



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

11<sup>th</sup> 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 11<sup>th</sup> 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](mailto: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

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

AIE Request Reference

2024/008

Record No.	Date of Record	Brief description of record	Decision - Grant/Part Grant/Refuse	Basis for refusal - Article of Regulation	Public Interest	Emissions - where information is refused under Article 8 and/or 9(1)(c)
1 to 8	8th of April 2024 to 14th of May 2024	Initial Complaint Correspondence	Grant			
9	8th of May 2024	Internal Initial Complaint Correspondence	Refuse	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).		
10	10th of May 2024	Internal Correspondence- Reference Request Information	Grant			
11 to 14	14th of May 2024	Warning Letter	Part Grant	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.		
15 to 24	24th of May 2024	External Correspondence- Ack of Warning letter to complainant	Grant			
25	10th of June 2024	External Correspondence from representative of the owner	Refuse	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.		
26	11th of June 2024	Internal Correspondence	Refuse	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).		

27	12th of June 2024	External Correspondence	Refuse	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.		
28	14th of June 2024	External Correspondence	Refuse	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.		
29 to 35	24th June 2024	External Correspondence - Submission	Part Grant	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.		
36 to 44	23rd of July 2024	External Correspondence from complainant	Grant			
45 to 50	23rd of July 2024	External Correspondence- Update given to complainant	Grant			
51	15th of August 2024	Internal Correspondence	Refuse	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).		
52	15th of August 2024	Internal Correspondence	Refuse	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).		
53 to 61	15th of August 2024	External Correspondence from complainant	Grant			
62 to 71	15th of August 2024	External Correspondence- AIE Request	Grant			



**Claire Byrne**

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**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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fingal  
Fingal County  
Council



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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>  
**Sent:** Friday, May 3, 2024 11:38 AM  
**To:** Brian Murray <[Brian.Murray@fingal.ie](mailto: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](http://www.davidhealy.com)  
@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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@cllr.fingal.ie](mailto:David.Healy@cllr.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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fhine Gail  
Fingal County  
Council



**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>

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

**To:** Matthew McAleese <[Matthew.McAleese@fingal.ie](mailto:Matthew.McAleese@fingal.ie)>; Colm McCoy <[Colm.McCoy@fingal.ie](mailto:Colm.McCoy@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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

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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

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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto: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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>

Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan

OBrien <[Eoghan.OBrien@cllrs.fingal.ie](mailto:Eoghan.OBrien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey

<[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> June 2005, save as may be required by the other conditions attached hereto."

Condition 12 is also relevant:



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"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 23<sup>rd</sup> 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

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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.

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**Claire Byrne**

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**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](mailto:planning.enforcement@fingal.ie)

Comhairle Contae  
Fhine Gall  
Fingal County  
Council





ENF No.: 24/095

**COMHAIRLE CONTAE FHINE GALL  
FINGAL COUNTY COUNCIL**

WL 1

**WARNING LETTER**

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

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:**

**Comhairle Contae Fhine Gall**  
Fingal 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](mailto:planning.enforcement@fingal.ie) w: [www.fingal.ie](http://www.fingal.ie)





***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.



(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**

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**From:** Fearghal McSweeney  
**Sent:** 24 May 2024 17:09  
**To:** Cllr 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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fingal  
Fingal County  
Council



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**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](http://www.davidhealy.com)  
@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

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Fingal County  
Council




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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>

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

**To:** Brian Murray <[Brian.Murray@fingal.ie](mailto: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.

18

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

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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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@clrs.fingal.ie](mailto:David.Healy@clrs.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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fhine Gall  
Fingal County  
Council




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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>  
**Sent:** Monday, April 8, 2024 7:38 PM  
**To:** Matthew McAleese <[Matthew.McAleese@fingal.ie](mailto:Matthew.McAleese@fingal.ie)>; Colm McCoy <[Colm.McCoy@fingal.ie](mailto:Colm.McCoy@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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

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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>

Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan

OBrien <[Eoghan.OBrien@cllrs.fingal.ie](mailto:Eoghan.OBrien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey

<[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> 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 23<sup>rd</sup> 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

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**Claire Byrne**

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**From:**  
**Sent:** 24 June 2024 15:56  
**To:** Planning Enforcement  
**Cc:**  
**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](mailto: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  
**To:** 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](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fhine Gall  
Fingal County  
Council




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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>  
**Sent:** Wednesday, May 22, 2024 10:15 AM  
**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>; Brian Murray <[Brian.Murray@fingal.ie](mailto: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](http://www.davidhealy.com)

@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fhine Gall  
Fingal County  
Council




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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>

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

**To:** Brian Murray <[Brian.Murray@fingal.ie](mailto: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  
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Beann Éadair,  
Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto: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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fíne Gall  
Fingal County  
Council




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From: David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>

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

To: Matthew McAleese <[Matthew.McAleese@fingal.ie](mailto:Matthew.McAleese@fingal.ie)>; Colm McCoy <[Colm.McCoy@fingal.ie](mailto:Colm.McCoy@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](http://www.davidhealy.com)

@davidhealyv

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

From: David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto: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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>  
 Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan OBrien <[Eoghan.OBrien@cllrs.fingal.ie](mailto:Eoghan.OBrien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey <[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> 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 23<sup>rd</sup> 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](http://www.davidhealy.com)

@davidhealyv

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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](mailto: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](mailto: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.

**Claire Byrne**

---

**From:** Fearghal McSweeney  
**Sent:** 23 July 2024 09:56  
**To:** David Healy / Daithí Ó hÉalaithe  
**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

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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
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.

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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>  
**Sent:** Wednesday, May 22, 2024 10:15 AM  
**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>; Brian Murray <[Brian.Murray@fingal.ie](mailto: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  
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Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>

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

**To:** Brian Murray <[Brian.Murray@fingal.ie](mailto: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

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Beann Éadair,  
Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto: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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)

Comhairle Contae  
Fhine Gall  
Fingal County  
Council




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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>  
**Sent:** Monday, April 8, 2024 7:38 PM  
**To:** Matthew McAleese <[Matthew.McAleese@fingal.ie](mailto:Matthew.McAleese@fingal.ie)>; Colm McCoy <[Colm.McCoy@fingal.ie](mailto:Colm.McCoy@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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

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54, Páirc Éabhóra,  
Beann Éadair,  
Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **David Healy / Daithí Ó hÉalaithe** <[david.healy@cllrs.fingal.ie](mailto: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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>  
 Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan OBrien <[Eoghan.OBrien@cllrs.fingal.ie](mailto:Eoghan.OBrien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey <[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> 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 23<sup>rd</sup> 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,  
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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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52

**Claire Byrne**

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**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](mailto:planning.enforcement@fingal.ie)

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Fingal County  
Council



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**From:** David Healy / Daithí Ó hÉalaithe <[cllrdavidhealy@gmail.com](mailto:cllrdavidhealy@gmail.com)>

**Sent:** Thursday, August 15, 2024 12:35 PM

**To:** Claire Byrne <[Claire.Byrne@fingal.ie](mailto:Claire.Byrne@fingal.ie)>

**Cc:** Solomon Aroboto <[Solomon.Aroboto@fingal.ie](mailto:Solomon.Aroboto@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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

Cllr. David Healy

+353 87 6178852

54, Páirc Éabhóra,

Beann Éadair,

Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)



On Thu, 15 Aug 2024 at 12:11, Claire Byrne <[Claire.Byrne@fingal.ie](mailto:Claire.Byrne@fingal.ie)> wrote:

Dear Councillor Healy,

I wish to acknowledge your correspondence to my colleagues on the 13<sup>th</sup> 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](mailto:planning.enforcement@fingal.ie)

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Fhine Gall  
Fingal County  
Council



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

**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

**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 Fearghal, Solomon,

The 12 week period referred to in s.153 has expired. Has any enforcement decision been taken? I would be grateful for a copy of any decision and of any enforcement notice issued.

I would also be grateful for a copy of any correspondence received in relation to the warning letter issued.

Thank you,

David

Cllr. David Healy

+353 87 6178852

54, Páirc Éabhóra,  
Beann Éadair,  
Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

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On Tue, 23 Jul 2024 at 09:58, Fearghal McSweeney <Fearghal.McSweeney@fingal.ie> wrote:

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](mailto:fearghal.mcsweeney@fingal.ie)

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Council



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**From:** David Healy / Daithí Ó hÉalaithe <[verdire@gmail.com](mailto:verdire@gmail.com)>

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

**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>

**Cc:** Brian Murray <[Brian.Murray@fingal.ie](mailto:Brian.Murray@fingal.ie)>; Cllr David Healy (con) <[David.Healy@cllr.fingal.ie](mailto:David.Healy@cllr.fingal.ie)>; Planning Enforcement <[Planning.Enforcement@fingal.ie](mailto: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

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54, Páirc Éabhóra,  
Beann Éadair,  
Co. Bh.Á.C.  
@davidhealyv

On Fri 24 May 2024 at 17:09, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>

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

**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>; Brian Murray <[Brian.Murray@fingal.ie](mailto: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

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@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>

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

**To:** Brian Murray <[Brian.Murray@fingal.ie](mailto: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

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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto: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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)



58

**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

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@davidhealyv

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

From: **David Healy / Daithí Ó hÉalaithe** <[david.healy@cllrs.fingal.ie](mailto: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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>  
Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan OBrien <[Eoghan.OBrien@cllrs.fingal.ie](mailto:Eoghan.OBrien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey <[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> 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:

60  
"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 23<sup>rd</sup> 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

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[www.davidhealy.com](http://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

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**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](mailto:planning.enforcement@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[cllr davidhealy@gmail.com](mailto:cllr davidhealy@gmail.com)>  
**Sent:** Thursday, August 15, 2024 5:31 PM  
**To:** Planning Enforcement <[Planning.Enforcement@fingal.ie](mailto:Planning.Enforcement@fingal.ie)>; Freedom of Information Officer <[foi@fingal.ie](mailto:foi@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 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](http://www.davidhealy.com)

On Thu, 15 Aug 2024 at 14:53, Planning Enforcement <[Planning.Enforcement@fingal.ie](mailto: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](mailto:planning.enforcement@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <cllr davidhealy@gmail.com>

**Sent:** Thursday, August 15, 2024 12:35 PM

**To:** Claire Byrne <Claire.Byrne@fingal.ie>

**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

Cllr. David Healy

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

[www.davidhealy.com](http://www.davidhealy.com)

On Thu, 15 Aug 2024 at 12:11, Claire Byrne <Claire.Byrne@fingal.ie> wrote:

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Dear Councillor Healy,

I wish to acknowledge your correspondence to my colleagues on the 13<sup>th</sup> of August 2024.

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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](mailto:planning.enforcement@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[cllr davidhealy@gmail.com](mailto:cllr davidhealy@gmail.com)>

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

**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>; Solomon Aroboto <[Solomon.Aroboto@fingal.ie](mailto:Solomon.Aroboto@fingal.ie)>

**Cc:** Brian Murray <[Brian.Murray@fingal.ie](mailto:Brian.Murray@fingal.ie)>; Cllr David Healy (con) <[David.Healy@cllr.fingal.ie](mailto:David.Healy@cllr.fingal.ie)>; Planning Enforcement <[Planning.Enforcement@fingal.ie](mailto: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,

The 12 week period referred to in s.153 has expired. Has any enforcement decision been taken? I would be grateful for a copy of any decision and of any enforcement notice issued.

I would also be grateful for a copy of any correspondence received in relation to the warning letter issued.

Thank you,

David

Cllr. David Healy

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

[www.davidhealy.com](http://www.davidhealy.com)

On Tue, 23 Jul 2024 at 09:58, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)> wrote:

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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[verdire@gmail.com](mailto:verdire@gmail.com)>  
**Sent:** Tuesday, July 23, 2024 8:57 AM  
**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>  
**Cc:** Brian Murray <[Brian.Murray@fingal.ie](mailto:Brian.Murray@fingal.ie)>; Cllr David Healy (con) <[David.Healy@cllr.fingal.ie](mailto:David.Healy@cllr.fingal.ie)>; Planning Enforcement <[Planning.Enforcement@fingal.ie](mailto: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](https://www.instagram.com/davidhealyv)

On Fri 24 May 2024 at 17:09, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto:fearghal.mcsweeney@fingal.ie)

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**From:** David Healy / Daithí Ó hÉalaithe <[david.healy@cllr.fingal.ie](mailto:david.healy@cllr.fingal.ie)>

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

**To:** Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>; Brian Murray <[Brian.Murray@fingal.ie](mailto: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

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54, Páirc Éabhóra,

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[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

On Tue, 14 May 2024 at 15:02, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto: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

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Beann Éadair,  
Co. Bh.Á.C.

[www.davidhealy.com](http://www.davidhealy.com)

@davidhealyv

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

From: **Fearghal McSweeney** <[Fearghal.McSweeney@fingal.ie](mailto: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](mailto: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 8<sup>th</sup> 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](mailto:fearghal.mcsweeney@fingal.ie)

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From: David Healy / Daithí Ó hÉalaithe <[david.healy@cllrs.fingal.ie](mailto:david.healy@cllrs.fingal.ie)>

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

To: Matthew McAleese <[Matthew.McAleese@fingal.ie](mailto:Matthew.McAleese@fingal.ie)>; Colm McCoy <[Colm.McCoy@fingal.ie](mailto:Colm.McCoy@fingal.ie)>; Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>

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

A chairde,

68

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](http://www.davidhealy.com)

@davidhealyv

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

From: **David Healy / Daithí Ó hÉalaithe** <[david.healy@cllrs.fingal.ie](mailto: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](mailto: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](mailto: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](mailto:matthew.mcaleese@fingal.ie)>, Fearghal McSweeney <[Fearghal.McSweeney@fingal.ie](mailto:Fearghal.McSweeney@fingal.ie)>  
Cc: Joan Hopkins <[Joan.Hopkins@cllrs.fingal.ie](mailto:Joan.Hopkins@cllrs.fingal.ie)>, Brian McDonagh <[brian.mcdonagh@cllrs.fingal.ie](mailto:brian.mcdonagh@cllrs.fingal.ie)>, Cllr Eoghan O'Brien <[Eoghan.O'Brien@cllrs.fingal.ie](mailto:Eoghan.O'Brien@cllrs.fingal.ie)>, Anthony Lavin <[Anthony.Lavin@cllrs.fingal.ie](mailto:Anthony.Lavin@cllrs.fingal.ie)>, Cllr Aoibhinn Tormey <[Aoibhinn.Tormey@cllrs.fingal.ie](mailto:Aoibhinn.Tormey@cllrs.fingal.ie)>, Jimmy Guerin <[Jimmy.Guerin@cllrs.fingal.ie](mailto:Jimmy.Guerin@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 11<sup>th</sup> September 2023 to [planning.enforcement@fingal.ie](mailto: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 4<sup>th</sup> 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 30<sup>th</sup> November 2023 and continuing to investigate until around 13<sup>th</sup> 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 8<sup>th</sup> 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 23<sup>rd</sup> 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

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54, Páirc Éabhóra,  
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