



An  
Bord  
Pleanála

## Inspector's Report

### ABP-302998-18

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<b>Development</b>	Retention permission for residential use of existing permitted structure and permission for proposed new connection to mains sewer.
<b>Location</b>	'Six Cross Lane', Rush, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F18A/0300
<b>Applicant</b>	Padraic Macken
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Padraic Macken
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24/01/2019.
<b>Inspector</b>	L. W. Howard

## 1.0 Site Location and Description

- 1.1. The stated c.0.035ha rectangular shaped application site is located within a small residential / holiday home settlement at the eastern end of 'Six Cross Lane', c.1.3km north of centre Rush, County Dublin.
- 1.2. 'Six Cross Lane' commences at a T-Junction with the R128 Skeries Road and continues west to east, before turning southward enabling access to local properties, adjacent to the expansive North Beach.
- 1.3. The 'Six Cross Lane' community, adjacent to North Beach, is characterised by long established holiday homes / chalets and caravan park uses. The presence of a number of more substantial permanent homes was also noted.
- 1.4. The application site is accessed off 'Six Cross Lane' via a 'common driveway' which enables the applicants chalet, as well as 2no. single storey redbrick permanent houses, both with tiled roofs and positioned to the west and east of the application site respectively around the head of the 'common driveway'. 'Mobile homes' exist on the pair of properties located on either side of the entrance junction off 'Six Cross Lane' onto the 'common driveway'
- 1.5. From its junction with 'Six Cross Lane', the c.27m long private 'common driveway' opens out at its head, to the front of the 3no. modest detached residential structures, into a 'turning area'. This space appears used as the principal car parking area for the 3no. residential structures, including the application site.
- 1.6. Topographically the stated c.0.036ha rectangular application is level throughout. The existing permitted structure is positioned to the south of the site, c.4.0m from the front boundary. In the application documentation the structure for retention is stated comprising a gross floor space of 62m<sup>2</sup>. Further, the length and depth dimensions of the structure are stated as 10.8m and 5.7m respectively, with a gable pitched roof ridge height of 4.0m. Four windows are contained within both of the front and rear elevations, with no side windows. A single door enables access from the front, whilst

a double 'patio-type' door enables access from the rear yard. Pedestrian access is possible from front to rear passed the side elevation.

- 1.7. At the time of physical inspection, the existing permitted structure was clearly in domestic family 'residential' use. The rear yard / garden was well maintained, with a good cover of mowed lawn, appeared in domestic leisure use. The rear yard site boundaries are demarcated with modest block walls.
- 1.8. At present, the application site is understood served by an existing septic tank and percolation area, located in the rear yard / garden area.

## 2.0 Proposed Development

- 2.1. Proposed Retention of residential use of the existing structure on site.

Floor plans submitted indicate the existing structure comprises –

- 2no. bedrooms
- a bathroom
- an open plan kitchen / lounge area
- ridge height – 4.0m
- length and depth – 10.8m and 5.7m respectively
- rear garden depth and width – 16m and 15m respectively.

- 2.2. Planning permission sought for new connection to mains sewer.

In this regard, letters included with the application documentation, from the local landowners authorising access to their lands in order to obtain a connection to the sewer.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse planning permission, for 3no. stated 'Refusal Reasons' as follows  
:

1. No demonstrated compliance with Objective RF32 of County Development Plan 2017-2023 which 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”.
2. With respect to the retention of change of use of the existing structure on site, applicant has not demonstrated satisfactory compliance with Objective RF42 of County Development Plan 2017-2023 which enables the replacement or conversion of chalets into permanent residences in exceptional circumstances, subject to several criteria being met.
3. Traffic safety consequent of substandard sightline visibility to both approaches from the existing entrance junction, consequent of substandard sightline visibility due to the high wall / fence of the existing site boundaries to either side which are outside the control of the applicant.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The key issues considered as follows :

##### Compliance with Zoning Objective / Development Plan Objectives

- Residential development is permitted in principle on “HA” zoned lands, subject to compliance with the Rural Settlement Strategy.
- Within “HA” zoned lands, only family members actively involved in farming within the rural area will be considered for a rural house.
- Note that the applicant has not submitted any documentation demonstrating compliance with the Rural Settlement Strategy.
- Objective **RF32** specifies that houses on lands zoned “HA” would only be permitted for those who have a defined essential housing need based on –
  - involvement in farming, or
  - exceptional health circumstances

Applicant has not submitted any documentation demonstrating compliance with Objective **RF32**.

- Objective **RF42** relates to the conversion of chalets, into permanent residences.

Under Objective **RF42**, the replacement / conversion of existing coastal chalets / seaside huts, by dwellinghouses to be resided in all year round will only be considered in exceptional circumstances where the following criteria are fully met –

- verifiable documentary evidence demonstrating occupancy of the unit on a year round basis, and that this has been for a period of 7-years or more
  - compliance with planning criteria relating to appropriate design and layout, drainage, access, and integration with the character of the landscape
  - the site is not threatened with impact consequent of climate change, including coastal erosion and flooding.
  - impacts on European Sites to be fully assessed by Screening for Appropriate Assessment.
- Note applicant's arguments that the application fully complies with Objective **RF42**, having regard to –
    - satisfactory demonstration of “all year round occupation” of the existing structure, for over 7-years, by way of
      - reference to previous application on the application site, and
      - recent enforcement proceedings.
    - previous An Bord Pleanála decision determining that
      - the structure does not form an obtrusive feature within a ‘high amenity area’.
    - the site is well set back from the shoreline. Flooding / coastal erosion have never been an issue.
    - there are no impacts on European sites.
  - Notwithstanding, the Planning Authority remain of the view that the applicant has not demonstrated compliance with Objective **RF42**, as follows –

- verifiable documentary evidence has not been provided, demonstrating occupancy of the unit on a year round basis, and that this has been for a period of 7-years or more
- that the site is not threatened with impact consequent of climate change, including coastal erosion and flooding
- no screening assessment in terms of potential impacts on European Sites has been submitted.

#### Integration and Impact on Visual and Residential Amenity

- The existing structure is visually acceptable.
- Having regard to the scale and design of the existing structure, no undue negative impacts on adjacent properties will result.

#### Transportation Issues

- The County Transportation Planning Section report asserts the view that the proposed change of use from a 'horticultural shed to residential use is an intensification of use of the application site.
- The applicant has not clearly indicated any surface car parking within the curtilage of the site, in compliance with Development Plan 2017 Standards.
- Existing sightlines available from the entrance do not meet the Design Manual for Urban Roads and Streets Standards.
- County Transportation Planning Section report recommends the application be 'refused' on the grounds of traffic hazard, due to the lack of sightline visibility.

#### Water and Drainage Issues

- No objection by Irish Water, subject to Conditions. These relate to obtaining connection agreements.
- The County Water Services Engineer has no objection, subject to Conditions. These include that the applicant submits an acceptable 'surface water drainage proposal –

- in accordance with the principles of ‘Sustainable Drainage Systems (SuDS)’, and
- in compliance with the GSDSDS (Greater Dublin Strategic Drainage Study) Regional Drainage Policies Volume 2 New Development, August 2005.

Impact on Natura 2000 Sites

- Application site located approximately 1.48km north of the Rogerstown Estuary Special Area of Conservation (SAC 000208) and the Rogerstown Estuary Special Protection Area (SPA 004015).
- No screening assessment regarding potential impacts on European Sites from both the development to be retained, and the proposed development, has been submitted by the applicant.
- In the absence of such screening assessment, it cannot be concluded –
  - that there will be no disturbance to key species, or
  - that there will not be any significant adverse direct, indirect or secondary impacts on the integrity of any nearby Natura 2000 sites.

Conclusion & Recommendation

- Applicant has not demonstrated compliance with the ‘Rural Settlement Strategy’, regarding the provision of a ‘residence’ on lands zoned ‘HA’.
- The applicant has not satisfactorily demonstrated compliance with Objective RF42.
- Due to a lack of sightline visibility, the proposal represents a traffic hazard.
- Applicant has not provided an “Appropriate Assessment Screening Report”, in respect of this application.

**3.2.2. Other Technical Reports**

Transportation Planning Section

Refusal – On the grounds of Traffic Hazard consequent of substandard sightline visibility.

Water Services Section

No objection, subject to Conditions.

### 3.3. Prescribed Bodies

Irish Water

No objection, subject to Conditions.

### 3.4. Third Party Observations

Submission by Cllr. T.O'Leary, supporting this planning application.

## 4.0 Planning History

### 4.1. Application site

**F15A/0245** Retention permission REFUSED to P. Macken for residential chalet.

Decision upheld on 1<sup>st</sup> party appeal under **PL06F.245325**, for 3no. 'refusal reasons' –

1. No demonstrated genuine rural housing need in accordance with Objective RH07 of County Development Plan 2011-2017.
2. Proposed development contrary to Objective RH26, which seeks to prohibit replacement or conversion of existing chalets and seaside huts by dwellingunits that would be permanently resided in all year round.
3. Public health threat due to lack of sufficient detail demonstrating adequacy of proposed foul and surface water drainage, to serve a permanent residence on the site.

**F10A/0192** Retention permission and permission REFUSED to P. Macken for single storey structure, and for its use as a horticultural shed

Decision overturned on 1<sup>st</sup> party appeal under **PL06F.237277**. Relevant Conditions noted include –

- C2. restriction of use to a 'horticultural shed'
- C3. restriction of use to a 'horticultural shed' and not for 'human habitation'.
- C4. prescription for disconnection and removal off site of the existing septic tank.



**F08A/0654** Retention permission and permission REFUSED to P. Macken for –

- demolition of chalet,
- partially constructed replacement chalet, and
- existing biological treatment unit.

Permission sought for completion of replacement chalet

Decision upheld on 1<sup>st</sup> party appeal under **PL06F.230410**, for 1no. 'refusal reason' –

1. Public health threat due to the very restricted area of the site, significantly substandard in respect of disposal of effluent from a wastewater treatment system.

**F06A/1761** Retention permission and permission REFUSED to P. Macken for replacement single storey chalet, to replace recently demolished chalet and retention of recently installed biological treatment unit.

- 1 Contravention of zoning objective (ie. applicant not employed in agriculture)
- 2 & 3 Wastewater disposal, surface water drainage and water supply issues
- 4 Contravention of Development Plan Policy re. "seeks to discourage chalets / seaside huts being lived in all year round", and
- 5 Contravention of Development Plan policy re. the protection of High Amenity areas

**F00A/0877** Permission REFUSED to K. O'Brien for new detached 4-bed dormer bungalow and biocycle treatment unit, for refusal reasons relating to –

- No demonstrated need to reside in a rural area
- Visual intrusion
- Inadequate arrangements for disposal of wastewater,
- Inadequate access, parking and turning area, and
- Negative impact on a designated 'sensitive landscape area'.

#### 4.2. Adjacent / nearby lands

**F09A/0371** Retention permission REFUSED to P. Macken for single storey structure, and permission to complete its construction, and for use of the structure as an agricultural shed (Class 9 of the Planning & Development Regulations), for 3no. 'refusal reasons' –

1. No viable agricultural operation, on a sub-sized site, to justify an agricultural building on the site
2. serious injury to adjacent residential amenity, from the agricultural building
3. design proposed was same as proposed under **F08A/0654**, with existing wastewater treatment system in place. Therefore structure could be used as a residence.

## 5.0 Policy Context

### 5.1. National

#### 5.1.1. Sustainable Rural Housing Guidelines 2005

Both the National Spatial Strategy and the Sustainable Rural Housing Guidelines 2005 distinguish between rural generated housing and urban generated housing and seek to ensure that the needs of rural communities are identified in the development plan process. The guidelines make clear that in all cases, consideration of individual sites will be subject to satisfying normal planning considerations relating to siting and design, including vehicular access, drainage, integration with the physical surroundings and compliance with the objectives of the development plan in general.

#### 5.1.2. EPA Code of Practice

The EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009 applies.

## 5.2. Development Plan

### 5.2.1. Fingal County Development Plan 2017-2023

#### Ch5 Rural Fingal

##### S5.2 Fingal's Rural Settlement Strategy

###### Settlement Strategy

###### Housing in the Countryside

**Objective RF26** To facilitate those with a genuine rural generated housing need to live within their rural community.

###### Rural Generated Housing Need

- only members of families actively involved in farming within the rural area will be considered for a rural house in areas of the County, which have a zoning objective 'HA'.

**Table RF02** provides an eligibility summary.

**Objective RF32** 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

###### Replacement of Chalets and Seaside Huts

- there are several areas within the County (ie. Portrane, Donabate & Rush), where chalets and seaside huts have been constructed prior to and after the coming into effect of the Local Government (Planning & Development) Act 1963.
- applications for planning permission to replace these holiday homes with structures for permanent dwellings, are received by the Council.
- such applications are assessed having regard to –
  - the context
  - location
  - drainage provision, and
  - appropriate site development Standards.

- Council is aware that in relation to these locations, the following issues arise –
  - location within the coastal regions, could be liable to the impacts of climate change in the form of coastal erosion and flooding
  - given the ad-hoc nature of some of these developments, there is little or no sewerage infrastructure,
  - limited services, including roads infrastructure or utilities, exist in these areas.
  - the creation of permanent housing may be unsustainable and significantly alter the character of the areas within which they are located

**Objective RF42**

- Objective **RF42** relates to the conversion of chalets, into permanent residences.
- Under Objective **RF42**, the replacement / conversion of existing coastal chalets / seaside huts, by dwellinghouses to be resided in all year round will only be considered in exceptional circumstances, where the following criteria are fully met –
  - verifiable documentary evidence demonstrating occupancy of the unit on a year-round basis, and that this has been for a period of 7-years or more
  - compliance with planning criteria relating to appropriate design and layout, drainage, access, and integration with the character of the landscape
  - the site is not threatened with impact consequent of climate change, including coastal erosion and flooding.
  - impacts on European Sites to be fully assessed by Screening for Appropriate Assessment.

**Layout and Design for Housing in the Countryside**

Aim to limit visual impact of new houses upon the countryside.

Layout and design for new dwellings to prevent the increase of new entrances onto public roads.

Preference is for the sharing of entrances with existing houses / farmyards belonging to the family of the owner of the new home.

**Objective RF59** Ensure regard to Chapter 12 – Development Management Standards, in the design and layout for new dwellings.

**Objective RF60** Applications for a house on lands zoned ‘HA’ to be accompanied by a comprehensive Visual Impact Statement

### **Rural Drainage**

**Objective RF66** Ensure compliance with the requirements for on-site treatment systems, and the EPA Code of Practice.

**Objective RF67** Implement the recommendations of the Ground Water Protection Scheme

## **Ch 11 Land Use Zoning Objectives**

### **S11.8 Zoning Objective “HA” High Amenity**

Objective : Protect and enhance High Amenity Areas.

“Residential” land use permitted in principle, subject to compliance with the rural settlement strategy.

## **Ch 12 Development Management Standards**

### **S12.6 Design Criteria for Housing in the Countryside**

#### **5.3. Natural Heritage Designations**

- 5.3.1. The application site is located c.1.48km north of the Rogerstown Estuary Special Area of Conservation (SAC 000208) and the Rogerstown Estuary Special Protection Area’ (SPA 004015), respectively.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### 6.1.1. County Development Plan Policy for HA Areas

- Under PL06F.230410, the Board –
  - specifically found that the structure did not conflict with Policy RAP35, “to protect high amenity areas from inappropriate development”.
  - Found that “the Development Plan policy RAP3 seeks to limit housing in areas zoned high amenity to essential housing need” ... cannot be “appropriately be applied to this proposal, which relates to the replacement of a holiday chalet on a like-for-like basis”.
- Indeed, it can be clearly seen that the new permitted structure significantly improves on the previous disamenity of the original structure.
- Having regard to the planning history of the site the applicant considers that the general housing policy restrictions for the HA Zone do not apply to a replacement structure or use.
- Advocate that
  - this policy is rather to control new development where there was no development.
  - the Boards earlier determination cited above is the correct and logical one in these particular circumstances.

#### 6.1.2. County Development Plan Policy for Chalets

- An Bord Pleanála “has previously dismissed the earlier strict policy as it applies to the present site and the replacement of an earlier structure”
- The structure is a permitted structure
- Application of this policy, in these circumstances, “would be excessive and disproportionate having regard to the history of the site”.
- Rather the new policy as set out at Objective RF42 within current County Development Plan 2017-2023, “is much more permissive and allows for residential use of chalets”.
- Further, significant planning differences exist from earlier applications –

- earlier applications decided under the previous County Development Plan 2011-2017 which included Local Objective 83 which sought “to encourage the removal of existing chalets / huts at the North Beach area” of Rush. This was never implemented.
- In the current County Development Plan 2017-2023, previous ‘Local Objective 83’ omitted, and replaced by current Objective RF42 in County Development Plan 2017-2023. Objective RF42 permits residential use of existing chalets all year round
- Both the applicant and the application site comply with the criteria under Objective RF42 as follows :

***7year Occupancy***

- Assert the unit has been occupied continuously, year round, for over 7-years, as is evidenced by –
  - the application under **F06A/1761**, and
  - the recent ‘enforcement’ proceedings
- Reference ‘utility bills’ addressed to the applicant (see attached), confirming his long term permanent residency at the chalet.

***Integration into Landscape***

- Confirm acceptance by the Planning Authority and by An Bord Pleanala (**PL06F.237277**) that the chalet –
  - integrates positively with the environment,
  - does not detract from the amenity of the area, and
  - the access was acceptable
- Emphasise furthermore, “the structure now has permission from the Board”.

***Coastal Erosion and Flooding***

- No flood events are apparent in the vicinity of the site (ref. OPW National Flood Hazard Mapping)
- Further, the site is “removed” from the shoreline, and is not subject to erosion
- Neither will the site impact on erosion.

### **Screening for AA**

- No impacts on EU sites will result.
- The nearest EU site is at Rogerstown Estuary, Rush, a long distance away.
- Accordingly, there is no need for 'screening for appropriate assessment'.

### **6.1.3. Public Health**

- This issue comprised the Boards single 'refusal reason' under **PL06F.230410**
- Assert that this is no longer an issue
- Reference 'Irish Water' "no objection" for a connection to the new mains sewerage system.

### **6.1.4. Traffic**

- under previous appeal **PL06F.245325**, whilst the inspectors report recommended similar refusal under traffic safety, "the Board rejected this reason and struck it out".
- County Transportation Department analysis re. sightlines is excessive, having regard to previous and permitted use on the site.  
Traffic will be domestic and occasional, and will not exceed that for the chalet previously existing onsite.  
Emphasise every application in Rush, Lusk and Skerries would be refused permission if the Design manual for Urban Roads and Streets Standards were to be strictly applied to local historic settlements.
- Reference that the Board, in its earlier decisions, never raised sightline visibility as an issue.
- Traffic movements adjust to local circumstances, where historic sightlines are all that are available.
- There is no history of traffic accidents locally.

### **6.1.5. Local Residents Petition**



- Petition included with appeal submission, signed by all local residents in support of this application.

#### 6.1.6. Conclusion

- The Boards sole refusal reason under PL06F.230410 for residential use of the permitted chalet structure related to the inadequacy of the site size for a treatment plant.
- The Rush treatment Plant upgrade is now operational. Irish Water have giveconsent for connection.
- Previous applications were determined by the Planing Authority under the “Old Development Plan”, which had a policy to prevent permanent use of chalets.
- The current Development Plan now has a policy to permit the permanent residential use of chalets under criteria which the applicant now fully complies with.
- the current application differs signifcantly from the previous historical applications decided by the Planing Authoirity, in a number of respects –
  - permission now exists for the retention of the chalet structure – **PL06F.237277**
  - the sole refusal reason stated under PL06F.230410 related to substandard drainage. This iissue has been resolved consequent of the upgrade of the Rush Sewage Network Scheme, and the current proposal to connect into the main public sewer. Irish Water have stated “no objection” in this regard.
  - As this sole previous refusal reason has been fiully addressed, and therefore no public heaklth issues arise, the applicant requests permission for residential use.
  - Consider the current application is for “an exceptional proposal with unique circumstances to be determined on its own merits. This background ensures no undesirable precedent will be established for future similar proposals in the area.
  - The proposed residential use is fully supported by all the residents of the area (‘residents petition’ attached).

- Given the current 'housing crisis' it would not be reasonable to consign this residential chalet, with large rear garden and connection to mains services, where no amenity impact issues exist.  
To do so would leave the building, with connection to mains services, but with no occupants, contrary to the proper planning and sustainable development of the area.
- Existing chalet on site stands on the footprint of the longstanding chalet, has permission for connection to services, and is in a small enclave of 3no. dwellings.
- The earlier refusal reasons are no longer applicable as the structure now has permission, services are now available and the County Development Plan policy has been changed to permit permanent residential use of existing chalets.

## 6.2. Planning Authority Response

- 6.2.1. Notwithstanding, it remains the opinion of the Planning Authority that 'retention permission' and 'permission for the proposal' be refused, for the 3no. reasons as set out in the Planners report.
- 6.2.2. Request the Board uphold the decision of the Planning Authority.
- 6.2.3. If the Board is minded to grant planning permission, request that a Condition be attached requiring payment of a Development Contribution in accordance with Council's Section 48 Development Contribution Scheme.

## 6.3. Observations

None

## 6.4. Further Responses

None.

## 7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development
- Visual and Residential Amenity Impact
- Road Access and Traffic Safety
- Effluent / Wastewater Treatment
- Appropriate Assessment.

### 7.2. Principle and Location of the proposed development

7.2.1. The application site is located within the designated 'High Amenity' Zone within Fingal County, at 'Six Cross Lane', North Beach, Rush, an area designated as being under strong urban influence in the Sustainable Rural Housing Guidelines 2005 and the Fingal County Development Plan 2017-2023. Accordingly, I understand that as a matter of principle, there is a presumption against residential development at the application site, save for in instances where it can be demonstrated that the applicant accords with the Planning Authority's Rural Settlement Strategy (see 5.2 – 'Fingal's Rural Settlement Strategy), Table RF03, and Objectives 'RF32' and 'RF42' as set out in the County Development Plan 2017-2023.

7.2.2. In compliance with the eligibility criteria prescribed at Table RF03, and having regard to the provisions of the 'High Amenity' Zoning Objective and Objective RF32 respectively, in order for planning permission for a single house to be granted, as under normal circumstances, the applicant would be required to demonstrate an

essential housing need based on “involvement in farming”, or “exceptional health circumstances”.

7.2.3. Consequent of their assessment of the planning application documentation submitted in motivation of the proposed development at ‘Six Cross Lane’, the Planning Authority concluded that the applicant had not demonstrated compliance with Objective RF32 of County Development Plan 2017-2023. This conviction substantiated ‘Refusal Reason No.1’ (of 3no. ‘Refusal Reasons’) given by the Planning Authority, for the decision to refuse planning permission to the applicant. Further, I note that this conviction was sustained by the Planning Authority in their response submission to the applicants 1<sup>st</sup> Party Appeal submission and associated documentation.

7.2.4. Having had detailed reference to all of the information available, I have had regard to what I consider as the uniqueness of the applicants proposed development at ‘Six Cross Lane’, North Beach, Rush, which in my view enables consideration of the individual and specific merits of the current application. Noteworthy, in my view is the historical planning reference made within the County ‘Rural Settlement Strategy’ (2017-2023), acknowledging that there are a number of areas in Fingal inclusive of ‘Six Cross Lane, North Beach, Rush’, “where chalets and seaside huts have been constructed prior to and after the coming into effect of the Local Government (Planning and Development) Act 1963”. I therefore understand such unique development including that on the application site, as predating the commencement of statutory County Development Plans under the Planning Acts (1963 and 2000 as revised).

7.2.5. Having regard to the planning history of the application site (see paragraph 4.0 – ‘Planning History’ above) I believe it reasonable to be of the view that the referenced planning history derives from the original ‘pre-existing’ chalet / seaside hut on the application site. Clearly in my view, the modest, small scale, size and composition of the current permitted structure on the application site, for which ‘retention’ permission is currently sought for residential use, reasonably references the original,

historical development understood on the application site. This historic reference, in my view, compares and is consistent with the surrounding contextual, modest residential development and associated land use comprising 'Six Cross Lane', North Beach, Rush (see photographs attached taken at the time of physical inspection).

7.2.6. In my understanding, the application site specific planning history available, notates the chronology available to date. This history in my view does not reflect the "normal circumstances" contemplated in the County 'Rural Settlement Strategy', in order for planning permission for a single house to be granted (ie. as per literal compliance with Table RF03 and Objective RF32). In my view the following references are noteworthy and relevant to consideration of the current application under **F18A/0300 (ABP-302998-18)** :

- Under **PL06F.230410**, An Bord Pleanála refused planning permission to the current applicant – P. Macken for "Retention of the demolition of chalet and ... replacement chalet ...", for a single 'Refusal Reason' to do with public health threat consequent of the substandard area of the site to satisfactorily accommodate effluent disposal from an on-site waste water treatment system (ie. 0.035ha site area below the 0.2ha minimum 'standard').  
Having regard to the Boards decision under **PL06F.230410** read, in conjunction with the associated Planning Inspectors report, assessment of planning merits was not required from first principles in compliance with the relevant rural housing policies at that time (ie. County Development Plan 2005-2011 Policies RAP3 and HP35).  
Accordingly, I understand the Board rather, and notwithstanding its 'refusal' decision, had regard to the proposed development not as new development, but as relating to the replacement of a longstanding 'chalet' on this site, on a like-for-like basis.
- Notwithstanding the Boards 'refusal' decision under **PL06F.230410** a 'structure' has remained on the site to date, and which has retained the appearance of a residential chalet. Through this time observation was made that the structure could still be used as a residence given its design and the fact that the waste water treatment system remained in situ.

- Then under **PL06F.237277**, An Bord Pleanála ‘granted’ planning permission to the current applicant – P. Macken for “Retention of single storey structure and for use of same as a horticultural shed”. Notable reference is made in the Board’s planning inspectors report under **PL06F.237277**, and which I have regard to as helpful in consideration of the merits of the current application for ‘retention’ permission, that –
  - the ‘structure’ on-site at that time was “virtually indistinguishable from the original chalet”;
  - “the building retains the appearance of a holiday chalet and does not resemble a structure intended for horticultural use”; and that
  - “the structure appeared excessively scaled for its use as a tool shed”.
- Notwithstanding, the Board were minded to grant “permission and retention permission”, subject to 7no. Conditions. By way of the planning inspectors report, I note that whilst it was mooted that the existing structure be reduced in size, or replaced with a smaller shed, weighted consideration was given at that time “to the fact that the structure replaces an original chalet of similar size”, on the application site. In this manner, sustained reference has been made to the historic, initial development of and use of the application site for ‘holiday’ residential use.  
 “Permission and retention Permission” were accordingly granted by the Board on this basis.
- Further, ‘retention’ permission of the single storey structure, and ‘permission’ for use of the structure as a horticultural shed, was granted under **PL06F.237277** subject to Conditions No. 2 and 3 which restricted use to a horticultural shed, “unless otherwise authorised by a prior grant of planning permission”. Having regard to the chronology of planning history on the application site, and the information and documentation available under **PL06F.237277**, the substandard size and restrictive conditions of the site prevented installation ‘de novo’ and ‘in principle’, of on-site waste water treatment services, to ‘Standard’, particularly when having regard to historic applications for the retention of ‘residential’ use of the historic ‘chalet’ structure on the site. For example, reference has already been made to the Boards ‘refusal’ decision under **PL06F.230410** for the single refusal reason

related to the substandard area of the site to satisfactorily accommodate effluent disposal from a on-site waste water treatment system. Under **PL06F.237277**, whilst a primary consideration, it was not the same restrictive consideration preventing the granting of 'retention permission' of the structure and 'permission' for use as a horticultural, and thereby enabling in my understanding, a practical, viable use for the applicant – P. Macken in the interim, of both the application site and the chalet structure.

- Whilst clearly restrictive in wording and purpose, I understand that the future alternative land use options (ie. 'residential') were enabled to the applicant, by way of inclusion of the words "unless otherwise authorised by a prior grant of planning permission" (see Condition No.2). Having regard to the above referenced wording, I share the applicant's conviction emphasised in the current application **F18A/0300 (ABP-302998-18)** such that with the completion and commissioning of the upgraded Rush Public Sewage Network Scheme, connection from the application site at 'Six Cross Lane' into the extended public sewer pipe network is now available to the applicant.

In my view, this opportunity for connection into the public sewer network overcomes, for the first time, the significant barrier to the applicant in proceeding residential use of the existing structure and associated property.

However, as prescribed by Condition No.2 attached to the 'retention permission' and 'permission' granted under **PL06F.237277**, the authorisation of 'retention permission' of any sustained residential use of the 'structure' and site itself, would be required by way of a new application for such 'retention permission'. I understand that this is precisely the intention of the applicant now under the current application **F18A/0300 (ABP-302998-18)**, supplemented with inclusion of request for 'planning permission' for proposed new connection to mains sewer.

7.2.7. Whereas under **PL06F.245325**, the Board subsequently refused 'retention permission' to the current applicant – P. Macken for a residential chalet, and having regard to the descriptive wording of the proposed development in the public notices by the applicant, I am inclined to the view that the best interests of the applicant were not fully enabled under **PL06F.245325**. In my understanding, the existing 'chalet'

type structure on site at that time had already received 'retention' permission under previous **PL06F.237277**. However, whereas 'horticultural' use of the 'chalet' type structure was granted planning permission under **PL06F.237277**, subject to Conditions No. 2 and 3, the applicant had sustained unauthorised residential use of the 'chalet' type structure, so that when lodging the new planning application under **F15A/0245 (PL06F.245325)**, I would have anticipated that that application was for 'retention' permission of the residential use itself, of the existing permitted 'chalet' type structure. Rather however, the applicant made application for 'retention' permission for a 'residential chalet', not distinguishing between the two (ie. 'permitted' chalet type structure, vs. 'residential' use thereof). Accordingly the Boards Planning Inspector comprehensively and understandably assessed the planning issues from 1<sup>st</sup> principles, which logically led to the refusal recommendation to the Board, and who decided accordingly under **PL06F.245325** for 3no. 'Refusal Reasons'.

7.2.8. Having detailed regard to all of the above, I discern the following with respect to the current application lodged by the applicant – P. Macken under **F18A/0300 (ABP-302998-18)** :

- 'Retention permission' was granted to the applicant – P. Macken, under **PL06F.237277**, for the 'chalet' type structure on the application site, subject to Conditions No. 2 and 3 restricting use to 'horticulture'. I note and understand that Condition No.2 enables the prospect of other uses such as residential, subject to a new application being lodged and relevant permission being granted accordingly. I understand therefore that the applicant is now attempting to achieve this by way of the current applicant for "(A) retention permission of residential use of existing permitted structure".
- To date, the primary obstacle to the residential use of the application site has been public health concerns relating to the substandard site size / area to be satisfactorily and safely served with an on-site 'waste water treatment system'.

Having regard to the completion and commissioning of the upgraded Rush Public Sewage Plant, and the extension of the public sewer network, particularly along the R138 – Rush to Skerries Road in the vicinity of the



application site at 'Six Cross lane', the applicant is now enabled with the opportunity to plug into the extended public sewer network, thereby safely providing the application site with sanitation services to Standard and without threat to 'public health'. Successful connection into the extended public sewer network would directly address and satisfactorily overcome in my view, a primary historic 'Refusal Reason' given for the refusal of 'retention' of residential use of the 'chalet' type structure, historically.

Under the current application, I understand that this is precisely what the applicant is seeking to achieve by way of the second element of the description of the proposed development namely "(B) Permission for proposed new connection to mains sewer .....".

- I have regard to the application site, 'chalet' type structures developed on it and used for residential use with or without planning permission, as part of the historical and unique "chalet and seaside huts" type development of areas such as "Six Cross Lane, North Beach, Rush, acknowledged and referenced in the current County Development Plan 2017-2023. Whereas the Development Plan 2017-2023 references such areas on the coast as areas "where chalets and seaside huts have been constructed prior to and after the coming into effect of the Local Government (Planning and Development) Act 1963", I note that the applicant is not assisted in this regard by way of information and documentation clearly demonstrating when the application site was first developed with a 'chalet' / 'holiday home' type structure. However, I understand any potential 'pre-existing' use benefit in favour of the applicant to have probably been compromised having regard to references made in the historical application made under **F08A/0654 (PL06F.230410)**, to the demolition of the chalet.

In fact, the description of development applied for at that time was inclusive of "retention of the demolition of the chalet", and the "partially constructed replacement chalet". I note and repeat in this regard that that application was 'refused' 'retention permission' for the single 'refusal reason to do with public health threat consequent of substandard sanitation services to the site at that time. Having regard to the planning history locally at North Beach, Rush, and specifically demonstrated relating to the application site at that time, I understand on the information available, that the Board had no objection to

the residential use of the replacement chalet to be completed on the application site. However, the substandard sanitation services to the site at that time, prevented the Board from deciding such a grant of 'retention' permission for the replacement chalet. This obstacle to development and use of the site has now been overcome with the extension of the public mains sewer network passed the 'Six Cross Lane' neighbourhood, and with practical accessibility by way of new connection, as proposed by the applicant in the current planning application.

- However, on the information available, and notwithstanding the absence of clarity regarding when the application site was first developed with a 'holiday', 'chalet' type structure, I am satisfied that it is reasonable to be of the view that such first development of the site was indeed as indicated in the County Development Plan 2017-2023. I express this understanding having had regard to :
  - the pattern of development at 'Six Cross Lane', North Beach, Rush, with which the existing structure on site is consistent, and the contextual location of the application site within this local community;
  - the sustained residential use of the structures on the site understood throughout this long period of time, and in accordance with Objective RF42 of County Development Plan 2017-2023;
  - the sustained resemblance of the structures on site, as a holiday chalet, in footprint, size and scale, and that notwithstanding such strong resemblance, as highlighted to the Board under **PL06F.237277**, the Board were satisfied and decided to grant 'retention' permission to the applicant – P. Macken, for the single storey structure and for its use as a horticultural shed, subject to Condition No.2 particularly.

7.2.9. Further, I consider it noteworthy and relevant to the assessment of the current, latest application by the applicant – P. Macken, to reference and have regard to what I understand has been a clear transition through the County Development Plans from 2005-2011, 2011-2017 and now 2017-2023, of the now understood as managed consolidation insitu of the "chalets and seaside huts" uniquely characterising coastal areas of the County such as 'Six Cross Lane', North Beach, Rush. In this regard I

note the County Development Plan 2005-2011 restricted consideration of development and land use relating to “chalets and seaside huts” in terms of the ‘High Amenity (HA)’ zoning objective; Policy RAP3 – limited housing in areas zoned ‘HA’ to “essential housing need”; Policy RAP5 – which prohibited the replacement of “chalets and seaside huts” by dwellings which can be resided in on a year round basis (unless compliance with the rural housing policy demonstrated); and “Local Objective 83” which sought “to encourage the removal of existing chalets / huts at the North Beach area”, of Rush.

7.2.10. Similar provisions regarding the ‘HA’ zone and “chalets and seaside huts” were set out under the County Development Plan 2011-2017 (ie. ‘HA’ Zoning Objective, Objectives HA01 and RH26). Notably in the context of this discussion, Objective RH26 sought to prohibit the replacement or conversion of existing “chalets and seaside huts” by dwellings which can be resided in all year round.

7.2.11. Now rather, under County Development Plan 2017-2023, clear reference to and acknowledgement of, is made at Section 5.2 : “Fingal’s Rural Settlement Strategy – Replacement of Chalets and Seaside Huts”, to planning proposals “to replace these holiday homes with structures for permanent dwellings” being lodged with the Planning Authority. Uniquely located within coastal areas at Donabate, Portrane and Rush, provision is made that assessment of these planning proposals will have regard “to the context, location, drainage provision, and appropriate site development Standards”. Planning ‘guidelines’ for such assessment are specifically consolidated via new Objective RF42, which in departure from the provisions for “chalets and seaside huts” under County Development Plans 2005-2011 and 2011-2017 respectively, now clearly enables for planning permission applications for the replacement or conversion of existing coastal ‘chalets and seaside huts’ by dwellings which can be resided in all the year round, subject to compliance with specified criteria as follows :

- demonstrated year-round occupancy for a period of 7years or more,
- satisfaction of ‘planning criteria’ relating to appropriate design and layout, drainage, access, and integration with the character of the landscape,
- site not liable to the impacts of climate change, including coastal erosion and flooding, and

- assessment of potential threat to European sites by screening for appropriate assessment.

7.2.12. So whereas under previous County Development Plans, when assessing planning applications within such unique identified coastal areas such as 'Six Cross Lane', North Beach, Rush, characterised by historical "chalets and seaside huts" development and associated residential land use, such assessment primarily targeted the need to demonstrate a "genuine local rural housing need", in the first instance, I understand now under the updated provisions of the County Development Plan 2017-2023, wherein a more pragmatic approach to development management within identified areas such as Six Cross Lane', North Beach, Rush, is apparent whilst ensuring the protection and enhancement of 'High Amenity Areas', as advocated for by the "HA – Zoning Objective".

7.2.13. As set out at Section 5.2 "Replacement of Chalets and Seaside Huts" and at Policy Objective RF42, I understand the planning approach now advocated is of managed consolidation insitu of the regarded "chalets and seaside huts" uniquely characterising such coastal pockets within the County and which in my view includes the application site, whilst having regard particularly to the need for compliance with the provisions of the County 'Rural Settlement Strategy – Objective RF42' (County Development Plan 2017-2023), and which enables residential use of existing 'chalets' all year round. I share what I understand as the applicant's conviction in this regard, as argued in the 1<sup>st</sup> party appeal submission.

7.2.14. Notwithstanding planning assessments set out below, I include within this discussion, a brief assessment of the applicant's compliance with the planning criteria outlined at Objective RF42, as follows :

- 7-Year, 'Year-Round' Occupancy :  
Having regard to all of the information available, I am satisfied that the applicant has reasonably demonstrated year-round occupation of the existing permitted 'chalet' type structure on the application site, and that such year-

round occupancy has been over a sustained period of at least 7-years. In this regard I reference –

- the comprehensive, lengthy chronology of planning history on the site referencing the applicant's occupancy;
- the applicant's understood initial planning application under **F06A/1761** lodged dated 01/12/2006 for "Replacement single storey chalet, to replace recently demolished chalet. Retention is also sought for recently installed biological treatment unit". This in my understanding indicates the applicant's albeit unauthorised residential occupancy of the chalet on site since 2006, at least, a period to date of 14-years, nearly double the minimum now prescribed under Objective RF42;
- the 'enforcement' proceedings taken against the applicant's sustained unauthorised residential occupancy;
- the 'utility bills' clearly addressed to the applicant confirming the applicant's long-term permanent residency in the 'chalet' existing on the application site;
- Visual Amenity Impact / Integration into the Landscape :

Throughout the chronological history of planning applications on the site, wherein the threat of visual obtrusion on the 'High Amenity' coastal landscape was assessed, no consequential negative visual impact was concluded through all of the historical planning applications. Further, as discussed at 7.3 – 'Visual and Residential Amenity Impact' below, I conclude that no disproportionate negative visual amenity impact will result locally, consequent of the proposed development, and with no consequent erosion of the special qualities of the 'High Amenity' area. Noteworthy in this regard is that the existing 'chalet' type structure on site was granted retention permission under **F10A/0192 (PL06F.237277)**.
- Coastal Erosion and Flooding :

I have had regard to the OPW 'web-site' resources with respect to 'National Flood Hazard Mapping'. I could find no evidence of, or reference to flood events on, or in the vicinity of the application site. Further, the application site is set well back from the 'shoreline' and over the primary dune system, with several residential properties separating it from the 'shoreline' / beach. Having regard to my own observations at the time of physical inspection,

neither the application site, or any of the other properties in the vicinity, are or have been subject to erosion activity. Further, in my view, no erosion consequence will result from the application itself together with residential use on it. I share the applicant's conviction in this regard.

- Road Access and Traffic Safety :

Referencing the discussion at 7.6 – ‘Road Access and Traffic Safety’ below, I affirm the conclusion that notwithstanding the restricted sightline visibility available at the entrance junction onto ‘Six Cross Lane’, satisfactory merit and positive considerations exist in favour of the existing entrance junction, to enable a decision to grant ‘retention’ permission for residential use of the existing ‘permitted’ structure. In my view, a decision to refuse ‘retention’ permission would be disproportionate.

- Wastewater / Effluent Drainage :

In affirmation of the discussion of, and conclusion deduced at 7.5 – ‘Wastewater / Effluent Drainage’ below, the proposed connection into the extended public sewer network would directly address and satisfactorily overcome a primary historic ‘Refusal Reason’ given for the refusal of ‘retention’ of residential use of the ‘chalet’ type structure, historically. Such connection would satisfactorily overcome public health concerns, and would be in accordance with the proper planning and sustainable development of the area.

- Potential threat to European Sites – Appropriate Assessment :

Having regard to the nature, low intensity and modest scale of the proposed ‘retention’ of residential use of the existing structure on site, and to the proposed new single domestic connection to the mains sewer, to the location of the site within a semi-rural coastal environment, and to the separation distance to any European site, without identified pathways, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.2.15. In conclusion therefore, having regard to all of the above, I believe the applicant has satisfactorily demonstrated compliance with the provisions of Section 5.2 of the

Fingal County Development Plan 2017-2023, of the 'High Amenity (HA)' Zoning Objective and of Objective RF42 particularly. Therefore subject to compliance with the relevant provisions of Objective RF42 and of Chapter 12 – "Development Management Standards" of the Fingal County Development Plan 2017-2023, I believe the principle of the proposed development is acceptable.

Accordingly, I believe that 'Refusal Reasons' No.1 and No.2 stated by the Planning Authority for its decision to refuse planning permission, have been overcome. The proposed 'retention' of residential use of the existing structure on site, and the new single domestic connection to the mains sewer, all at 'Six Cross Lane', North Beach, Rush, Co. Dublin, would therefore, be in accordance with the proper planning and sustainable development of the area.

### **7.3. Visual and Residential Amenity Impact**

- 7.3.1. Having regard to the potential for negative visual amenity impact on the unique coastal character of the 'High Amenity' Zone, I note that no designated Scenic Views or Viewing Points exist in the vicinity of the application site at 'Six Cross Lane', North Beach, Rush.
- 7.3.2. Located within a small cluster of low density, modest, single house residential development at 'Six Cross Lane', and again within a small precinct comprising 3no. dwellinghouses at the head of the 'common driveway' off 'Six Cross Lane', the c.0.035ha application site itself and the existing 'permitted' structure on it, is well screened from view from all approaches by these adjacent and surrounding houses, together with associated boundary treatments and ancillary hard and soft landscaping and planting.
- 7.3.3. Set back c.27m off 'Six Cross Lane', I believe the 'permitted' modest single storey 'structure' on site, currently or when last in use was as a dwellinghouse, the use of which is proposed for 'retention', is well screened when viewed from the surrounding road network, as well as from North Beach itself. Having regard to my own observations made at the time of my own inspection, the 'permitted' structure on site

is neither visible from North Beach, or is the beach or sea visible from the application site itself. Therefore in my view, no negative visual externality exists consequent of the 'permitted' structure on site, when viewed from North Beach (see photographs attached taken at the time of physical inspection).

7.3.4. Accordingly, having regard to the existing footprint location, and to the insitu mitigation of visual impact, I believe the scale, form and design of the 'permitted' structure does not appear incongruous in the context of other contextual residential development in this cluster and of other land use in the vicinity. If deemed necessary, further mitigation of visual impact could be achieved by supplementary boundary treatment, landscaping and planting around and within the application site. Such mitigation could be secured by way of Condition, were 'retention' planning permission to be granted.

7.3.5. Further, having regard to the modest domestic single storey nature of the existing permitted structure proposed for 'retention' of residential use, and its footprint location contextually within the cluster of neighbouring similarly, sized and scaled properties, I believe that no adverse impacts on local residential amenity will arise.

7.3.6. Accordingly, I believe no disproportionate negative visual or residential amenity impact will result locally, consequent of the proposed development. In my view therefore, 'retention' of residential use of the existing 'permitted' structure does not contravene the 'High Amenity' Zoning Objective for the area. I consider proposed 'retention' of residential use to be a low impact amenity use, with no consequent significant erosion of the special qualities of the 'High Amenity' area or of the amenities of property in the vicinity.

#### **7.4. Road Access and Traffic Safety**

7.4.1. As set out at paragraph 1.0 above and visually referenced in the photographs attached, taken at the time of physical inspection, the application site is accessed off 'Six Cross Lane via a c.27m long 'common driveway' which enables the applicant's



'permitted' chalet type residential structure on site, as well as 2no. other permanent dwellinghouses, all positioned around the head of the 'common driveway'.

7.4.2. At its junction with 'Six Cross Lane', c.2.0m barriers on either side (ie. block wall on western side, and slatted wooden fence on the eastern side), restrict sightline visibility to each of the westerly and easterly approach, to below 'Standard' normally applied. In addition, these barriers are understood located on 3<sup>rd</sup> party lands. No consent from these adjacent 3<sup>rd</sup> party landowners is apparent enabling the applicant with capacity to undertake necessary works in order to improve sightline visibility. This substandard 'sightline visibility' at the existing shared entrance junction onto 'Six Cross Lane' informed and substantiated the Planning Authority's 'Refusal Reason No.3' (of three 'refusal reasons') against the current proposed development.

7.4.3. This would no doubt be the correct approach under normal circumstances. However, circumstances contextualising the application site locally and with respect to accessibility off 'Six Cross Lane' are sufficiently unique in my view, so as to warrant a more practical and enabling consideration. In this regard, I have given consideration to the following :

- under **F08A/0654 (PL06F.230410)**, no traffic hazard of threat to traffic safety was identified. Whilst 4no. 'refusal reasons' and 1no. 'refusal reason' were stated by the Planning Authority and the Board respectively, none of these 'Refusal Reasons' related to traffic safety. At that time rather, the County Transportation Department commented "no objection" to the proposed development.
- under **F10A/0192 (PL06F.237277)**, no traffic safety concerns were argued with respect to the permission granted for 'retention' of the single storey structure, and its use as a horticultural shed.
- under **F15A/0245 (PL06F.245325)**, whereas the application for 'retention' of a residential chalet was refused 'retention' permission by the Board for 3no. 'Refusal Reasons', none of these 'refusal reasons' related to traffic safety. In fact, whereas the Board's 'Planning Inspectors' report recommended 5no. 'Refusal Reasons' of which one related specifically to 'traffic hazard' due to

substandard sightlines at the entrance junction, the Board in issuing its 'Decision Order' at that time omitted the issue of 'traffic safety' from its 'Decision Order'. Access arrangements currently enabling the application site have not changed since that time.

- the low vehicular speeds possible consequent of the narrow local road network, the absence of verges, local road geometric configuration, and the condition of road surfaces. Consequent of these in-situ local road network environmental conditions locally, in the vicinity of the entrance junction off 'Six Cross Lane', I reference a clear dichotomy between the low speeds possible and the maximum speed limits possible, which normally inform the determination of 'sightline visibility' Standards.
- notwithstanding the 'retention' permission granted to the applicant under **F10A/0192 (PL06F.237277)**, I understand that 'residential' use of the 'chalet' type structure on site, for which 'retention' permission was granted, has been sustained through this time. Certainly, no evidence is clearly apparent indicating use of the application site as an 'allotment' and the 'chalet' type structure as a 'horticultural' shed during this time.

7.4.4. Therefore having regard to all of the historical planning background of the application site, contextually located within the contained, unique 'Six Cross Lane', North Beach, Rush local community, and to the dichotomy between the 'de jure' and 'de facto' land use comprising the 'permitted' existing 'chalet' type structure on site, I do not share the conviction apparent by the County Transportation Planning Section, that the proposed 'retention' of residential use of the existing permitted structure, be deemed as intensification of use of the application site and the entrance junction particularly. Rather, in my view, at worst, the status quo would be sustained.

7.4.5. In the application documentation submitted, no on-site car parking space has been proposed. In itself, I do not believe this to be a flaw, as sufficient space is available to the front of the existing permitted 'chalet' type structure to reasonably accommodate for car parking space, without compromise to the safety and amenity

of adjacent residents. In my view this space is reasonably sufficient to accommodate for the car parking requirements of the applicant.

However, should the Board be so minded so as to require more formal 'on-site' car parking space provision, I note having regard to the configurations laid out on the "Site Plan" that (Drawing No. 18.136.PL01) the southern / front boundary of the application site (ie. 'red line' as per the "Site Plan"), is approximately 3.0m forward of the front, south facing elevation of the existing permitted 'Chalet' type residential structure on site. Revised "Site Plans" could be sought by the Board by way of Condition, attached to a 'grant' of 'retention' permission, were the Board to be so minded, demonstrating such 'on-site' car parking space provision, to 'Standard'.

- 7.4.6. Therefore, having regard to all of the above, I believe that notwithstanding the restricted sightline visibility available at the entrance junction onto 'Six Cross Lane', sufficient merit and positive considerations exist in favour of the existing entrance junction, to rather enable a decision to grant 'retention' permission for residential use of the existing 'permitted' structure. In my view, a decision to refuse 'retention' permission would be disproportionate, having regard to the above.

I recommend to the Board accordingly.

## 7.5. Effluent / Wastewater Treatment

- 7.5.1. To date, the primary obstacle to the residential use of the application site has been public health concerns relating to the substandard site size / area of the application site, to be satisfactorily and safely served with an on-site 'waste water treatment system'. As discussed at paragraph 7.2 above, this was the Boards single 'refusal reason' given under historical application **F08A/0654 (PL06F.230410)**, and save for that single 'refusal reason', on the information available the Board otherwise had no stated concern regarding residential use of the 'structure' on site, proposed for 'retention'.
- 7.5.2. Having regard to the completion and commissioning of the upgraded Rush Public Sewage Plant, and the extension of the public sewer network, particularly along the Rush to Skerries Road in the vicinity of the application site at 'Six Cross lane', the

applicant is now enabled with the opportunity to plug into the extended public sewer network, thereby safely providing the application site with sanitation services to Standard and without threat to 'public health'. Successful connection into the extended public sewer network would directly address and satisfactorily overcome in my view, a primary historic 'Refusal Reason' given for the refusal of 'retention' of residential use of the 'chalet' type structure, historically.

- 7.5.3. Clearly, the application site is located a distance along 'Six Cross Lane' from the sewer mains along the Rush to Skerries Road. Connection as proposed therefore requires access to 3<sup>rd</sup> party lands. Towards this end, I note the inclusion by the applicant within the application documentation, of letters from the respective local 3<sup>rd</sup> party landowners authorising access to their lands in order to obtain a connection to the mains sewer.
- 7.5.4. I note that neither of the County Water Services Engineer, or Irish Water have an objection to the proposed connection to the mains sewer, subject to Conditions.
- 7.5.5. I affirm the proposed connection into the extended public sewer network would directly address and satisfactorily overcome a primary historic 'Refusal Reason' given for the refusal of 'retention' of residential use of the 'chalet' type structure, historically. Such connection would satisfactorily overcome public health concerns, and would be in accordance with the proper planning and sustainable development of the area.

## 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature, low intensity and modest scale of the proposed 'retention' of residential use of the existing structure on site, and to the proposed new single domestic connection to the mains sewer, to the location of the site within a semi-rural coastal environment, and to the separation distance to any European site, without identified pathways, no Appropriate Assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend that :

- (A) 'retention' permission of residential use of the existing structure on site, and
- (B) planning permission for new connection to mains sewer, be granted for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the zoning Objective "HA" for the area as set out in the Fingal County Development Plan 2017-2023 and the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed development would be in accordance with the provisions of the County Development Plan 2017-2023, would not seriously injure the amenities of the 'Six Cross Lane', North Beach, Rush neighbourhood or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason :** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under Section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason :** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

3. The dwellinghouse shall be used as a single dwelling unit.

**Reason :** In the interest of clarity.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the dwellinghouse, without a prior grant of planning permission.

**Reason :** In the interest of residential and visual amenity, and in order to ensure that a reasonable amount of private open space is sustained for the benefit of the occupants of the dwellinghouse.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health, and to ensure adequate servicing of the development.

6. Physical infrastructure and servicing arrangements to enable the proposed development, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health, traffic safety and orderly development.

7. Should works be required, details of the materials, colours and textures of all the external finishes to the dwellinghouse shall be submitted to, and agreed in writing with, the Planning Authority.

**Reason :** In the interest of visual amenity.

8. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

9. Any construction required 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 hours of working, noise management measures and off-site disposal of construction waste.

**Reason :** In the interests of public safety and residential amenity.

10. Any site development and building works required, shall be carried out only between the hours of 08h00 to 19h00 Mondays to Fridays inclusive, between 08h00 to 14h00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional

circumstances where prior written approval has been received from the Planning Authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

11. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason :** It is a requirement of the Planning and Development Act 2000, as amended, that a Condition requiring a contribution in accordance with the 'Development Contribution Scheme' made under Section 48 of the Act, be applied to the permission

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L. W. Howard  
Planning Inspector



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29<sup>th</sup> January 2019