



An
Bord
Pleanála

Inspector's Report ABP-307699-20

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| Development | Construction of housing development, consisting of 6 dwellings, in 2 opposing blocks of 3 units. |
| Location | Site adjacent (east of) Palmer Court, Palmer Road, Rush, Co Dublin |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | F20A/0122 |
| Applicant(s) | Mrs Karen Harford. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant. |
| Type of Appeal | Third Party |
| Appellant(s) | Brian Dennehy and Others |
| Observer(s) | None. |
| Date of Site Inspection | 20 th October 2020. |
| Inspector | Barry O'Donnell |

1.0 Site Location and Description

- 1.1. The subject site is located to the rear of a detached bungalow property on Palmer Road, on the northern side of Rush. The site is currently laid to grass and forms the rear garden of the bungalow property, with a stated area of 0.126ha.
- 1.2. The bungalow dwelling on the site addresses Palmer Road and incorporates an attached side garage and a single storey rear extension. There is also a detached shed within the rear garden. The site is enclosed along south and east boundaries by mature Leylandii trees, which extend to up to c.10m tall, and along the west boundary by c.3m capped block wall.
- 1.3. The site is located in a residential neighbourhood, with a mix of housing designs and sizes. The Palmer Court apartment complex adjoins to the west, the Ladycove apartment complex adjoins to the east and the lands to the south have recently been the subject of a grant of permission for a development which includes 165 housing units.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of six two-storey, 2-bed terraced houses, on lands to the rear of the existing bungalow.
- 2.2. The development would be laid out in the form of opposing blocks of three terraced units, houses 1-3 facing southward and houses 4-6 facing northward, both terraces addressing front garden parking areas and the site access from Palmer Court. Rear gardens of between 60sqm and 75sqm are provided for each unit.
- 2.3. Both proposed blocks take the same broad form, incorporating hipped end roof profiles and measuring 5.75m to the eaves and 8.5m to ridge level and incorporating a mix of brick and nap plaster as the primary finishing materials on the front elevation. Block A incorporates a projecting bay window element at ground floor level on the front elevation, whilst Block B incorporates a larger projecting element, which extends to first floor level, below the eaves. Block B also incorporates a single storey element to the rear.

- 2.4. Each of the units in Block B would have a gross floor area of 93.6sqm, whilst the Block A units would each have a gross floor area of 99sqm. The additional floor space provided to Block A units is delivered through larger first floor elements.
- 2.5. Access to the site is proposed through Palmer Court, between building numbers 72/73 and 74/75 Palmer Court. A section of the existing boundary wall would be removed in order to facilitate this access. The application drawings indicate parking availability for two cars within the front garden of each house and two additional parking spaces provided within the turning head adjacent to 72/73 Palmer Court.
- 2.6. The development also incorporates associated works, including demolition of an existing garage, sunroom extension and boundary walls forming part of the bungalow property, in order to allow construction access.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 1st July 2020 Fingal County Council granted permission for the development, subject to 23 No. planning conditions.
- 3.1.2. Condition 4 of the decision required that all bathroom/en-suite windows throughout the development including storage room windows at first floor level on the northern elevation of Block A should be fitted with obscure glazing. First floor windows on the side/gable elevations of Blocks A and B were also required to be fitted with obscure glazing, under the condition.
- 3.1.3. Condition 15 required that no unit shall be occupied until all services have been connected and are operational.
- 3.1.4. Condition 16 required that the existing trees on the southern boundary and on the mid-section of the eastern boundary shall be retained.
- 3.1.5. Condition 21 required the payment of a financial contribution of €7,395 in lieu of 126sqm of public open space.

3.2. Planning Authority Reports

3.2.1. Planning Report dated 25th June 2020, which reflects the decision of the Planning Authority to grant permission. The report noted that the development is in accordance with the zoning objective for the lands and also that the internal layout of units meets or exceeds development plan minimum requirements. The report also noted that there is no proposed public open space proposed but, accepted that a financial contribution in lieu of same would be appropriate, given the constrained nature of the site and the proximity of pocket parks. The report anticipated no undue negative impacts on adjoining properties, in terms of overshadowing or overlooking and that it would provide for satisfactory integration within the area. The report noted that a significant number of third party submissions had been received, in relation to traffic volumes and the opening of a cul-de-sac. A recommendation that permission be granted, subject to 23 planning conditions was made. The recommended conditions are generally in accordance with the Planning Authority's decision to grant permission.

3.2.2. Other Technical Reports

Transportation Planning Section – Undated report, outlining no objection to the development subject to 7 recommended conditions. Within the recommended conditions was a requirement that the tie-in point of the proposed development and the road at Palmer Court should be agreed on site.

Water Services – Report dated 21st April 2020, outlining no objection to the development subject to 2 standard recommended conditions

Environmental Health Air & Noise Unit – Report dated 27th April 2020 advising that the development is acceptable subject to 5 standard recommended conditions

Parks and Green Infrastructure Division – Report dated 18th May 2020, advising that 126sqm of public open space is required and that any shortfall will be sought as a financial contribution. The report notes that no landscape plan has been provided with the application and that there is a requirement for such details for proposals of in excess of 5 units, under the development plan.

3.3. Prescribed Bodies

- 3.3.1. Irish Water submission dated 25th April 2020, advising that there is no objection to the development.
- 3.3.2. Inland Fisheries Ireland submission dated 29th May 2020 requesting that a Construction Environmental Management Plan should be provided, to provide a mechanism for ensuring compliance with environmental legislation. The submission also wishes to ensure that construction and operational phase pollution of local surface water systems is prevented, through surface water management measures.

3.4. Third Party Observations

- 3.4.1. A number of third party submissions were received, the issues raised within which can be summarised as follows:
- Concerns regarding compliance with the 'Sustainable Residential Development in Urban Areas' Ministerial Guidelines;
 - Concerns regarding the density of development proposed;
 - Concerns regarding the level of private open space provided for each house;
 - Concerns regarding cumulative impacts with other residential development in the immediate area;
 - Concerns regarding the impact of the development on residents within Palmer Court;
 - Concerns regarding the removal of an area of communal open space adjacent to the boundary wall proposed to be demolished;
 - Concerns regarding the absence of a wayleave agreement;
 - Concerns regarding devaluation of property in the vicinity;
 - Concerns regarding contravention of the planning permission under which the Palmer Court complex was built;
 - Concerns regarding the setting of a precedent for other lands in the area being accessed by breaking through a cul-de-sac;
 - Concerns regarding the demand for additional housing in the area;

- Concerns regarding the impact of construction on the tenants occupying the existing bungalow on the site;
- Concerns regarding foul and surface water drainage capacity;
- Concerns regarding the absence of proposed public open space and the ability of adjoining open space to accommodate additional usage demands;
- Concerns in relation to parking, traffic and road safety;
- Concerns in relation to traffic routeing through Palmer Court, including construction traffic;
- Concerns regarding the accessibility of the development to emergency vehicles and delivery trucks, etc;
- Concerns regarding the appropriateness of allowing a planning application for the proposed development, during the current pandemic;
- The ownership of the boundary wall at Palmer Court and the applicant's right to demolish it were questioned. Ownership of the application site was also questioned

4.0 Planning History

F18A/0681 – An application for the construction of six terraced houses in two opposing blocks was withdrawn, following submission of a response to a request for further information by the Planning Authority, dated 31st July 2019. The request for additional information related to (1) the design and layout of the development, (2) foul and surface water drainage, (3) access and parking, (4) Part V obligations.

Relevant Nearby Planning History

ABP-305534-19 – *Lands at Skerries Road, Palmer Road, Palmer Avenue &, St. Maur's Park*: Permission granted on 17th January 2020 for a Strategic Housing Development of 165 units (117 houses and 48 apartments), including associated development.

Under the grant of permission, condition No. 2 required the development to be carried out on a phased basis, with apartment

blocks A and B in Phase 2, and condition No. 3 required the omission of a house unit, to be replaced by a childcare facility.

5.0 Policy Context

5.1. Relevant Ministerial Guidelines

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

5.1.1. The Guidelines set out key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas. Of relevance to the current appeal, the Guidelines state that, in relation to the design and layout of residential developments in small towns and villages, the primary consideration is that new development should relate successfully to structure of the town or village. A number of design criteria, against which to consider such proposals. Such developments should:

- *'make the most effective use of the site, having regard to the criteria outlined below;*
- *make a positive contribution to its surroundings and take the best advantage of its location through the use of site topography, i.e. levels, views, context, landscape, design orientation (sunlight and daylight), to optimise sustainability;*
- *have a sense of identity and place appropriate to the character of the existing small town or village and a logical hierarchy of places within the scheme working from streets to semi-private and private areas;*
- *provide for effective connectivity, especially by pedestrians and cyclists so that over time, small towns and villages become especially amenable to circulation by walking and cycling rather than building up reliance on the car; and*
- *include a design approach to public areas such as streets, plazas and open spaces that is guided by the best principles of passive surveillance to encourage a safe sense of place, discourage anti-social behaviour and facilitate effective community policing.'*

- 5.1.2. On 'outer suburban/greenfield' sites on the periphery of large towns, the Guidelines promote residential densities of 35-50 dwellings per hectare.

Quality Housing for Sustainable Communities (2007)

- 5.1.3. The Guidelines identify principles and criteria that are important in the design of housing and highlight specific design features, requirements and standards.

5.2. Development Plan

- 5.2.1. The site is zoned 'RS' under the Fingal County Development Plan 2017-2023, with an objective to '*Provide for residential development and protect and improve residential amenity.*'
- 5.2.2. Development plan Objective PM44 promotes the development of infill sites within residential areas, outlining an objective to '*Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*'
- 5.2.3. For infill developments, development plan Objective DMS39 is relevant, stating that '*New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*'

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within or adjacent to any Natura 2000 sites.
- 5.3.2. Rogerstown Estuary Special Protection Area (Site Code 004015) and Special Area of Conservation (Site Code 000208), Rockabil to Dalkey Island SAC (Site Code 003000), Rockabil SPA (Site Code 004014), Skerries Islands SPA (Site Code 004122) and Lambay Island SAC (Site Code 000204) and SPA (Site Code 004069) are located within approximately 5km of the site.

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment

arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal consists of a primary appeal and a number of additional letters of objection, which were submitted as part of the appeal documentation. The grounds of appeal can be summarised as follows:

- Palmer Court should remain a cul-de-sac. Many of the residents at Palmer Court purchased their homes on the understanding that the estate would be a cul-de-sac development. It is contended that the removal of this feature would create ill will. The applicant's right to access the site via Palmer Court is also questioned.
- Removal of the cul-de-sac would set a precedent for future developments in the area. The Board is also requested to outline within its report where this arrangement has been allowed, elsewhere within Fingal.
- The approved development to the south (ABP Ref. ABP-305534-19) includes a new road, connecting Skerries Road to Park Road. The current appeal site is closer to Skerries Road so this new road could be utilised or the existing access from Palmer Road could be used. The proposed development is considered to be premature, pending completion of this new road.
- Concerns regarding traffic and road safety impact on Palmer Court and the ability of the surrounding road network to accommodate the development. The closure of Park Road for a period of 3 months will impact on Palmer Road, as it will become the primary access to the development, a school and a GAA club for the period of the closure. The development is considered to be premature, due to this road closure.
- The area in front of the boundary wall within Palmer Court is used as an amenity space by the community. The use of the space will be compromised by the proposed development.

- The proposed development comprises ribbon development, in an area proximate to and surrounded by rural land, along with a rural road network. Palmer Road, the main access road to the site, could only be described as a substandard rural network road.
- The applicant has not demonstrated or requested permission to demolish the existing boundary wall and until such time as this permission is provided, it is contended that the proposed development is premature. The Board is requested to address this issue, in full.
- A development of the proposed nature, on a tight site and with a tight access, is more in-keeping with a city or large town, where zoned and available land is in short supply.
- The proposed residential density on the site is excessive and the layout is too cramped. Reference is made to one of the proposed rear gardens, where the 60sqm of proposed rear garden space only just meets development plan requirements.
- The development incorporates inadequate public and private open space and open spaces within Palmer Court will be used by residents in the future. The development also incorporates inadequate parking.
- The development is contrary to the 'Sustainable Residential Development in Urban Areas' ministerial guidelines, with reference to the development's failure to adequately address orientation, overshadowing, privacy, parking, amenity space and bin storage.
- Surface water drainage issues highlighted by the Planning Authority on previous application Reg. Ref. F18A/0681 have not been addressed by this application.
- The Board is requested to give consideration to the legality of the authorisation of the owner of the adjoining bungalow property to use their lands for the purposes of construction access to the site. Residents of Palmer Court fear their estate will be used as a construction access if the agreement falls through or if the bungalow property were to be sold.
- The proposal to demolish a garage which is attached to the bungalow is also considered unsafe and will not lead to a road of sufficient width to access the site

and will impact on road safety. The impact of this demolition on the occupiers of the bungalow is also questioned.

- The sewerage system that serves Palmer Court is already overloaded and the proposed development will further pressure this system.
- Concerns that the development will lead to the devaluation of property in the area.
- The demand for new housing in the area is questioned, with incomplete estates at Palmer Avenue and Golden Ridge referenced.
- The acceptance of planning applications during the Covid-19 pandemic is also questioned, where local residents were unaware of this application.

6.2. Applicant Response

6.2.1. Submission received dated 24th August 2020, prepared by Downey Planning on behalf of the applicant, responding to the third party appeal. The issues raised within the submission can be summarised as follows:

- Access between Palmer Court and the proposed development
 - The section of the boundary wall to be demolished is shown within the boundary of the application. In addition, the access to the site will be obtained from a new opening at the end of the Palmer Court development, which has been taken in charge. The Transportation Planning Section have confirmed that the road within Palmer Court is taken in charge. The first party contends that lands affected by the proposed demolition works are within their ownership.
- Overdevelopment and over-densification of a constrained site
 - The appellants raise concerns that the development would be at variance with the Sustainable Residential Development in Urban Areas and Best Practice Urban Design Guidelines (2009). The guidelines set out key principles which inform development plans and guide the preparation and assessment of planning application. The Guidelines support a plan-led approach and in this

regard, the subject site is zoned for 'RS' under the development plan, under which residential development is permitted in principle.

- The Guidelines promote a sequential approach to zoning of residential lands. The site is located on appropriately zoned lands to the north of Rush town centre. It is contiguous to existing residential developments at Palmer Court and Ladycove. It is contended that the zoning and future development of the lands is in accordance with the Guidelines.
- The Guidelines support increased residential densities for sites located in outer suburban/greenfield' sites, particularly for lands on the periphery of urban centres. The application site will achieve a net density of c.47 units per hectare and is cognisant of its location within the area, surrounded by low-density residential development. The development also accords with the Urban Design Manual criteria against which it is recommended that planning applications should be assessed, in relation to context, connections, inclusivity, variety, efficiency, distinctiveness, layout, adaptability, privacy/amenity, parking and detailed design. It is contended that the development is consistent with the Sustainable Residential Development in Urban Areas and Best Practice Urban Design Guidelines and will not result in overdevelopment or over-densification of the site.
- Disposal of surface water
 - The first party has engaged Eamonn McMahon Consulting Engineers to address the Planning Authority's concerns, where proposed use of permeable paving and underground storage was to be readdressed. It is now proposed to use a communal soakage trench located in the back gardens of the residential units. The proposed design offers a mix of infiltration-based SuDS techniques to deal with surface water run-off. The site's size and good infiltration properties of the sub-soil ensure that run-off will generally infiltrate into the sub-soil. As a precaution, the design provides for a high-level overflow into the surface water sewer.
 - Surface water drainage proposals are based on SuDS and the Planning Authority's Water Services department had no objection to the development.
- Public and private open space allocation

- The proposed development adheres to development plan standards for private open space.
- Due to the small nature of the site and the area of open space required, it is contended that the inclusion of public open space would not provide an adequate and usable open space and it would not fall within Planning Authority' remit for taking in charge, due to its small size. A financial contribution is proposed, in lieu and this was considered acceptable by the Planning Authority.
- Car parking
 - It is contended that car parking provision is appropriate for the subject site. It accords with development management standards within the development plan.
- Traffic volume and hazard
 - The development will generate a low volume of traffic through Palmer Court. The development will essentially form part of the Palmer Court development, where it will remain cul-de-sac in character. The proposed opening and vehicular access meet the design standards for car parking and service vehicles.
 - The temporary construction access is located on lands that form part of the landholding to the north of the site and a letter of consent has been provided with the application. The dwelling is owned by the first party's mother.
 - It is contended that the request to have the vehicular access relocated to Palmer Road is unjustified as the minimal increase in traffic volumes does not significantly alter traffic flows within the estate. An alternative access would lead to the proliferation of road junctions on Palmer Road. Utilising existing connections off Palmer Court for a small-scale residential development is considered optimal.

6.3. Planning Authority Response

- 6.3.1. Submission received dated 13th August 2020, the contents of which can be summarised as follows:

- The application was assessed having regard to existing government policy and guidelines including the Fingal County Development Plan 2017-2023 in the context of the zoning objective and development plan standards for residential development. The proximate location of the proposed development to adjoining dwellings and the impact on existing residential amenity were also assessed.
- The development complies with the provisions for new residential development at national and local level and complies with the residential zoning objective applying to the lands and meets development plan standards relating to residential development. The development by virtue of its scale, layout and design does not unduly impact on the amenity of the surrounding area of neighbouring property.
- Having reviewed the third party appeal, the planning authority remains of the opinion that permission should be granted, subject to conditions as set out in the Planner's Report. Should permission be granted, provision should be made for a financial contribution in accordance with the Planning Authority's Section 48 Development Contribution Scheme.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Land ownership;
- Scale, design and layout;
- Impact on neighbouring properties;

- Flood risk and drainage;
- Road Safety, access and parking;
- Other Issues;
- Appropriate Assessment.

7.2. Principle of Development

7.2.1. The proposed development is consistent with the 'RS' zoning objective, as set out in the Fingal County Development Plan 2017-2023.

7.2.2. Land Ownership

7.2.3. A number of the supporting letters submitted with the appeal question the first party's ownership of the boundary wall adjacent to Palmer Court and their right to break through it, for the purposes of providing vehicular access to the site.

7.2.4. In the applicant's response to the appeal, Downey Planning contend that the lands are within the applicant's ownership.

7.2.5. Section 5.13 of the *Development Management Guidelines* (DOEHLG, 2007) provides detailed guidance on the issue of land ownership disputes within planning applications, outlining that the planning system is not appropriate for resolving land disputes and that these are ultimately matters for the Courts. Further, it is advised that permission should only be refused on the basis of land ownership, where it is clear that the applicant does not have sufficient legal title.

7.2.6. I consider the issue is a civil matter and is not a matter that the Board can take into consideration, in the context of this appeal. The Development Management Guidelines advice is clear, that permission should only be refused where it is clear that the applicant does not have sufficient legal interest in the land, and it has not been clearly demonstrated in this instance. This may, however, be an issue to be clarified by the Board, prior to a decision being made.

7.3. Scale, Design and Layout

7.3.1. The proposed site layout, consisting of two opposing terraces, is acceptable, where it retains appropriate separation distances to adjacent housing, provides adequately sized plots for each house and also retains an appropriately sized garden for the bungalow property to the north.

- 7.3.2. The development would be viewed and read as part of the Palmer Court development. Whilst Block B would project beyond the front of the west-adjoining block, 74-81 Palmer Court, I do not consider it would have any undue visual impact. Block A would be contained behind the west-adjoining block, 68-73 Palmer Court, and would only be visible in close-range views.
- 7.3.3. A gross density of 47.6 units per hectare is appropriate in this location, on an infill site and on zoned lands, in accordance with the recommendations of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*.
- 7.3.4. In terms of connectivity, the only access route into the site would be through Palmer Court and I note that there are no proposed connections from the existing footpath network into the site. The Planner's Report on the application states that the estate road within Palmer Court has been taken in charge and there are pedestrian footpaths on either side of the road. Should the Board be minded to grant permission, it would be appropriate to attach a condition requiring that proposals for pedestrian access to the site shall be agreed with the Planning Authority.
- 7.3.5. The road access within the site itself is proposed as a single tarmac surface, but where there is no dedicated pedestrian footpath provided, I consider a shared surface, in accordance with Design Manual for Urban Roads and Streets, is required. This can be controlled by condition, should the Board be minded to grant permission.
- 7.3.6. In relation to the design of the blocks, I consider they would have no undue impact on the character of the area, where there are a mix of house sizes and designs in the immediate surrounding area, including bungalows, dormer bungalows and two-storey detached, semi-detached and terraced housing. I note from the contiguous elevation shown on drawing No. 49-49-04 that the eaves and ridge heights of the blocks would be similar to those of the adjoining developments, at Palmer Court, to the west, and Ladycove, to the east.
- 7.3.7. Each house appears appropriately sized, internally, meeting or exceeding development plan minimum standards in relation to overall size, the size and layout of individual rooms and the level of storage space provided. Adequate private open space would also be provided and retained private open space for the donor property would also be adequate.

- 7.3.8. The development does not incorporate any public open space, however; in this instance, given the constrained nature of the site and also the small quantum of such space that would be provided, I agree with the Planning Authority that a financial contribution in lieu of such provision would be appropriate.
- 7.3.9. The development would be enclosed by a 1.8m capped block wall, with a number of existing trees along the east and particularly south elevation retained. Front garden boundaries would consist of 900mm rendered walls, as would the section of the west site boundary, between units 1 and 4. No details of rear garden boundaries have been provided. This can be controlled by condition, should the Board be minded to grant permission.

7.4. Impact on Neighbouring Properties

- 7.4.1. The development will not result in overlooking of neighbouring properties, due to (a) the internal layout of Block A, which would see non-habitable rooms and obscure glazed windows at first floor level facing towards the rear gardens of adjoining properties to the north, and (b) the relationship of Block B to the west-adjointing block, where rear-facing views from Block B would be heavily restricted by the end wall of the adjoining building.
- 7.4.2. Some overshadowing of the communal open space to the east of 68-73 Palmer Court may arise, from Block A, but I consider the space would continue to receive adequate light levels.
- 7.4.3. Overshadowing of the east side of 74-75 Palmer Court is also likely to arise, from Block B, but there are limited window openings on this side elevation and I consider the relationship between the buildings would be acceptable.
- 7.4.4. The development would have an appropriate relationship to neighbouring properties.

7.5. Flood Risk and Drainage

- 7.5.1. Available flood maps from the Fingal East Meath Flood Risk Assessment and Management Study (FEM FRAMS) indicate that the subject site is situated in Flood Zone C, outside of the 0.1% AEP fluvial and tidal floodplains. The Flood Risk Assessment submitted with the application highlights that Office of Public Works flood hazard mapping indicates that the nearest recorded flood incident to the site

was at Loughshinny, 675m from the site, and also advises that the proposed finished floor level of the houses would be 3.5m above the nearest flood extent.

- 7.5.2. The grounds of appeal cite concerns in relation to the treatment of surface water on the site and consider that the applicant has not addressed concerns expressed by the Planning Authority on a previous application.
- 7.5.3. The surface water drainage proposals submitted as part of the application, prepared by Eamonn McMahon Consulting Engineer, responded directly to the previously expressed Planning Authority concerns, highlighting that the concerns related to the proposed use of permeable paving on the access road and a communal underground attenuation tank under the public roads. Revised proposals have been incorporated into the current proposal, consisting of a mix of SuDS measures, including the use of permeable paving on private driveways, a soakage trench within the back gardens and a high-level overflow connection to the public surface water sewer, which routes to the east of the site. Ground infiltration test results were provided as part of the application and indicated that the sub-soil has good and consistent infiltration properties. I am satisfied that appropriate surface water drainage measures have been incorporated, utilising SuDS techniques and in accordance with guidance contained in BRE Digest 365. I also note that the Planning Authority's Water Services Department had no objection to the revised proposals.

7.6. Road Safety, Access and Parking

- 7.6.1. A principal concern within the grounds of appeal relates to the impact of the development on Palmer Court, where it is proposed to provide access to the site through the shared boundary wall at the east end of the estate.
- 7.6.2. Construction access to the site is proposed to be taken directly from Palmer Road, to the side of the existing bungalow which is owned by a parent of the applicant. This approach will mitigate disruption to Palmer Court residents during the construction phase and I am satisfied that it can be controlled by condition, should the Board be minded to grant permission.
- 7.6.3. In relation to the use of Palmer Court as the means of access to the site, post-construction, I do not consider that the proposed development, which is small-scale and will involve a small number of vehicular movements each day, would have a material impact, in terms of traffic generated or on road safety. The proposed layout

incorporates adequate space for cars to access and egress in the forward gear and visibility is good, where the site is located at the end of a straight road and the layout incorporates low-level walling on both sides of the site access. I note that the Planning Authority's Transportation Planning Section had no concerns relating to the development.

- 7.6.4. In relation to parking the proposed layout incorporates two parking spaces for each of the proposed houses, in accordance with development plan requirements.

7.7. Other Issues

- 7.7.1. Irish Water's submission on the application confirms that it has no objection to the development.

- 7.7.2. The proposed development comes within the provisions of Part V of the Act, for the provision of social housing. Should permission be granted, a condition should attach requiring the applicant to enter into an agreement with the Planning Authority in relation to discharge of obligations under Part V.

7.8. Appropriate Assessment

- 7.8.1. The site is not within or directly adjacent to any Natura 2000 site. The closest Natura 2000 sites to the appeal site are Rogerstown Estuary SPA (Site Code 004015) and SAC (Site Code 000208), which are approx. 1.5km to the north-east.
- 7.8.2. Rockabil to Dalkey Island SAC (Site Code 003000), Rockabil SPA (Site Code 004014), Skerries Islands SPA (Site Code 004122) and Lambay Island SAC (Site Code 000204) and SPA (Site Code 004069) are also located within approximately 5km of the site.
- 7.8.3. The subject site is in an urban location and there are no direct hydrological connections to any of these designated sites. Having regard to the source-pathway-receptor model, the intervening distances between sites, the nature of adjoining and surrounding land uses, together with the scale of the proposed development, I am satisfied that the development would not be likely to have a significant impact on any Natura 2000 site. I can therefore determine that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 site and a Stage 2 Appropriate Assessment is not required.

8.0 Recommendation

8.1.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the 'RS' zoning which applies to the site under the Fingal County Development Plan 2017-2023, under which residential development is permissible, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would represent an appropriate form of development, with appropriate access, parking, private open space and drainage, would be in keeping with the character of the area and would not seriously injure the amenities of the area or the amenities of property in the vicinity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>Access to the site for the construction phase of the development shall be from Palmer Road only. The layout of the proposed construction access shall comply with the requirements of the planning authority, details of which shall be agreed in writing prior to the commencement of development.</p> |

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| | <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 3. | <p>The proposed road access to the site from Palmer Court, which should include proposals for pedestrian access and which shall incorporate <i>Design Manual for Urban Roads and Streets</i> 'shared surface' principles, shall comply with the requirements of the planning authority, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interests of traffic safety and the proper planning and sustainable development of the area.</p> |
| 4. | <p>Rear gardens shall be provided with a wall or fence of minimum height 1.8m along the shared boundary.</p> <p>Reason: In order to protect residential amenity.</p> |
| 5. | <p>Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p> |
| 6. | <p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended unless an exemption certificate shall have been applied for and been granted under section 97 of the Act.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p> |
| 7. | <p>Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with</p> |

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| | <p>the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p> |
| 8. | <p>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 include details of intended construction practice, noise management measures, parking proposals for construction workers on the site and storage of materials and waste within the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |
| 9. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 10. | <p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, in lieu of the provision of public open space within the site. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> |

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| | <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p> |
| 11. | <p>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.</p> <p>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.</p> |
| 12. | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> |

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| | Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge. |
| 13. | Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase of the development. Reason: In the interests of amenity and public safety. |

.Barry O'Donnell
Planning Inspector

11th November 2020.

