



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: F18A/0500

APPEAL by Padraic Macken care of Michael Halligan of Seapoint House, Balbriggan, County Dublin against the decision made on the 19th day of October, 2018 by Fingal County Council to refuse permission to the said Padraic Macken.

Proposed Development: (A) Retention permission for residential use of existing permitted structure and (B) permission for connection to mains sewer, at Six Cross Lane, Rush, County Dublin.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

1. The subject site is located in an area zoned 'HA' High Amenity for which the objective is "to protect and enhance high amenity areas" as set out in the Fingal Development Plan 2017-2023. Objective RF32 of the Fingal Development Plan 2017-2023 seeks to "permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances". Residential development is only permitted where the applicant has established a genuine need to live in a rural area by reason of their involvement in a family farm or their exceptional health circumstances. The applicant has not submitted any documentation to demonstrate compliance with this objective. The development proposed to be retained and the proposed development would, therefore, contravene materially Objective RF32 as set out in the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

2. Objective RF42 of the Fingal Development Plan 2017-2023 states that the replacement or conversion of existing coastal chalets by dwellings which can be resided in all the year round will only be considered in exceptional circumstances where certain criteria are fully met. On the basis of the submissions made in connection with the application and the appeal, the Board is not satisfied that the applicant has demonstrated compliance with this objective. In the absence of such information, the proposed development would, therefore, contravene materially Objective RF42 of the Fingal Development Plan 2017-2023 and be contrary to the proper planning and sustainable development of the area.

3. The sightlines available from the subject site access road are severely restricted, and would not accord with the provisions as set out in the Design Manual for Urban Roads and Streets, due to the height of the wall/fence of the existing boundaries to the adjoining public road and which are outside the control of the applicant. It is considered that the development proposed to be retained and the proposed development would, therefore, endanger public safety by reason of traffic hazard due to the turning movement of vehicles onto the road where sightlines are restricted.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the planning history of the subject site, which

confirms that no permission has been granted for any form of residential use at the existing structure and that the only permitted use accorded to the existing structure is as a horticultural shed. In addition, it is considered that the evidence submitted with the planning application and appeal does not constitute verifiable documentary evidence indicating that the existing structure has been occupied on a year-round basis for a period of 7 years or more. Furthermore, and having regard to the fact that the application seeks retention permission for the residential use of the existing structure in accordance with Objective RF42 (which refers to dwellings which can be resided in all year round), the Board agreed with the planning authority on the issue of sightlines available from the existing access road and considered that this issue is relevant to Objective RF42, with specific regard to the stated requirement therein, that a proposal satisfies planning criteria in relation to appropriate design, layout and access.

Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.