myrtle Residents sent an email on 11th September 2023 to planning.enforcement@fingal.ie including the following:

"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This is our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times. (Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:



"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

Cllr. David Healy

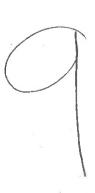
+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

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caillte, scriosta, nó teacht déanach nó neamhiomlán. Dá bhrí sin, ní féidir linn glacadh le freagracht as aon earráidí nó easnaimh atá sa teachtaireacht seo, nó aon iatán, a tháinig chun cinn mar thoradh ar an tarchur ríomhphoist. Tá an teachtaireacht cuardaithe ag bogearraí Frithvíreas.



Claire Byrne

From:

Planning Enforcement < Planning. Enforcement@fingal.ie>

Sent:

10 May 2024 15:42

To:

Edel Rossi

Subject:

Reference Request re F16A/0412

Edel

Could we please have a reference in relation to the lands around Clongriffin Train Station, particularly in regard to Planning Application F16A/0412.

Regards

GM

On behalf of

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: planning.enforcement@fingal.ie

Comhairle Contae Fhine Gall Fargal County Council



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Comhairle Contae Fhine Gall Fingal County Council

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



ENF No.: 24/095

COMHAIRLE CONTAE FHINE GALL FINGAL COUNTY COUNCIL

WARNING LETTER

SECTION 152 OF THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED

WL 1

Date: 14/05/2024

RE: Lands at Clongriffin Train Station, The Coast, Baldoyle, Dublin 13

Dear Sir/Madam,

It has come to the attention of the Planning Authority that unauthorised development may be ongoing at the above lands. This alleged unauthorised development consists of:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F,248970 (Fingal County Council Reference F16A/0412)
- > 18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

Forfheidhmiú Pleanála, Bosca 174, Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath Planning Enforcement Section, P.O. Box 174, County Hall, Swords, Fingal, Co. Dublin K67 X8Y2 t: (01) 890 5000 e: planning.enforcement@fingal.ie w: www.fingal.ie

Comhairle Contae Fhine GallFingal County Council

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



...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times

Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

The matter is now under investigation by the planning authority. Any person served with this warning letter may make submissions or observations in writing to the planning authority with regard to the purported offence not later than four weeks from the date of service of this letter. Submissions or observations should be made to the address below.

If, following investigation, the planning authority considers that unauthorised development has been carried out, it may decide to issue an Enforcement Notice under Sections 153 & 154 of the Planning and Development Act 2000, as amended, or make an application to the High Court or the Circuit Court for an injunction under Section 160 of the Planning and Development Act 2000, as amended, without further communication to you.

Officials of the planning authority may at all reasonable times enter on the above land for the purposes of inspection in the course of the planning authority's investigation.

Under Section 151 of the Planning and Development Act 2000, as amended, it is an offence to carry out unauthorised development. In this regard, your attention is drawn to Section 156 of the aforementioned Act, which sets out details of the penalties involved (copy enclosed).

Any costs reasonably incurred by the planning authority in relation to enforcement proceedings may be recovered from a person on whom an Enforcement Notice is served or where court action is taken. Such costs include the costs and expenses relating to the issue of this Warning Letter, and to the issue of any Enforcement Notice, together with the costs of investigation and detection including costs incurred in respect of remuneration and other expenses of employees, consultants and advisers including legal advisers.

Yours faithfully,

Authorised Officer Planning Enforcement

Forfheidhmiú Pleanála, Bosca 174, Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath Planning Enforcement Section, P.O. Box 174, County Hall, Swords, Fingal, Co. Dublin K67 X8Y2 t: (01) 890 5000 e: planning.enforcement@fingal.ie w: www.fingal.ie



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



Planning and Development Act 2000, as amended, Part VIII, Section 156

- (1) A person who is guilty of an offence under sections 58 (4), 63, 151, 154, 205, 230 (3), 239 and 247 shall be liable -
 - (a) on conviction on indictment, to a fine not exceeding €12,697,381 or to imprisonment for a term not exceeding 2 years, or to both, or
 - (b) on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both.
- (2) Where a person is convicted of an offence referred to in subsection (1) and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable -
 - (a) on conviction on indictment, to a fine not exceeding €12,697 for each day on which the offence is so continued, or to imprisonment for a term not exceeding 2 years, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 2 years, or
 - (b) on summary conviction, to a fine not exceeding €1,500 for each day on which the offence is so continued or to imprisonment for a term not exceeding 6 months, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 6 months.
- (3) Where a person is convicted of an offence referred to in subsection (1) involving the construction of an unauthorised structure, the minimum fine shall be -
 - (a) on conviction on indictment, the estimated cost of the construction of the structure or €12,697 whichever is less, or
 - (B) on summary conviction, the estimated cost of the construction of the structure or €2,500, whichever is less,

except where the person convicted can show to the court's satisfaction that he or she does not have the necessary financial means to pay the minimum fine.

Forfheidhmiú Pleanála, Bosca 174, Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath Planning Enforcement Section, P.O. Box 174, County Hall, Swords, Fingal, Co. Dublin K67 X8Y2 t: (01) 890 5000 e: planning.enforcement@fingal.ie w: www.fingal.ie



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



- (4) Any person guilty of an offence under this Act other than an offence referred to in subsection (1) (or a further offence under subsection (2)) shall be liable, on summary conviction, to a fine not exceeding €5,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both,
- (5) If the contravention in respect of which a person is convicted under section 46(11), 208(2) (b) or 252(9) is continued after the conviction, that person shall be guilty of a further offence on every day on which the contravention continues and for each such offence he or she shall be liable on summary conviction to a fine not exceeding €1,500
- (6) In a prosecution for an offence under sections 151 and 154 it shall not be necessary for the prosecution to show, and it shall be assumed until the contrary is shown by the defendant, that the subject matter of the prosecution was development and was not exempted development.
- (7) Where an enforcement notice has been served under section 154, it shall be a defence to a prosecution under section 151 or 154 if the defendant proves that he or she took all reasonable steps to secure compliance with the enforcement notice.
- (8) On conviction of an offence under section 154, the court may, in addition to imposing the penalties specified in subsections (1) and (2), order the person convicted to take all or any steps specified in the relevant enforcement notice within such period as the Court consider appropriate.

Claire Byrne

From:

Fearghal McSweeney

Sent:

24 May 2024 17:09

To:

Clir David Healy (con); Brian Murray

Cc:

Planning Enforcement

Subject:

RE: FW: Planning Enforcement complaint, non-compliance with conditions 17 and

18 of F16A/0412

Dear Cllr. Healy,

I wish to acknowledge receipt of your recent correspondence.

In relation to enforcement file ENF24/095, a warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- > The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- > 18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- ...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times
 - Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

Investigations remain open and ongoing at present into this matter.

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Contae Phine Gall Regal Courty Council



From: David Healy / Daithí Ó hÉalaithe <david.healy@cllrs.fingal.ie>

Sent: Wednesday, May 22, 2024 10:15 AM

To: Fearghal McSweeney <Fearghal.McSweeney@fingal.ie>; Brian Murray <Brian.Murray@fingal.ie>

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Fearghal and Brian,

I would be grateful for

- a copy of any warning letter, enforcement notice or decision on enforcement in relation to F16A/0412,
- a copy of any submission and associated response and any internal documentation in relation to condition 17 of F16A/0412
- an explanation why the statutory timelines are not being met in respect of the non-compliances with this permission which have been brought to the Council's attention over recent years.

Thank you,

David

Cllr. David Healy +353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. www.davidhealy.com @davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney < Fearghal McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Councillor Healy,

I wish to acknowledge receipt of your correspondence in relation to your email of 8th April 2024.

Section 152 (3) of the Planning and Development Act 2000, as amended, states that the planning authority shall issue the warning letter under subsection (1) as soon as may be but not later than 6 weeks after receipt of the representation,

It is the objective of the Planning Enforcement section to issue a warning letter where appropriate as soon as is possible. Some investigations may be more protracted and involved, as is the case here, and each case is examined on a case by case basis.

We will update you, in writing, following any further action taken by the Planning Enforcement section in relation to this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Friday, May 3, 2024 11:38 AM

To: Brian Murray < Brian. Murray@fingal.ie>

Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Brian,

It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcement of 8th April (below). That letter followed emails of 5th and 6th March which have not been answered, and emails from me on 4th December and from Myrtle Residents of 11th September. The September correspondence followed years of engagement by residents and councillors with the Council Executive which have always been directed to and handled by Planning Enforcement.

At the briefing on Planning Enforcement, Fearghal told us that "in 95% of car	ises, a warning letter is issued
within a week of receiving a complaint."	

Why is the handling of this extremely important case so far from that level of service?

Thanks,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

----- Forwarded message -----

From: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie >

Date: Fri, 3 May 2024 at 10:42

Subject: RE: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

To: Cllr David Healy (con) < David. Healy@cllrs.fingal.ie >

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your correspondence dated 8th April 2024,

The matter is currently under investigation by the Planning Enforcement section, and we will update you in due course on this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie; Colm McCoy < Colm.McCoy@fingal.ie; Fearghal

McSweeney <Fearghal.McSweeney@fingal.ie>

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct

phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

A compliance submission in relation to this condition was submitted to Fingal county Council in December 2019 and rejected by the Council in August 2020. I enclose a copy of the relevant documentation from the online planning file. There is no further compliance documentation in relation to this condition on the website.

I request that appropriate enforcement action is taken as a matter of urgency.

Le meas,

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

----- Forwarded message -----

From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Date: Wed, 6 Mar 2024 at 17:24

Subject: Fwd: Access between Baldoyle and Clongriffin, including Clongriffin station

To: Colm McCoy < colm.mccoy@fingal.ie >

Dear Colm,

This is the email discussed at our meeting today including reference to the enforcement file 23/279B.

Regards,

David

----- Forwarded message -----

From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Date: Tue, 5 Mar 2024 at 20:05

Subject: Access between Baldoyle and Clongriffin, including Clongriffin station

To: Matthew McAleese <<u>matthew.mcaleese@fingal.ie</u>>, Fearghal McSweeney <<u>Fearghal.McSweeney@fingal.ie</u>>, C:: Joan Hopkins <<u>Joan.Hopkins@cllrs.fingal.ie</u>>, Brian McDonagh <<u>brian.mcdonagh@cllrs.fingal.ie</u>>, Cllr Eoghan OBrien <<u>Foghan.OBrien@cllrs.fingal.ie</u>>, Anthony Lavin <<u>Anthony.Lavin@cllrs.fingal.ie</u>>, Cllr Aoibhinn Tormey <<u>Aoibhinn.Tormey@cllrs.fingal.ie</u>>, Jimmy Guerin <<u>Jimmy.Guerin@cllrs.fingal.ie</u>>

Dear Fearghal and Matthew,

As there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it would be useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where the issue of the access is again on the agenda.

Myrtle Residents sent an email on 11th September 2023 to planning.enforcement@fingal.ie including the following:

"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This is our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times. (Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:

"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

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Claire Byrne

From:

Sent: To: 24 June 2024 15:56

Cc:

Planning Enforcement

Subject:

Baldoyle ENF No. 24/095 Response

Attachments:

6769_Enforcement 24_095_Response_20240624.pdf

CAUTION: This email originated from outside of Fingal County Council. Do not click on links or open attachments unless you are satisfied of the email's authenticity.

Dear Sir, Madam

On behalf of

please see attached Response to above referenced Warning Letter.

Please do not hesitate to contact us should you require any clarification.

Regards

E-mail

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Fingal County Council
Planning Enforcement
County Hall, Swords
Co. Dublin

By email only: planning.enforcement@fingal.ie

Date:

24 June 2024

Re:

ENF No. 24/095

Lands at Clongriffin Train Station, The Coast, Baldoyle Dublin 13

Dear Sir, Madam

Further to engagement with FCC Enforcement in relation to the above referenced Warning Letter, please see below a further response to the items raised in the Warning Letter.

have endeavoured to comply with all planning requirements and wish to assure FCC that works completed to date are in line with permissions received.

Item 1:

Non Compliance with Condition 17 of ABP Reference PL06F.248970 / FCC Reg. Ref. F16A/0412

The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and in agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

Phase 1 of the permitted development (permitted under PL06F.248970 / FCC Reg. Ref. F16A/0412, and as subsequently amended by FCC Reg. Ref. F21A_0046 and FF20A-0258), as indicated in Compliance Submission to FCC of December 2019, has achieved the following (by way of response to the FCC correspondence of August 2020 setting out concerns of non-compliance):

- Phase 1 Completed (and occupied) 117 no. residential units in Blocks B3, B4, C4, C5, D1.
- Completed the construction of the Attenuation Pond which is now awaiting connection that is subject to an Irish Water cross-over agreement, and which is pending approval. Treatment of undeveloped sites There is currently no construction works being carried out at the site. The site has been secured and fenced off from the public including the haul road off the Moyne Road that has been secured with fencing and a gate. There is also a security presence on site.

Please see photos below.

The remaining lands in the ownership of are subject to a SHD Permission Ref: ABP 310418 (as amended) which amends and updates the development permitted under F16A/0412 / ABP PL06F.248970, and which has not yet commenced.

 Village Centre & Creche – delivery of the southern section of the Village Centre is subject to a SHD Permission Ref: ABP 310418 which amends and updates the development permitted under F16A/0412 / ABP PL06F.248970, and which has not yet commenced.

Item 2:

Non Compliance with Condition 18 (c) of ABP Reference PL06F.248970 / FCC Reg. Ref. F16A/0412

The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times.

Reason: In the interest of amenities, public health and safety

It is noted the Warning Letter notes: Condition 18(c) requires the maintenance of access to Clongriffin Railway Station at all times.

Response

- Public access to the Station via the Access Core is maintained at all times while the Railway Station is open ie. 0600 – 0030 hours Monday to Saturday, and Sunday 0800 – 0030 hours, which aligns fully with first and last trains departing /arriving Clongriffin Rail Station.
- This is verified with security and signage to advise opening and closing hours, security, and Health and Safety instructions.
- There is also ongoing cleaning and waste collection at the Access Core.
- This access is not open while the Railway Station is not open due to risk of anti-social behaviour, a history of repeated acts of vandalism, including physical attacks, security of residential amenity and security of public property.
- There is no reason to access the Access Core to the Station when there are no trains operating
 at nighttime at this location. It is asserted that this cautious and security minded response is
 acceptable to FCC. To insist on public access "at all times" would be to mis-interpret the
 intent of the condition, which is to secure public access to the Station at all times in order to
 avail of trains running to and from the station. This is being achieved at all times.
 See Photos attached.

Yours sincerely,

Site Security





Station Access / Signage at Clongriffin Station Temporary Access







Claire Byrne

From:

David Healy / Daithí Ó hÉalaithe <verdire@gmail.com>

Sent:

23 July 2024 08:57 Fearghal McSweeney

Cc:

Brian Murray; Cllr David Healy (con); Planning Enforcement

Subject:

Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and

18 of F16A/0412

CAUTION: This email originated from outside of Fingal County Council. Do not click on links or open attachments unless you are satisfied of the email's authenticity.

Hi Fearghal, Could we get an update on this please? Thanks, David

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. @davidhealyv

On Fri 24 May 2024 at 17:09, Fearghal McSweeney < Fearghal.McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your recent correspondence.

In relation to enforcement file ENF24/095, a warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the
 proposals submitted with the application. Prior to commencement of any development
 on the overall site, details of the first phase shall be submitted to, and agreed in
 writing with, the planning authority. Work on any subsequent phases shall not
 commence until such time as the written agreement of the planning authority is given
 to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings

- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- 18. The construction of the development shall be managed in accordance with a
 Construction Management Plan, which shall be submitted to, and agreed in writing
 with, the planning authority prior to commencement of development. This plan shall
 provide details of intended construction practice for the development, including:

...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times

Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

Investigations remain open and ongoing at present into this matter.

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe <david.healy@cllrs.fingal.ie>

Sent: Wednesday, May 22, 2024 10:15 AM

To: Fearghal McSweeney < Fearghal. McSweeney@fingal.ie >; Brian Murray < Brian. Murray@fingal.ie >

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Fearghal and Brian,

I would be grateful for

- a copy of any warning letter, enforcement notice or decision on enforcement in relation to F16A/0412,
- a copy of any submission and associated response and any internal documentation in relation to condition 17 of F16A/0412
- an explanation why the statutory timelines are not being met in respect of the non-compliances with this permission which have been brought to the Council's attention over recent years.

Thank you,

David

Clir. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney < Fearghal. McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Councillor Healy,

I wish to acknowledge receipt of your correspondence in relation to your email of 8th April 2024.

Section 152 (3) of the Planning and Development Act 2000, as amended, states that the planning authority shall issue the warning letter under subsection (1) as soon as may be but not later than 6 weeks after receipt of the representation,

It is the objective of the Planning Enforcement section to issue a warning letter where appropriate as soon as is possible. Some investigations may be more protracted and involved, as is the case here, and each case is examined on a case by case basis.

We will update you, in writing, following any further action taken by the Planning Enforcement section in relation to this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Cont Fhine Gail Fingal County Council



From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Friday, May 3, 2024 11:38 AM

To: Brian Murray < Brian. Murray@fingal.ie>

Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Brian,

It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcement of 8th April (below). That letter followed emails of 5th and 6th March which have not been answered, and emails from me on 4th December and from Myrtle Residents of 11th September. The September correspondence followed years of engagement by residents and councillors with the Council Executive which have always been directed to and handled by Planning Enforcement.

At the briefing on Planning Enforcement, Fearghal told us that "in 95% of cases, a warning letter is issued within a week of receiving a complaint."

Why is the handling of this extremely important case so far from that level of service?

Thanks,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

----- Forwarded message -----

From: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie >

Date: Fri, 3 May 2024 at 10:42

Subject: RE: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

To: Cllr David Healy (con) < David. Healy@cllrs.fingal.ie>

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your correspondence dated 8th April 2024,

The matter is currently under investigation by the Planning Enforcement section, and we will update you in due course on this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe <david.healy@cllrs.fingal.ie>

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie >; Colm McCoy < Colm.McCoy@fingal.ie >; Fearghal

McSweeney < Fearghal. McSweeney@fingal.ie >

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

A compliance submission in relation to this condition was submitted to Fingal county Council in December 2019 and rejected by the Council in August 2020. I enclose a copy of the relevant documentation from the online planning file. There is no further compliance documentation in relation to this condition on the website.

I request that appropriate enforcement action is taken as a matter of urgency.

Le meas,

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

----- Forwarded message -----

From: David Healy / Daithí Ó hÉalaithe <david.healy@cllrs.fingal.ie>

Date: Wed, 6 Mar 2024 at 17:24

Subject: Fwd: Access between Baldoyle and Clongriffin, including Clongriffin station To: Colm McCoy <<u>colm.mccoy@fingal.ie</u>>

Dear Colm,

This is the email discussed at our meeting today including reference to the enforcement file 23/279B.

Regards,

David

----- Forwarded message -----

From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Date: Tue, 5 Mar 2024 at 20:05

Subject: Access between Baldoyle and Clongriffin, including Clongriffin station

To: Matthew McAleese <<u>matthew.mcaleese@fingal.ie</u>>, Fearghal McSweeney <<u>Fearghal.McSweeney@fingal.ie</u>> Cc: Joan Hopkins <<u>Joan.Hopkins@cllrs.fingal.ie</u>>, Brian McDonagh <<u>brian.mcdonagh@cllrs.fingal.ie</u>>, Cllr Eoghan OBrien <<u>Eoghan.OBrien@cllrs.fingal.ie</u>>, Anthony Lavin <<u>Anthony.Lavin@cllrs.fingal.ie</u>>, Cllr Aoibhinn Tormey <<u>Aoibhinn.Tormey@cllrs.fingal.ie</u>>, Jimmy Guerin <<u>Jimmy.Guerin@cllrs.fingal.ie</u>>

Dear Fearghal and Matthew,

As there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it would be useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where the issue of the access is again on the agenda.

Myrtle Residents sent an email on 11^{th} September 2023 to <u>planning.enforcement@fingal.ie</u> including the following:

"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This is our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times. (Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:

"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

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omitted to be taken in reliance on it, is prohibited and may be unlawful. If you have received this electronic message in error, please notify the sender or itservicedesk@fingal.ie. Internet communications cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete. Therefore, we do not accept responsibility for any errors or omissions that are present in this message, or any attachment, that have arisen as a result of e-mail transmission. This message has been swept by Anti-Virus software. Tá an ríomhphost seo agus aon chomhad a ghabhann leis faoi rún agus d'fhéadfadh sé a bheith faoi phribhléid dhlíthliúil. Is ar an seolaí amháin atá sé dírithe. Mura tú an faighteoir beartaithe, tá cosc ar aon nochtadh, cóipeáil, dáileadh, nó aon ghníomh a dhéanamh nó a fhágáil ar lár i dtaca leis an ríomhphost agus d'fhéadfadh sin a bheith mídhleathach. Má tá an ríomhphost seo faighte agat trí dhearmad, cuir an seoltóir nó itservicedesk@fingal.ie ar an eolas. Ní féidir cumarsáid idirlín a ráthú a bheith slán nó saor ó earráidí mar d'fhéadfadh faisnéis a bheith idircheaptha, truaillithe, caillte, scriosta, nó teacht déanach nó neamhiomlán. Dá bhrí sin, ní féidir linn glacadh le freagracht as aon earráidí nó easnaimh atá sa teachtaireacht seo, nó aon iatán, a tháinig chun cinn mar thoradh ar an tarchur ríomhphoist. Tá an teachtaireacht cuardaithe ag bogearraí Frithvíreas.

This email and any files transmitted with it are confidential and may be legally privileged. It is intended solely for the addressee. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you have received this electronic message in error, please notify the sender or itservicedesk@fingal.ie. Internet communications cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete. Therefore, we do not accept responsibility for any errors or omissions that are present in this message, or any attachment, that have arisen as a result of e-mail transmission. This message has been swept by Anti-Virus software. Tá an ríomhphost seo agus aon chomhad a ghabhann leis faoi rún agus d'fhéadfadh sé a bheith faoi phribhléid dhlíthliúil. Is ar an seolaí amháin atá sé dírithe. Mura tú an faighteoir beartaithe, tá cosc ar aon nochtadh, cóipeáil, dáileadh, nó aon ghníomh a dhéanamh nó a fhágáil ar lár i dtaca leis an ríomhphost agus d'fhéadfadh sin a bheith mídhleathach. Má tá an ríomhphost seo faighte agat trí dhearmad, cuir an seoltóir nó itservicedesk@fingal.ie ar an eolas. Ní féidir cumarsáid idirlín a ráthú a bheith slán nó saor ó earráidí mar d'fhéadfadh faisnéis a bheith idircheaptha, truaillithe, caillte, scriosta, nó teacht déanach nó neamhiomlán. Dá bhrí sin, ní féidir linn glacadh le freagracht as aon earráidí nó easnaimh atá sa teachtaireacht seo, nó aon iatán, a tháinig chun cinn mar thoradh ar an tarchur ríomhphoist . Tá an teachtaireacht cuardaithe ag bogearraí Frithvíreas.

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Claire Byrne

From:

Fearghal McSweeney

Sent:

23 July 2024 09:56

To:

David Healy / Daithí Ó hÉalaithe

Cc: Subject: Brian Murray; Cllr David Healy (con); Planning Enforcement RE: FW: Planning Enforcement complaint, non-compliance with conditions 17 and

18 of F16A/0412

Councillor Healy,

I wish to acknowledge receipt of your correspondence,

In relation to enforcement file ENF24/095, this file is currently under active review by Solomon Aroboto, our Senior Executive Planner in Enforcement,

When this review has been completed, we will inform you, in writing, of the outcome,

I trust this is of assistance,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Contae Phine Gull Ficegal County Council



From: David Healy / Daithí Ó hÉalaithe <verdire@gmail.com>

Sent: Tuesday, July 23, 2024 8:57 AM

To: Fearghal McSweeney <Fearghal.McSweeney@fingal.ie>

Cc: Brian Murray <Brian.Murray@fingal.ie>; Cllr David Healy (con) <David.Healy@cllrs.fingal.ie>; Planning

Enforcement < Planning. Enforcement@fingal.ie>

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

CAUTION: This email originated from outside of Fingal County Council. Do not click on links or open attachments unless you are satisfied of the email's authenticity.

Hi Fearghal, Could we get an update on this please? Thanks, David

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. @davidhealyv On Fri 24 May 2024 at 17:09, Fearghal McSweeney < Fearghal. McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your recent correspondence.

In relation to enforcement file ENF24/095, a warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the
 proposals submitted with the application. Prior to commencement of any development
 on the overall site, details of the first phase shall be submitted to, and agreed in
 writing with, the planning authority. Work on any subsequent phases shall not
 commence until such time as the written agreement of the planning authority is given
 to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- 18. The construction of the development shall be managed in accordance with a
 Construction Management Plan, which shall be submitted to, and agreed in writing
 with, the planning authority prior to commencement of development. This plan shall
 provide details of intended construction practice for the development, including:

...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times

Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

Investigations remain open and ongoing at present into this matter.

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Wednesday, May 22, 2024 10:15 AM

To: Fearghal McSweeney < Fearghal. McSweeney@fingal.ie >; Brian Murray < Brian. Murray@fingal.ie >

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Fearghal and Brian,

I would be grateful for

- a copy of any warning letter, enforcement notice or decision on enforcement in relation to F16A/0412,
- a copy of any submission and associated response and any internal documentation in relation to condition 17 of F16A/0412

with this permission which have been brought to the Council's attention over recent years.
Thank you,
David .
Cllr. David Healy
+353 87 6178852
54, Páirc Éabhóra,
Beann Éadair, Co. Bh.Á.C.
Co. Bil.A.C.
www.davidhealy.com
@davidhealyv
하지 하는 사람이 이렇게 되지 않는데 하지만 하는데 하지만 하는데 하지만 하는데 하는데 되었다. 이 바람들은 이번 바람들이 나를 하는데
하는 사람이 아들은 하는 것이 되는 것이 없는 것이 되는 것이 되었다. 그렇게 되었다면 하는 것이 없다는 것이 없다.
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On Tue 14 May 2024 at 15:02 5
On Tue, 14 May 2024 at 15:02, Fearghal McSweeney < Fearghal. McSweeney@fingal.ie > wrote:
CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.
Dear Councillor Healy,
[[시] 교리 마시 왕 시장 (1) [[[[[[[[[[[[[[[[[[[
I wish to acknowledge receipt of your correspondence in relation to your email of 8th April 2024.
Section 152 (3) of the Planning and Development Act 2000, as amended, states that the planning
authority shall issue the warning letter under subsection (1) as soon as may be but not later than 6 weeks after receipt of the representation,
It is the objective of the Planning Enforcement section to issue a warning letter where appropriate
as soon as is possible. Some investigations may be more protracted and involved, as is the case here, and each case is examined on a case by case basis.
The age of the desired and the light state of the contract of the policy and policy had a set of the second

We will update you, in writing, following any further	action taken by the Planning Enforcement
section in relation to this matter,	

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Friday, May 3, 2024 11:38 AM

To: Brian Murray < Brian. Murray@fingal.ie >

Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Brian,

It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcement of 8th April (below). That letter followed emails of 5th and 6th March which have not been answered, and emails from me on 4th December and from Myrtle Residents of 11th September. The September correspondence followed years of engagement by residents and councillors with the Council Executive which have always been directed to and handled by Planning Enforcement.

At the briefing on Planning Enforcement, Fearghal told us that "in 95% of cases, a warning letter is issued within a week of receiving a complaint."

Why is the handling of this extremely important case so far from that level of service?

Thanks,

David	
Cllr. David Healy	
+353 87 6178852 54, Páirc Éabhóra,	
Beann Éadair,	
Co. Bh.Á.C.	The second secon
www.davidhealy.com	
@davidhealyv	
Forwarded message From: Fearghal McSweeney < Fearghal McSweeney@fingal.ie >	
Date: Fri, 3 May 2024 at 10:42 Subject: RE: Planning Enforcement complaint, non-compliance	e with conditions 17 and 18 of F16A/0412
To: Cllr David Healy (con) < <u>David.Healy@cllrs.fingal.ie</u> >	
CAUTION: [EXTERNAL EMAIL] Do not click links or attachme content is safe.	ints unless you recognise the sender and know the
Dear Cilr. Healy,	
BANA NES TO ANSINISTRONO DI VARBETA DI RESPONSI PER ESPESSIONI DELL'ARRIVA DEL	ethorus a ea has ne talkau i seomis, meis i sellat. Is au a stato disensario colles succes and cultival.
I wish to acknowledge receipt of your correspondence	dated 8th April 2024
Trisit to delitionicage receipt of your correspondence	dated o April 2024,
The matter is currently under investigation by the Plan you in due course on this matter,	ning Enforcement section, and we will update
you in due course on this maccery	
Regards,	
Fearghal McSweeney Administrative Officer Planning	ng & Strategic Infrastructure Department
Fingal County Council County Hall Main Street Swor Ph : (01) 8905000	ds Co. Dublin K67 X8Y2

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie >; Colm McCoy < Colm.McCoy@fingal.ie >; Fearghal

McSweeney <Fearghal.McSweeney@fingal.ie>

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

A compliance submission in relation to this condition was submitted to Fingal county Council in December 2019 and rejected by the Council in August 2020. I enclose a copy of the relevant documentation from the online planning file. There is no further compliance documentation in relation
to this condition on the website.
I request that appropriate enforcement action is taken as a matter of urgency.
A LANGE CONTRACTOR OF THE PRODUCT OF
Le meas,
Cllr. David Healy
경제 경제경계했다. 이 남이면 되는 이렇게 많아 되면 이렇게 되었다. 그 그런데 그리다면 하다 때 모나네요.
+353 87 6178852 54, Páirc Éabhóra,
Beann Éadair,
Co. Bh.Á.C.
www.davidhealy.com
@davidhealyv
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Forwarded message From: David Healy / Daithí Ó hÉalaithe < <u>david.healy@cllrs.fingal.ie</u> >
Date: Wed, 6 Mar 2024 at 17:24
Subject: Fwd: Access between Baldoyle and Clongriffin, including Clongriffin station To: Colm McCoy < colm.mccoy@fingal.ie>
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Dear Colm,
This is the email discussed at our meeting today including reference to the enforcement file 23/279B.
Regards,
David
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Forwarded message
From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie> Date: Tue, 5 Mar 2024 at 20:05
Subject: Access between Baldoyle and Clongriffin, including Clongriffin station

To: Matthew McAleese <<u>matthew.mcaleese@fingal.ie</u>>, Fearghal McSweeney <<u>Fearghal.McSweeney@fingal.ie</u>> Cc: Joan Hopkins <<u>Joan.Hopkins@cllrs.fingal.ie</u>>, Brian McDonagh <<u>brian.mcdonagh@cllrs.fingal.ie</u>>, Cllr Eoghan OBrien <<u>Foghan.OBrien@cllrs.fingal.ie</u>>, Anthony Lavin <<u>Anthony.Lavin@cllrs.fingal.ie</u>>, Cllr Aoibhinn Tormey <<u>Aoibhinn.Tormey@cllrs.fingal.ie</u>>, Jimmy Guerin <<u>Jimmy.Guerin@cllrs.fingal.ie</u>>

Dear Fearghal and Matthew,

As there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it would be useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where the issue of the access is again on the agenda.

Myrtle Residents sent an email on 11th September 2023 to <u>planning.enforcement@fingal.ie</u> including the following:

"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This is our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times.

(Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:

"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

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guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete. Therefore, we do not accept responsibility for any errors or omissions that are present in this message, or any attachment, that have arisen as a result of e-mail transmission. This message has been swept by Anti-Virus software. Tá an ríomhphost seo agus aon chomhad a ghabhann leis faoi rún agus d'fhéadfadh sé a bheith faoi phribhléid dhlíthliúil. Is ar an seolaí amháin atá sé dírithe. Mura tú an faighteoir beartaithe, tá cosc ar aon nochtadh, cóipeáil, dáileadh, nó aon ghníomh a dhéanamh nó a fhágáil ar lár i dtaca leis an ríomhphost agus d'fhéadfadh sin a bheith mídhleathach. Má tá an ríomhphost seo faighte agat trí dhearmad, cuir an seoltóir nó itservicedesk@fingal.ie ar an eolas. Ní féidir cumarsáid idirlín a ráthú a bheith slán nó saor ó earráidí mar d'fhéadfadh faisnéis a bheith idircheaptha, truaillithe, caillte, scriosta, nó teacht déanach nó neamhiomlán. Dá bhrí sin, ní féidir linn glacadh le freagracht as aon earráidí nó easnaimh atá sa teachtaireacht seo, nó aon iatán, a tháinig chun cinn mar thoradh ar an tarchur ríomhphoist. Tá an teachtaireacht cuardaithe ag bogearraí Frithvíreas.

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Claire Byrne

From:

Planning Enforcement < Planning. Enforcement@fingal.ie>

Sent:

15 August 2024 14:53

To:

David Healy / Daithí Ó hÉalaithe

Subject:

RE: FW: FW: Planning Enforcement complaint, non-compliance with conditions 17

and 18 of F16A/0412

Dear Councillor Healy,

Thank you for your email. I can confirm there is an active investigation ongoing. A Warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- 18. The construction of the development shall be managed in accordance with a Construction
 Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior
 to commencement of development. This plan shall provide details of intended construction practice for
 the development, including:
- ...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times
 - Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

The matter is currently with the Senior Executive Planner and we will notify you, in writing, upon conclusion of this review, We are not in a position to provide any further details at this point as it could prejudice a possible court action.

Please be assured that this matter is being taken seriously.

Kind Regards,

Claire Byrne

On behalf of

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: planning.enforcement@fingal.ie

Comhairle Contae Fhine Gali Fingal County Council



From: David Healy / Daithí Ó hÉalaithe <<u>cllrdavidhealy@gmail.com</u>>

Sent: Thursday, August 15, 2024 12:35 PM **To:** Claire Byrne < <u>Claire.Byrne@fingal.ie</u>>

Cc: Solomon Aroboto <<u>Solomon.Aroboto@fingal.ie</u>>; Fearghal McSweeney <<u>Fearghal.McSweeney@fingal.ie</u>> **Subject:** Re: FW: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

CAUTION: This email originated from outside of Fingal County Council. Do not click on links or open attachments unless you are satisfied of the email's authenticity.

Dear Claire,

Thanks for the update.

Could I get a copy of any correspondence received in response to the warning letter, please?

Thanks,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

On Thu, 15 Aug 2024 at 12:11, Claire Byrne < <u>Claire.Byrne@fingal.ie</u> > wrote:
Dear Councillor Healy,
I wish to acknowledge your correspondence to my colleagues on the 13 th of August 2024.
The investigation is continuing and the matter is receiving the full attention of the Planning Enforcement Section. The matter is currently with the Senior Executive Planner and we will notify you, in writing, upon conclusion of this review,
We trust this is of assistance,
Kind Regards,
Claire Byrne
On behalf of
Fearghal McSweeney Administrative Officer Planning & Strategic Infrastructure Department Fingal County Council County Hall Main Street Swords Co. Dublin K67 X8Y2 Ph : (01) 8905000
Email: planning.enforcement@fingal.ie
Combairle Contae Fhine Gall Fingul County Council

rom: David Healy / Daithí Ó hÉalaithe < <u>clirdavidhealy@g</u>	mail.com>
ent: Tuesday, August 13, 2024 5:30 PM	22. Colomon Arabata «Colomon Arabata Ofinantia»
o: Fearghal McSweeney < <u>Fearghal.McSweeney@fingal.ic</u> c: Brian Murray < <u>Brian.Murray@fingal.ie</u> >; Cllr David He	2>; Solomon Aroboto < <u>Solomon.Aroboto@Tingal.ie</u> >
nforcement < <u>Planning.Enforcement@fingal.ie</u> >	ary (con) \ <u>David:Heary@cins.tingar.te</u> >, Flatfilling
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would also be grateful for a copy of any correspondence	received in relation to the warning letter issued.
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n Tue 23 lul 2024 at 00:59 Fearghal McSwanney Coard	hal McSwaanay@fingalias weater
n Tue, 23 Jul 2024 at 09:58, Fearghal McSweeney < <u>Fearg</u>	<u>nal.ivicsweeney@iingal.le</u> > wrote:

I wish to acknowledge receipt of your correspondence,

In relation to enforcement file ENF24/095, this file is currently under active review by Solomon Aroboto, our Senior Executive Planner in Enforcement,

When this review has been completed, we will inform you, in writing, of the outcome,

I trust this is of assistance.

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Contae Phine Gaill Fingal County Council



From: David Healy / Daithí Ó hÉalaithe <verdire@gmail.com>

Sent: Tuesday, July 23, 2024 8:57 AM

To: Fearghal McSweeney < Fearghal. McSweeney@fingal.ie >

Cc: Brian Murray < Brian.Murray@fingal.ie >; Cllr David Healy (con) < David.Healy@cllrs.fingal.ie >; Planning

Enforcement < Planning. Enforcement@fingal.ie>

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

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Hi Fearghal,

Could we get an update on this please?

Thanks,

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. @davidhealyv

On Fri 24 May 2024 at 17:09, Fearghal McSweeney < Fearghal.McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your recent correspondence.

In relation to enforcement file ENF24/095, a warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the proposals submitted
 with the application. Prior to commencement of any development on the overall site, details of the
 first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any
 subsequent phases shall not commence until such time as the written agreement of the planning
 authority is given to commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)

18. The construction of the development shall be managed in accordance with a Construction
 Management Plan, which shall be submitted to, and agreed in writing with, the planning authority
 prior to commencement of development. This plan shall provide details of intended construction
 practice for the development, including:

...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times

Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

Investigations remain open and ongoing at present into this matter.

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Wednesday, May 22, 2024 10:15 AM

To: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie >; Brian Murray < Brian.Murray@fingal.ie >

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Fearghal and Brian,

I would be grateful for

•	a copy of any warning letter, enforcement notice or decision on enforcement in relation to F16A/0412,
¥8.0 s	a copy of any submission and associated response and any internal documentation in relation to condition 17 of F16A/0412
•	an explanation why the statutory timelines are not being met in respect of the non-compliances with thi permission which have been brought to the Council's attention over recent years.
Thank	you,

uzana mut te

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney < Fearghal. McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Councillor Healy,

I wish to acknowledge receipt of your correspondence in relation to your email of 8th April 2024.

Section 152 (3) of the Planning and Development Act 2000, as amended, states that the planning authority shall issue the warning letter under subsection (1) as soon as may be but not later than 6 weeks after receipt of the representation,

It is the objective of the Planning Enforcement section to issue a warning letter where appropriate as soon as is possible. Some investigations may be more protracted and involved, as is the case here, and each case is examined on a case by case basis.

	(=
We will update you, in writing, following any further action taken by the Planning Enforcementation to this matter,	ent section in
Regards,	
Fearghal McSweeney Administrative Officer Planning & Strategic Infrastructure Departm Council County Hall Main Street Swords Co. Dublin K67 X8Y2	ent Fingal County
Ph: (01) 8905000	
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Email: fearghal.mcsweeney@fingal.ie	
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From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie > Sent: Friday, May 3, 2024 11:38 AM	
To: Brian Murray < Brian. Murray@fingal.ie >	
Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18	of F16A/0412
Dear Brian,	
It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcemen	at of Oth April
(below). That letter followed emails of 5th and 6th March which have not been answered, a on 4th December and from Myrtle Residents of 11th September. The September correspon years of engagement by residents and councillors with the Council Executive which have also	and emails from me dence followed
to and handled by Planning Enforcement.	•
At the briefing on Planning Enforcement, Fearghal told us that "in 95% of cases, a warning leaves week of receiving a complaint."	etter is issued within
Why is the handling of this extremely important case so far from that level of service?	et y
	6
	* 60

Thanks,

1	David
-	
	Cllr. David Healy
	+353 87 6178852
	54, Páirc Éabhóra,
	Beann Éadair,
	Co. Bh.Á.C.
	www.davidhealy.com
	@davidhealyv
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	Forwarded message
	From: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie>
	Date: Fri, 3 May 2024 at 10:42
	Subject: RE: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412 To: Cllr David Healy (con) < David. Healy@cllrs.fingal.ie >
	10. Cili David Heary (Cott) \ David: Heary@clirs. Imgal.ie
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	Dear Cllr. Healy,
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	I wish to acknowledge receipt of your correspondence dated 8 th April 2024,
	1 wish to acknowledge receipt of your correspondence dated 8 April 2024,
	[2012] - 12 - 12 - 12 - 12 - 12 - 12 - 12 -
	The matter is currently under investigation by the Planning Enforcement section, and we will update you in due
	course on this matter,
	Regards,
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K	Fearghal McSweeney Administrative Officer Planning & Strategic Infrastructure Department Fingal County Council County Hall Main Street Swords Co. Dublin K67 X8Y2
	Ph : (01) 8905000
	Email: fearghal.mcsweeney@fingal.ie
	[HDM B. [4] 교통하다 열리 : [1] 의미 전 역원이라는 보이 : 이 보다는 것이 [4] 마스트리스 나는 이번에 보고되는 이트리스 이번 다시 전 시간 시간 모든 1 5(2)



From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie >; Colm McCoy < Colm.McCoy@fingal.ie >; Fearghai

McSweeney <Fearghal.McSweeney@fingal.ie>

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

	O20. I enclose a copy of the relevant documentation from the online ance documentation in relation to this condition on the website.
request that appropriate enforcement	action is taken as a matter of urgency.
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Clir. David Healy	· · · · · · · · · · · · · · · · · · ·
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Forwarded message rom: David Healy / Daithí Ó hÉalaithe ·	cdavid healy@eller fingel ica
Date: Wed, 6 Mar 2024 at 17:24	<u><aavid.neary@cirs.tingar.ie< u="">></aavid.neary@cirs.tingar.ie<></u>
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nis is the email discussed at our meetin	ng today including reference to the enforcement file 23/279B.
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rom: David Healy / Daithí Ó hÉalaithe «	< <u>david.healy@cllrs.fingal.ie</u> >
Pate: Tue, 5 Mar 2024 at 20:05	
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	<u>eese@fingal.ie</u> >, Fearghal McSweeney < <u>Fearghal.McSweeney@fingal.ie</u> > ngal.ie>, Brian McDonagh < <u>brian.mcdonagh@cllrs.fingal.ie</u> >, Cllr Eoghan
	Anthony Lavin < <u>Anthony.Lavin@cllrs.fingal.ie</u> >, Cllr Aoibhinn Tormey

Dear Fearghal and Matthew,

As there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it would be useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where the issue of the access is again on the agenda.

Myrtle Residents sent an email on 11th September 2023 to <u>planning.enforcement@fingal.ie</u> including the following:

"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This is our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times. (Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:

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"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

@davidhealyv

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tháinig chun cinn mar thoradh ar an tarchur ríomhphoist . Tá an teachtaireacht cuardaithe ag bogearraí Frithvíreas.

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Claire Byrne

From:

Planning Enforcement

Sent:

19 August 2024 09:26

To:

David Healy / Daithí Ó hÉalaithe

Subject:

FW: FW: Planning Enforcement complaint, non-compliance with conditions 17

and 18 of F16A/0412

Dear Councillor Healy,

I wish to acknowledge receipt of your email and Information Access request.

Kind Regards,

Claire Byrne

On behalf of

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: planning.enforcement@fingal.ie

Comhairte Contae Fhine Gall Fingal County Council



From: David Healy / Daithí Ó hÉalaithe < cllrdavidhealy@gmail.com>

Sent: Thursday, August 15, 2024 5:31 PM

To: Planning Enforcement < Planning.Enforcement@fingal.ie >; Freedom of Information Officer < foi@fingal.ie > Subject: Re: FW: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

CAUTION: This email originated from outside of Fingal County Council. Do not click on links or open attachments unless you are satisfied of the email's authenticity.

Dear Claire,

Thanks for that information. I'm making a formal request under the Access to Information on the Environment Regulations for

- any documentation relating to compliance with condition 17 and condition 18 of F16A/0412 ABP PL06F.248970;
- any documentation relating to the warning letter issued on 14th May 2023;
- any documents on enforcement file ENF24/095.

Thanks for your assistance,

Best regards,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

On Thu, 15 Aug 2024 at 14:53, Planning Enforcement < Planning.Enforcement@fingal.ie > wrote:

Dear Councillor Healy,

Thank you for your email. I can confirm there is an active investigation ongoing. A Warning letter, pursuant to section 152 of the Planning and Development Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:

- Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- The development shall be carried out on a phased basis in accordance with the proposals submitted with
 the application. Prior to commencement of any development on the overall site, details of the first phase
 shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent
 phases shall not commence until such time as the written agreement of the planning authority is given to
 commence the next phase.
- Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
- Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
- 18. The construction of the development shall be managed in accordance with a Construction
 Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior
 to commencement of development. This plan shall provide details of intended construction practice for
 the development, including:

- ...(c) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times
 - Reason: In the interest of amenities, public health and safety

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

The matter is currently with the Senior Executive Planner and we will notify you, in writing, upon conclusion of this review, We are not in a position to provide any further details at this point as it could prejudice a possible court action.

Please be assured that this matter is being taken seriously.

Kind Regards,

Claire Byrne

On behalf of

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: planning.enforcement@fingal.ie

Comhairle Contae Fhìne Gall Fingal County Council



From: David Healy / Daithí Ó hÉalaithe <<u>clirdavidhealy@gmail.com</u>>

Sent: Thursday, August 15, 2024 12:35 PM To: Claire Byrne < Claire.Byrne@fingal.ie>

review,

Cc: Solomon Aroboto < Solomon.Aroboto@fingal.ie >; Fearghal McSweeney < Fearghal.McSweeney@fingal.ie > Subject: Re: FW: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

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Dear Claire,
Thanks for the update.
Could I get a copy of any correspondence received in response to the warning letter, please?
Thanks,
David
생물하는 하는 사람이 얼마나는 아이들이 가는 사람이 되었다.
Clir. David Healy
+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.
www.davidhealy.com
On Thu, 15 Aug 2024 at 12:11, Claire Byrne < Claire Byrne@fingal.ie > wrote:
Dear Councillor Healy,
I wish to acknowledge your correspondence to my colleagues on the 13 th of August 2024.
The investigation is continuing and the matter is receiving the full attention of the Planning Enforcement Section. The matter is currently with the Senior Executive Planner and we will notify you, in writing, upon conclusion of this

W/o	truct	thic	ic	Ωf	assistance.
VVP	TELLINE	11115	15	Ω	49919FGLIFE

Kind Regards,

Claire Byrne

On behalf of

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000

Email: planning.enforcement@fingal.ie

Comhairle Contac fhine Gall Fingal County Council



From: David Healy / Daithí Ó hÉalaithe <<u>cllrdavidhealy@gmail.com</u>>

Sent: Tuesday, August 13, 2024 5:30 PM

To: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie >; Solomon Aroboto < Solomon.Aroboto@fingal.ie > Cc: Brian Murray < Brian.Murray@fingal.ie >; Cllr David Healy (con) < David.Healy@cllrs.fingal.ie >; Planning

Enforcement < Planning. Enforcement@fingal.ie >

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

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Dear Fearghal, Solomon,

would also be grateful for a copy of an	ry correspondence received in relation to the warning letter issued.
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lr. David Healy	
Bavia ricaly	
53 87 6178852	
l, Páirc Éabhóra, eann Éadair,	얼마 보다 하고 있었다. 그는 그 그는 것은 말이 되었다.
o. Bh.Á.C.	
ww.davidhealy.com	
	사람들이 아이들이 가는 그래요?
Tue, 23 Jul 2024 at 09:58, Fearghal M	lcSweeney < <u>Fearghal.McSweeney@fingal.ie</u> > wrote:
ouncillor Healy,	
	 Street discreptive logitimes before artised and continued to several few actives.
wish to acknowledge receipt of your co	orrespondence,
relation to enforcement file ENF24/09 enior Executive Planner in Enforcement	95, this file is currently under active review by Solomon Aroboto, our
hen this review has been completed, v	we will inform you, in writing, of the outcome,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2

Ph: (01) 8905000

Email: fearghal.mcsweeney@fingal.ie

Comhairle Conto Fhine Gall Fingal County Council



From: David Healy / Daithí Ó hÉalaithe < verdire@gmail.com >

Sent: Tuesday, July 23, 2024 8:57 AM

To: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie >

Cc: Brian Murray < Brian.Murray@fingal.ie >; Cllr David Healy (con) < David.Healy@cllrs.fingal.ie >; Planning

Enforcement < Planning. Enforcement@fingal.ie >

Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

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Hi Fearghal,

Could we get an update on this please?

Thanks,

David

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C. @davidhealyv

On Fri 24 May 2024 at 17:09, Fearghal McSweeney < Fearghal.McSweeney@fingal.ie > wrote:

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

l wish	to acknowledge receipt of your recent correspondence.
n rela Devel	tion to enforcement file ENF24/095, a warning letter, pursuant to section 152 of the Planning and opment Act 2000, as amended, was issued on 14/05/2024, the particulars of which are as follows:
•	Non-Compliance with Condition 17 of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
	The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.
•	Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings
	Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412)
•	Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council
osure	Non-compliance with Condition 18 (c) of ABP Reference PL06F.248970 (Fingal County Council Reference F16A/0412) 18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction

Condition 18 (c) requires the maintenance of access to Clongriffin Railway Station at all times.

Investigations remain open and ongoing at present into this matter. Regards, Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph: (01) 8905000 Email: fearghal.mcsweeney@fingal.ie From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie > Sent: Wednesday, May 22, 2024 10:15 AM To: Fearghal McSweeney < Fearghal. McSweeney@fingal.ie >; Brian Murray < Brian. Murray@fingal.ie > Subject: Re: FW: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412 Dear Fearghal and Brian, I would be grateful for a copy of any warning letter, enforcement notice or decision on enforcement in relation to F16A/0412, a copy of any submission and associated response and any internal documentation in relation to condition 17 of F16A/0412 an explanation why the statutory timelines are not being met in respect of the non-compliances with this permission which have been brought to the Council's attention over recent years. Thank you, David Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra,

www.davidl	<u>healy.com</u>			
@davidheal	lyv			
On Tue 140	M 2024 -+ 45 02		phicinal and the property	Partition Methylericity Administra
On Tue, 14 I	viay 2024 at 15:02,	Fearghal McSweeney	/ < Fearghal. McSweeney	@fingal.ie> wrote:
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Dear Counc				
Bear count	smor ricary,			
I wish to ac	knowledge receipt	of your corresponder	nce in relation to your er	nail of 8th April 2024.
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Section 152	2 (3) of the Planning	g and Development A	ct 2000, as amended, st	ates that the planning authority
shall issue t	the warning letter u	under subsection (1) a	s soon as may be but no	t later than 6 weeks after receipt
the represe	ntation,			
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It is the obje	ective of the Planni	ing Enforcement secti	on to issue a warning le	tter where appropriate as soon as
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examined 0	ni a case by case ba	ISIS.		
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Regards,	cSweeney Adminis		ning & Strategic Infrastru Din K67 X8Y2	ucture Department Fingal Count
Regards, Fearghal Mc Council Co Ph : (01) 890	cSweeney Adminis	istrative Officer Plani reet Swords Co. Duk	ning & Strategic Infrastru olin K67 X8Y2	ucture Department Fingal Count



From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Friday, May 3, 2024 11:38 AM

To: Brian Murray < Brian. Murray@fingal.ie >

Subject: Fwd: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

Dear Brian,

It has taken almost 4 weeks to get an acknowledgment of my email to planning enforcement of 8th April (below). That letter followed emails of 5th and 6th March which have not been answered, and emails from me on 4th December and from Myrtle Residents of 11th September. The September correspondence followed years of engagement by residents and councillors with the Council Executive which have always been directed to and handled by Planning Enforcement.

At the briefing on Planning Enforcement, Fearghal told us that "in 95% of cases, a warning letter is issued within a week of receiving a complaint."

Why is the handling of this extremely important case so far from that level of service?

Thanks,

David

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra, Beann Éadair, Co. Bh.Á.C.

www.davidhealy.com

----- Forwarded message ------

From: Fearghal McSweeney < Fearghal.McSweeney@fingal.ie>

Date: Fri, 3 May 2024 at 10:42

Subject: RE: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

To: Cllr David Healy (con) < David. Healy@cllrs.fingal.ie>

CAUTION: [EXTERNAL EMAIL] Do not click links or attachments unless you recognise the sender and know the content is safe.

Dear Cllr. Healy,

I wish to acknowledge receipt of your correspondence dated 8th April 2024,

The matter is currently under investigation by the Planning Enforcement section, and we will update you in due course on this matter,

Regards,

Fearghal McSweeney | Administrative Officer | Planning & Strategic Infrastructure Department | Fingal County Council | County Hall | Main Street | Swords | Co. Dublin | K67 X8Y2 Ph : (01) 8905000

Email: fearghal.mcsweeney@fingal.ie





From: David Healy / Daithí Ó hÉalaithe < david.healy@cllrs.fingal.ie>

Sent: Monday, April 8, 2024 7:38 PM

To: Matthew McAleese < Matthew.McAleese@fingal.ie >; Colm McCoy < Colm.McCoy@fingal.ie >; Fearghal

McSweeney < Fearghal. McSweeney@fingal.ie>

Subject: Planning Enforcement complaint, non-compliance with conditions 17 and 18 of F16A/0412

A chairde,

65

I refer to previous correspondence below which has not yet been answered. I am writing again firstly because I want to ensure that this is understood as a formal planning enforcement complaint and secondly because my further reading of the planning file demonstrates further non-compliance of a fundamental nature in relation to the provision of the access between Clongriffin and Baldoyle.

Condition 18 of F16A/0412 is very clear that it requires the maintenance of access to Clongriffin Railway Station at all times.

In relation to the issues of phasing of development, Condition 18 of F16A/0412 has not been complied with.

Condition 17 of F16A/0412 has also apparently not been complied with. The public living in the Baldoyle and Clongriffin area is suffering an apparently indefinite delay in the provision of Stapolin Square, which is the planned permanent access to the railway station and across the railway line. The need for correct phasing was identified in the Local Area Plan, referred to in the planning application, and given effect by Condition 17, which reads:

"17 The development shall be carried out on a phased basis in accordance with the proposals submitted with the application. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings."

A compliance submission in relation to this condition was submitted to Fingal county Council in December 2019 and rejected by the Council in August 2020. I enclose a copy of the relevant documentation from the online planning file. There is no further compliance documentation in relation to this condition on the website.

I request that appropriate enforcement action is taken as a matter of urgency.

Le meas,

Cllr. David Healy

+353 87 6178852 54, Páirc Éabhóra,

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Fr	om: David Healy / Daithí Ó hÉalaithe < <u>david.healy@cllrs.fingal.ie</u> >
	ate: Wed, 6 Mar 2024 at 17:24
	bject: Fwd: Access between Baldoyle and Clongriffin, including Clongriffin station
Tc	: Colm McCoy < <u>colm.mccoy@fingal.ie</u> >
	마이크 이 경영 보다는 이번 시대로 되었다. 그리고 말이 되었다면 하는데 되었다면 되었다.
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Th	is is the email discussed at our meeting today including reference to the enforcement file 23/279B.
	g sever and to the emotion that 23/27/30.
Re	gards,
	선생님들은 사람들이 얼마나 되었다면 하는 사람들은 사람들이 얼마나 나는 사람들이 되었다면 되었다.
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	Forwarded message
	om: David Healy / Daithí Ó hÉalaithe < <u>david.healy@cllrs.fingal.ie</u> >
	te: Tue, 5 Mar 2024 at 20:05
	bject: Access between Baldoyle and Clongriffin, including Clongriffin station
	: Matthew McAleese < <u>matthew.mcaleese@fingal.ie</u> >, Fearghal McSweeney
< <u>F</u>	earghal.McSweeney@fingal.ie>
Сс	: Joan Hopkins < <u>Joan. Hopkins@cllrs.fingal.ie</u> >, Brian McDonagh < <u>brian.mcdonagh@cllrs.fingal.ie</u> >, Cllr
Eo	ghan OBrien < <u>Eoghan.OBrien@cllrs.fingal.ie</u> >, Anthony Lavin < <u>Anthony.Lavin@cllrs.fingal.ie</u> >, Cllr Aoibhin
To	rmey < Aoibhinn. Tormey@cllrs.fingal.ie >, Jimmy Guerin < Jimmy. Guerin@cllrs.fingal.ie >
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	are and the transfer of the respective for the second of the second of the second of the second is the second of t
)e	ar Fearghal and Matthew,
	a. Vanguara Matanew,
45	there's quite a lot of detail in relation to the planning enforcement aspects of the access, I thought it wou
e	useful to share the following in writing in advance of our Area Cttee meeting tomorrow afternoon, where
he	e issue of the access is again on the agenda.
	사용하는 경우 사용하는 사용하는 사용하는 사용하는 사용하는 사용하는 사용하는 사용하는
۷l	rtle Residents sent an email on 11th September 2023 to planning.enforcement@fingal.ie including the
	lowing:
	"We the members of Myrtle The Coast Residents Association, in Baldoyle, would like to submit a
	formal complaint regarding the maintenance of the stairwell access to Clongriffin Dart Station. This i
	our only access point to the dart station, from the Baldoyle side. We feel that Richmond Homes are
	failing in their planning permission requirements to provide adequate access to our Dart Station."

I sent an email on 4th December including the following:

"We drew your attention on 10th November to the signs indicating an intention to block a public right of way at night. I now understand that gates/shutters have been installed and the contractors have told members of the public that Richmond Homes intends to start closing the access next week.

"Please note that in addition to being in breach of the planning permission for the site, such closing of shutters would be the obstruction of a public right of way which is an offence under s.73(10) of the Roads Act, and that it is the function of Fingal under s.73(11) "to protect the right of the public to use public rights of way in its administrative area."

Apparently, the only enforcement file opened by the Council in relation to these and other complaints, was 23/279B (also referred to in one letter as 23/179B), which was an investigation into the size of the signs which announced the temporary access would be closed at night. After issuing a warning letter on around 30th November 2023 and continuing to investigate until around 13th February 2024, the Planning Department concluded that the signage was considered insubstantial. It went on to state

"The temporary access arrangement, per Condition No. 6 of An Bord Pleanála Ref PL 06F 224781, is in place."

It appears that the decision closing the enforcement file refers to only one planning file: ABP 06F.224781, even though the station, including the access, was built under F04A/1484, and the access is also covered by F16A/0412 ABP PL06F.248970.

F04A/1484

From the documentation I have been able to access on F04A/1484, the temporary access is an inherent part of the plans and particulars. Condition 1 is clear:

"The development to be carried out in its entirety in accordance with the plans, particulars, specifications, and information lodged with the application as amended by additional information received on 8th June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:

"The proposed development shall be subject to agreement with the Transportation Department of Fingal County Council and in particular:

"(e) The proposed option and details for the temporary access route from the eastern side of the development, including setdown facilities for vehicular traffic and parking and safe movement for pedestrians and cyclists, shall be agreed prior to construction."

F06A/0671

Although ABP 06F.224781 isn't on the ABP website, I managed to find some information associated with this file on the Fingal website with the reference F06A/0671. Condition 6 reads:

"6. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of temporary access arrangements to the proposed rail station for agreement.

Reason: in the interest of the proper planning and sustainable development of the area."

There's no compliance information associated with this condition on the Fingal website. In fact, it appears that this planning permission hasn't been commenced. If it has been commenced, I would be grateful for a copy of the compliance submission for Condition 6 as agreed by the Council and the commencement information. As you know, if it hasn't been commenced, the planning conditions associated with the application have no effect.

F16A/0412

I have however also noted F16A/0412 ABP PL06F.248970. I am at a loss as to why this permission has not been referred to by the Planning Enforcement Section over many discussions in recent months.

Condition 18 of that permission, which was granted to the receivers in late 2017, reads:

"The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including:

...(c) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times." (my emphasis)

This development appears to have been commenced as a large number of houses have been built in line with the plans and particulars. Whatever the content of the Construction Management Plan, to be in compliance with the permission, it must provide for the maintenance of access to Clongriffin Railway Station at all times. (Unfortunately I can't find a compliance submission and agreement with Condition 18 online. I would be grateful for a copy.)

On being told on 1st November 2023 that the Planning Department had concluded that there were no enforcement options open to them at that stage (note this was before the closure of the access at night), the Area Cttee. agreed the following motion:

"That the Chief Executive obtain independent legal advice for councillors about the decision of the Fingal Planning Department not to enforce the failure of Richmond Homes to provide universal access to Clongriffin Dart Station. This includes full examination of the relevant planning applications in consideration of local government, planning, and disability law. This is in the context of the lifts regularly breaking down and not being repaired in a timely manner. Currently the lifts have been broken for nearly 60 days so anyone in a wheelchair has not been able to access the DART station which needs to be examined."

On 23rd February 2024, local councillors received an unsigned email via Corporate Services telling us that we couldn't invoke s.132 of the Local Government Act. This is something we had not purported to do and something we had not in any way referred to, understandably as that would be a reserved function of the full Council.

We have not at any stage received any explanation of the Planning Enforcement Section's conclusion that they could not take enforcement action over the lack of maintenance and prompt repairs to the access, a conclusion

apparently reached without opening an enforcement file and thus not documented as provided for in s.153 of the Planning and Development Act.

If I understand the letter about the closure of Enforcement file 23/279B correctly, the Council's assessment of the planning status of the deliberate closing of the access at night was made with reference to a planning permission which has not been activated, and without reference to the activated permissions under which the access was built and under which other houses have recently been built.

Best regards,

David

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