



An
Bord
Pleanála

Inspector's Report

ABP-311648-21

Development	Outline permission for 4 no. dwellings
Location	Rear of no. 121 Lower Main Street, Rush, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0074
Applicant	Derek and Geraldine Jones.
Type of Application	Outline Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Barry Drumm
Observer(s)	None.
Date of Site Inspection	1 st April 2022.
Inspector	Lucy Roche

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1.0 Site Location and Description

- 1.1. The appeal site is situated in a coastal location in the settlement of Rush, c200m southwest of Rush Harbour and c4km east of Rush and Lusk Train Station. The site comprises part of the rear garden area of No.121 Lower Main Street, a two-storey detached and extended dwelling that fronts directly onto Lower Main Street to the north. The site is rectangular in shape, relatively flat and set out in grass. It is bounded to the east, west and south by concrete block walls while a row of hedging separates the appeal site from the remainder of No.121 and its curtilage. The site has a stated area of 0.11ha.
- 1.2. The surrounding area is residential in character with the residential developments of Tayleurs Point to the west and Knockbawn to the south. Development to the east of the site comprises lower density residential of detached / semi-detached dwellings on large plots.
- 1.3. The appeal site is accessed directly via a gated entrance off Tayleurs Point to the west. No.121 is also served by pedestrian access off Lower Main Street and a vehicular access via a right of way to the east.

2.0 Proposed Development

- 2.1. As originally presented to the planning authority the proposed development for outline permission was for the construction of 4no. dwelling units comprising 2no detached two-storey houses (Units 1 and 2) and 2no semi-detached houses, unit 3 a two-storey unit and Unit 4 a single storey unit. The scheme was amended in response to the planning authority's further information request with the single storey unit (unit 4) replaced with a two-storey unit.
- 2.2. As the application is for outline permission only, no detailed design proposals have been submitted for the proposed dwellings, however as per the information contained in the planning application form, the proposed development comprises 3no two bed and 1no four bed units with a stated gross floor area of 350sqm. Each unit is to be served by an area of private open space in the form rear gardens ranging in size from 73.3sqm (unit 3) to 148.6sqm (unit 2).

- 2.3. The site is to be served via an existing gated entrance off Tayleurs Point the neighbouring residential development to the west, which itself is accessed from Tower Street, c350m to the South. A total of 7no car parking spaces are proposed within permeable 'parking square' / shared surface.
- 2.4. Table 1 below provides a schedule of the key figures associated with the proposed development

Table 1 - Site / Development Details	
Site Area	0.11ha
Gross Floor Area	350sqm
No. of Units	4
Density	36 units/ hectare
Parking	7no spaces
Public Open Space	None

- 2.5. Table 2 below provides details of the individual units / housing plots proposed.

Table 2: Details of Individual Units					
	Type	Form	Height	Bedrooms	Private Open Space
Unit 1	Detached	Two-storey	8.5m	2	134.5sqm
Unit 2	Detached	Two-storey	9.1m	4	148.6sqm
Unit 3	Semi-detached	Two-storey	7.9m	2	73.3
Unit 4	Semi-detached	Two-storey	7.9m	2	85.7

Note: Condition 4 of the planning authority's grant of permission places a restriction on the height, scale and orientation of the proposed units.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council, did by order dated 16th September 2021 issue a decision to grant permission for the development subject to 11no. conditions, the following of which are of note:

- Condition 2 – clarifies that the grant of outline permission is for 4no. two storey dwellings (2no detached and 2no. semi-detached) and associated works.
- Condition 3 – requires the submission of a revised site layout plan to demonstrate the reduction in height of the western boundary wall to 0.9m and the submission of elevational drawing and plan showing the proposed vehicular and pedestrian entrance
- Condition 4 – requires the submission of detailed plans and particulars of the proposed development at permission consequent stage. The requirements stipulated include the following:
 - The finished floor levels (FFL) shall adhere to these shown on site layout plan submitted 23rd August 2021
 - The overall ridge height of units 1 and 2 shall not exceed 8.5 meters above FFL and units 3 and 4 shall not exceed 7.9 meters above FFL
 - Units 1, 3 and 4 shall have a gross floor area not exceeding 110sqm and shall accommodate 2 bedrooms
 - Unit 2 shall have a gross floor area not exceeding 165sqm and shall accommodate 4 bedrooms
 - The front elevations of units 1 and 2 shall face north while the front elevations of units 3 and 4 shall face south
 - The boundary wall to the west shall be lowered to 0.9m
 - The vehicular gate shall be removed and not relaced
- Condition 11 – Development contribution

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the planning officer considers:

- The proposed residential development is acceptable in principle and would accord with County Development policy in relation to separation distances, and private open space provision.
- The proposed scheme would represent piecemeal development due to the lack of integration with adjoining sites to the east
- The total public open space requirement is 200sqm. While no public open space is proposed, a financial contribution in lieu of open space would be acceptable in this case.
- The density of development at c36units / hectare is acceptable
- The development of a pair of semi-detached dwellings comprising one single storey unit and one two storey unit would lead to maintenance issues and would be out of character with existing residential development in the area.
- The Tayleurs Point Residential Scheme is recorded as having been taken in charge by Fingal County Council.
- The proposal to lower the wall on either side of the access gate to provide sightlines and visibility for pedestrians or parked vehicles is acceptable subject to the provision of adequate drawings / plans of the proposed entrance arrangements. Further information is required to verify that the applicant has sufficient legal interest to carry out the works.
- The entrance should not be gated in accordance with Objective DMS32
- Further details required in relation to surface water drainage in order to remove the potential for discharge to public foul sewer
- Further information was requested in relation to the issues raised in the report

The second report of the planning officer considers the further information submitted by the applicant on the 23rd day of August 2021. The applicant's response was deemed not to be significant. The report notes the following:

- They note the efforts may by the applicant to contact adjoining landowners regarding the development of lands to the east and accept that the site layout plan submitted allows for the potential development of these lands
- The applicant indicated that the boundary wall is not in the ownership of Tayleors Point residents and that the development has been taken in charge. The planning authority believe this to be the case and note that any further ownership issues would be a civil matter.
- Notwithstanding the alterative options presented by the applicant to ensure adequate visibility at the site entrance, the planning authority is of the opinion that the boundary wall should be lowered.
- They note that the applicant has amended the proposal to provide for 2no two storey semi-detached dwellings in lieu of the 1no two-storey and 1no single storey unit.
- They consider the hight of proposed Unit 2 at 9.1m to be excessive and out of character with adjoining properties. A maximum height of 8.5m is recommended
- Further details in relation to surface water drainage are required.
- Permission for the development is recommended subject to 11no conditions.

3.2.2. Other Technical Reports

Water Services:

- Initial report (Mar'21): Requested Further information in relation to Soakway design and SuDS
- Report (Sept'21): No objection subject to condition

Transportation Planning Section:

- Initial Report: Conditions recommended regarding access arrangements and taking in charge

- Report (Aug'21): Reiterates the need to lower the boundary wall to facilitate sightline distance at the entrance.

Parks and Green Infrastructure Dept:

No objection raised. Requests payment of financial contribution in respect of public open space provision and high-quality boundary treatment / landscaping

3.3. Prescribed Bodies

Irish Water: No objection subject to condition

3.4. Third Party Observations

The planning authority received a large number of third-party submissions during the course of their determination of the application. The issues raised in the submissions have been grouped and summarised below:

- The proposed development would re-open the completed Tayleurs Point development having a negative impact on the cul-de-sac and radically altering its design / character.
- The applicants are not residents of Tayleurs Point and should not have access to its services which are already at capacity.
- Access to the site should be provided through the applicants own lands i.e., via the existing access gates to the east of No.121.
- The existing access gates serving the appeal site from Tayleurs Point, were permitted (F03A/1272) to serve the rear of 121 Lower Main Street and not for additional residents. At no point was it a right of way
- Tayleurs Point is already congested. Increased traffic on the cul-de-sac (construction and operational phases) would pose a danger to pedestrians, cyclists, children at play etc.

- Planning permission was previously refused on this site for one dwelling (F20A/0317), in part for traffic reasons. It does not appear that this issue has been adequately addressed.
- Tayleurs Point has undergone years of remedial works due to pyrite. The proposed development would result in further disruption to residents.
- The loss of views would have an adverse impact on the residential amenity of Tayleurs Point
- The proposed development would place an increased demand on already exhausted car parking facilities.
- The appeal site, a back garden, should only be development within its natural aspect which is towards lower Main Street.
- The proposed development would impact the amenities of adjoining properties by way of overlooking / loss of privacy / overshadowing / reduced amenity
- The construction phase of the development would negatively impact residents of Tayleurs Point as a result of construction traffic, noise and dust emissions.
- The applicants need for 4 additional houses to accommodate members of the family is questioned. It is contended that the applicant's sole purpose in applying for outline permission is to establish access via Tayleurs Point and that once access is established the principle for further development could be sought.
- The lowering of the wall at the end of the cul-de-sac (located directly beside No.104) would alter the outlook from No.104 and the atmosphere of the area. The applicant may not have sufficient legal entitlement to carry out the works.
- It was inappropriate and unacceptable for a representative of Fingal County Council to have been on site (measuring footpaths for traffic management purposes) one week prior to the deadline for submissions.

4.0 Planning History

4.1. Appeal Site

F20A/0317 Permission refused (2020) to the applicants for a bungalow and associated site works, using existing pedestrian and vehicular entrance off Tayleurs Point Housing Development. Permission was refused for the following reasons: 1) inefficient use of TC zoned land and 2) Traffic hazard – conflict between pedestrian and vehicular movements

4.2. Adjoining Lands to the West:

F03A/1272 Permission granted 2003 for amendments to previously approved development (Reg. Ref. F02A/1610) Including: the introduction of a new gate at the entrance to the access laneway between house A4 and no. 121 Lower Main Street; The introduction of a vehicular and pedestrian access point to the rear of no. 121 Lower Main Street for the sole use of the resident of no. 121 Lower Main Street.

F02A/1610 Permission granted 2003 for Construction of 12 no. townhouses with associated car parking and landscaping.

5.0 Policy Context

5.1. National Policy

5.1.1. Project Ireland 2040 - National Planning Framework

The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 supports compact growth, and seeks to make better use of existing underutilised, serviced lands within built-up areas. The framework targets a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas.

National Policy Objective 35

Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

The 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' promote higher densities at appropriate locations. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

5.2. **Fingal Development Plan 2017-2023**

5.2.1. Strategic Policy: Seeks to deliver 25 main aims one of which is to consolidate development and protect the unique identities of the settlements including Rush

5.2.2. Settlement Hierarchy: Rush is designated a Moderate Sustainable Growth Town

5.2.3. Zoning: The subject site is zoned 'TC' Town Centre with the objective to Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.

5.2.4. The site is located within the boundary of the Rush Urban Framework Plan however it is not within the boundary of any of the identified opportunity sites.

5.2.5. Density: With respect to residential densities, the Plan states that regard should be had to the national guidance set out in the Sustainable Residential Development in Urban Areas Guidelines and the accompanying Urban Design Manual. The Development Plan promotes higher densities at suitable locations such as along public transport corridors and in main town centres (objective PM41 applies).

5.2.6. Relevant Objectives:

- SS20: Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development
- PM41; Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.
- PM44; 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.
- DMS32 Prohibit proposals that would create a gated community for any new residential developments.
- DMS39 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**

The appeal site is not located on or directly adjacent to any designated sites. The following sites are located within 1km of the proposed development site.

- Rogerstown Estuary SPA (Site code 00415) located c600m to the southwest
- Rogerstown Estuary SAC (Site code 00208) and pNHA are located c700m to the southwest
- Rockabill to Dalkey Island SAC (site code 0030000 is located c900m to the east

5.4. **EIA Screening**

- 5.4.1. Having regard to the nature and scale of the proposed development comprising an infill residential development of only 4no. units and the location of the site outside of any protected site, the nature of the receiving environment, the limited ecological

value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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. This is a third-party appeal against the decision of the Fingal County Council to grant outline permission for the development proposed under Fingal County council Planning Reference No: F21A/0074. The appeal has been lodged in the name of Barry Drumm, a resident of Tayleurs Point. The appeal documentation submitted comprises a copy of Mr. Drumms third-party submission to Fingal County Council along with copies of the third-party submissions made by Mr. Ken O'Duffy, Ms. Laura Dagger, Ms. Sinead Lamont and Mr. Robert Fox. It is noted however that Mr. Ken O'Duffy, Ms. Laura Dagger, Ms. Sinead Lamont and Mr. Robert Fox are not party to the appeal.

6.1.2. The issues raised in the third-party submissions received by the planning authority have been summarised out in Section 3.4 of this report. For clarity the issues raised by the appellant Mr. Barry Drumm in his third-party submission are outlined below:

- The access from Tayleurs Point granted under F03A/1272 was for the use of 121 Main Street and at no point was it a right of way
- Tayleurs Point is a finished development any add-on would destroy the aesthetics and pose a high danger to traffic.
- Tayleurs Point is already over-developed, overdevelopment of the appeal site would impact the character and amenity of Tayleurs Point
- The loss of a view would have an adverse impact on residential amenity of Tayleurs Point residents

- The use of the cul-de-sac as a play / amenity for residents would be impacted and further development would but the safety of children in question
- Concerns regarding the already exhausted car parking facilities and the increased demand from the proposed development
- The development of No.121 would disrupt the use of the walkway to the front of Unit 106 Tayleurs Point
- The proposed development would increase the danger posed by waste collection vehicles which have to reverse in and out. Some undertaking would have to be given for public liability by No.121
- The site is a back garden and should only be developed with its natural aspect which is towards lower main street.

6.1.3. The documentation submitted with the appeal also includes a letter from Ken and Susan O’Duffy (in addition to their third-party submission) which outlines to the Board their concerns in relation to how Fingal County Council handled the application. In particular, the Councils failure to inform third parties of the receipt of further information and the delay in the processing of third-party submissions.

6.2. **Applicant Response**

In their response to the appeal the applicants note the following:

- While the appeal is registered under the name Barry Drumm the public file shows that the appeal is in the name of Barry Drumm and three others. It is therefore unclear as to whether there is one appellant or four. Given that there is only one signatory to the appeal it should be considered unsafe to assume that all persons named on the file are willing and active participants.
- The letter setting out the appellants grounds of appeal is the same as that submitted to Fingal County Council as a submission/observation. The concerns raised were assessed by Fingal County Council.
- In relation to the documentation lodged in support of this appeal from Mr. Ken Duffy, Ms. Laura Dagger, Ms. Sinead Lamont and Mr. Robert Fox., the applicant notes that this documentation comprises their submissions/ observations on the planning application lodged Fingal County Council and

that the concerns raised were assessed by Fingal County Council when making their decision. It is not apparent from the Boards public file that they are signatories on the appeal and there is no evidence of a separate planning appeal fee being paid by them.

- The additional information submitted to Fingal County Council was not deemed to be significant therefore in accordance with Article 35 of the Planning and Development Regulations persons making a submission were not required to be notified. Some observations on the additional information were received.
- In relation to the documentation lodged in support of this appeal from Mr. Fox, the applicant wishes to point out that the 'acknowledgement of receipt of submission or observation on a planning application' does not refer to this planning application and therefore this appeal / observation should not be considered valid.
- The grounds of appeal have all been considered and adjudicated on by Fingal County Council. It has been shown in the planning application that is compliant with the Fingal County Development Plan and relevant departmental guidance.

6.3. Planning Authority Response

The Planning Authority in their response to the grounds of appeal note the following:

- The grounds of appeal relate to issues raised at application stage
- All third-party submissions received in connection with the proposal were taken into consideration in the assessment of the application
- This is an application for outline permission and as such does not attract a Development Contribution or bond at this stage.

6.4. Observations

- None

7.0 **Assessment**

7.1. **Introduction**

7.1.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional / national policies and guidance, I consider the main issues in this appeal are as follows:

- Compliance with Planning Policy
- Density / Overdevelopment of the Site
- Impact on the Character of Tayleurs Point
- Access
- Impact on Residential Amenity
- Appropriate Assessment

7.1.2. It should be noted that as the function and responsibilities of the Board do not extend to the role of Ombudsman, they are not in a position to consider or make a determination on the issues raised in relation to Fingal County Council's handling of the application.

7.2. **Compliance with Planning Policy**

7.2.1. The applicants are seeking outline planning permission to develop the rear garden of No. 121 Lower Main Street, Rush for residential purposes. The lands in question are zoned for town centre development under the Fingal County Development Plan 2017-2023 (FCDP) with an objective to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities. The vision for this area is to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these Centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these Centres in accordance with the principles of urban design, conservation and sustainable

development. Residential development is permitted within this zoning and having regard to the established residential use of the site and adjoining lands I consider the development of these lands solely for residential purposes as proposed, to be acceptable in principle.

- 7.2.2. Objective PM44 of the Fingal Development Plan 2017-2023 seeks 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. Similarly, Section 12.4 states that “the development of underutilised infill and corner sites in existing residential areas is generally encouraged. However, it is recognised that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. This approach is consistent with national policy and guidance regarding the promotion of infill residential development. The proposed development site, due to its location in a built-up area, to the rear of No.121 Lower Main Street would I consider qualify as an underutilised backland / infill site, as such I would support the development of this site, in principle. How the proposed development integrates with the existing pattern and character of development in the area and whether adequate consideration has given to the protection of the amenities of adjoining properties shall be key considerations in the assessment of the proposed development.

7.3. **Density / Overdevelopment of the Site**

- 7.3.1. The appellants and third parties, while not objecting to the principle of residential development on these lands, have raised concerns regarding the possible over-development of the appeal site and the potential impact of same on the character of the area.
- 7.3.2. The proposed scheme comprises outline planning permission for 4no. residential units on a 0.11ha site, this would equate to a net density of c36units / hectare. While this may be considered relatively low for new development on town centre zoned lands, the density of development proposed is I consider acceptable in this instance having regard to the small scale and infill nature of the subject site and the prevailing

pattern and density of development in the area which comprises mainly low-to medium density conventional housing. Overall I am satisfied that the proposed development would not represent overdevelopment of the appeal site but an acceptable use of zoned and serviced lands.

- 7.3.3. In relation to the concerns raised by third parties regarding the potential for the landowner to seek permission for a larger scale development on these lands once the principle of development has been established through the granting of this outline application, I note that any future proposals for the development of these lands would have to be subject to a separate planning application which would be assessed on its own merits.

7.4. **Impact on the Character of Tayleurs Point**

- 7.4.1. The applicant is proposing to access the appeal site through Tayleurs Point, a residential scheme of c106 units which borders the site to the west. The development of the appeal site as proposed would result in an extension of a cul-de-sac to the north of Tayleurs Point into the proposed development site, which the appellant considers would open up Tayleurs Point and destroy the aesthetics of the area.
- 7.4.2. Having visited the site and the surrounding area I am however of the opinion that while the proposed development would alter the established built environment it is unlikely to have a significant negative impact on the character of the area. In this regard, I note that the development of the site as proposed would allow for the nature of the area as a cul-de-sac to be retained. As previously established, the proposed residential scheme would accord with the prevailing pattern and character of development in the area and as such, I am satisfied that it would (subject to appropriate design), adequately assimilate into the surrounding area and read as part of the built-up area.
- 7.4.3. Tayleurs Point comprises a mix of two-storey detached, semi-detached and terraced houses. The use of varying architectural styles at different locations throughout the scheme has resulted in the creation of smaller more distinct 'estates' each with

individual design characteristics. One such 'estate' borders the appeal site to the west. This area comprises c15no two-storey dwellings with a shared design theme, the characteristics of which include, a double height half-gable projection and glass brick panel to the front elevation, rendered walls and slate roofs. Having regard to the location of the proposed development at the end of the cul-de-sac, the mix of house types and styles in the area and the retention of the boundary wall between the appeal site and Tayleurs Point (albeit at a lower height) which would demarcate the boundary between the proposed development and the established development in Tayleurs Point, I do not consider that it would be necessary to continue with the same design theme into the proposed development site however, I do consider that it would be appropriate for reasons of visual amenity, to restrict the height of the proposed units so that they do not exceed the height of adjacent properties within Tayleurs Point. In this regard I refer the Board to Objective DMS39 which requires new infill development to respect the height and massing of existing residential units.

7.5. **Access**

- 7.5.1. As previously noted, access to the development is proposed via an existing gated entrance off a cul-de-sac to the north of Tayleurs Point, an established residential scheme to the west of the appeal site which itself is accessed via Tower Street, c300m to the south. The appellant and third parties, as residents of Tayleurs Point, have raised a number of issues / concerns in relation to the proposed access arrangements. They contend that the proposed development will result in additional traffic congestion and the creation of a traffic hazard on the cul-de-sac, due to additional traffic movements and they consider that access to the site should be provided through the applicants own lands i.e., via the existing gated entrance to the east of No.121.
- 7.5.2. As noted by third parties, the existing gated entrance off Tayleurs Point was originally permitted (under F03A/1272) as a vehicular and pedestrian entrance for the sole use of the resident of no. 121 Lower Main Street, I am satisfied however that this previous grant of permission does not prohibit the applicant from seeking permission to access the proposed development from this point. In addition, I note

from the information on file that the development of Tayleurs Point has been taken in charge by the local authority and as a result the developments internal road network forms part of the public road. The use of the public road network to access the site for both the construction and operational phases of the development is I consider acceptable, in principle.

- 7.5.3. As detailed on the site layout plan, Drawing No: 21-BG-01-SK003 RevA1-02, No.121 Lower Main Street is served by a second vehicular entrance to the east. This entrance is located outside and to the north of the appeal site and is accessed via a right of way from Harbour Road that passes directly to the side / west of a neighbouring dwelling. This entrance due to its location and proximity to adjoining properties would not in my opinion provide for a more suitable alternative access arrangement to that currently proposed.
- 7.5.4. Whilst I acknowledge that the construction of an additional four dwellings, as proposed, would result in an increase in traffic movements on the cul-de-sac and throughout the wider Tayleurs Point development, I am satisfied, having inspected the site and surrounding area, that the internal road network serving Tayleurs Point is adequate, in terms of width, alignment and pedestrian facilities (footpaths and public lighting), to cater for the likely additional traffic movements generated. The alignment of the road network, its relationship with adjoining properties and the presence of on-street parking has in my opinion created an environment that naturally encourages slower traffic movements thereby creating a safer environment for pedestrians and road users.
- 7.5.5. The development as proposed would result in an extension of the existing cul-de-sac with an additional c250sqm of shared hard standing area. It would appear from the site layout plans submitted that this area is of sufficient size to cater for the parking demand generated by the proposed development as well as providing additional space for the turning of vehicles etc. I am of the opinion that with the provision of this additional hard standing area, the proposed development would be unlikely to contribute, to any great extent, to traffic congestion on the cul-de-sac or to the existing demand for car parking facilities.

7.5.6. The planning authority, in their decision to grant permission for the proposed development, require the applicants to lower the height of existing boundary wall between the appeal site and Tayleurs Point to 0.9 meters to facilitate pedestrian visibility and sightlines at the proposed entrance. I agree that such works would be required to improve traffic and pedestrian safety at the proposed site entrance, and I recommend that a similar condition be included as part of any grant of permission. In terms of legal interest, as the public areas within Tayleurs Point have been taken in charge I consider it likely that the wall in question falls under the control of the Council, however, I note the documentation on file does not confirm this to be the case and as such there is some doubt remaining regarding the ownership of the wall and the applicant's entitlement to carry out works to same. While I note that the issue of land / property ownership is a civil issue outside of the scope of the planning appeal, I consider that it would be reasonable and appropriate in this case, in order to ensure the provision of safe access arrangements to serve this development, to ensure that this issue is adequately addressed at permission consequent stage and before any development commences on site.

7.6. **Impact on Residential Amenity**

7.6.1. Having regard to the layout and orientation of proposed development, its relationship with adjoining properties and the separation distances available I am satisfied that the development of this site as proposed would be unlikely to have any significant overshadowing or overbearing impact on adjoining properties. In addition, I am satisfied that any potential for new overlooking of adjoining residential properties could be avoided or adequately mitigated through appropriate design, which is to be considered at permission consequent stage.

7.6.2. The appellant is of the opinion that the development of this site would result in the loss of views which in turn would impact on the amenities of existing residential properties. While this is not a material planning consideration, I am satisfied having regard to location of the proposed development on a zoned and serviced lands within an established residential area and having regard to the nature and scale of the development proposed, that any impacts of the development on the visual

amenities of this area would be minimal and acceptable within the established built environment.

- 7.6.3. While I do acknowledge that the construction phase of this development has the potential to disrupt the amenities of properties within Tayleurs Point and the surrounding area, particularly in terms of traffic, noise, vibration and dust, I note that any such impacts would be temporary in nature, and I am satisfied that they could be adequately managed through the implementation of appropriate mitigation measures and best practice construction methods. I would therefore recommend to the Board that it be a condition of any grant of permission that the development be carried out in accordance with a detailed construction management plan, to be agreed with the planning authority prior to the commencement of development.

7.7. **Appropriate Assessment**

- 7.7.1. The appeal site is not located on nor is it directly adjacent to any Natura designated site. There are however a number of designated site within the wider geographical area including the Rogerstown Estuary SAC and SPA (Site Codes 000208 and 004015, respectively) and Rockabill to Dalkey Island SAC (site code 0030000) all of which are located within 1km of the site.
- 7.7.2. Having regard to the nature and scale of the proposed development comprising an infill development of only four residential units, its location on zoned and serviced lands within an established built-up area; the availability of water services and the lack of any known hydrological links to the aforementioned protected sites, no appropriate assessment issues arise, and therefore I consider that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend that outline permission for the proposed development be granted subject to condition as outlined below.

9.0 Reasons and Considerations

9.1. Having regard to the objectives of the Fingal Development Plan 2017-2023, the location of the development on zoned and serviced lands within the settlement boundary of Rush, the small scale and infill nature of the proposed development site and the prevailing pattern and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, 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.	<p>This grant of outline permission is in respect of development as indicated in the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 23rd day of August 2021 except as may otherwise be required in order to comply with the following conditions. No development is authorised on foot of this grant of outline permission and no development shall be undertaken until a grant of approval consequent on this outline permission is received.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>At the permission consequent stage, the proposed dwellings shall be designed to accord with the following requirements:</p> <ul style="list-style-type: none"><li data-bbox="360 1547 1315 1693">(i) The ridge heights of units 1 and 2 shall not exceed the ridge heights of the adjoining residential property to the west, 104 Tayleurs Point<li data-bbox="360 1727 1315 1872">(ii) The ridge heights of units 3 and 4 shall not exceed the ridge height of the adjoining residential property to the west, 105 Tayleurs Point <p>Reason In the Interest of visual amenity</p>

3.	<p>(i) The existing boundary wall between the proposed development site and the adjoining public areas within Tayleurs Point shall be lowered to 0.9 meters.</p> <p>(ii) The vehicular entrance gates at the entrance to the development site from Tayleurs Point shall be removed and not replaced</p> <p>At the permission consequent stage, the developer shall submit to and for the written agreement of the planning authority:</p> <p>a. Plans and elevations to demonstrate compliance with the requirements of this condition.</p> <p>b. Confirmation by way of a simple certificate from a solicitor with professional indemnity insurance, that the developer and their assigns have sufficient interest in the boundary wall to the west of the site to carry out the required works.</p> <p>Reason: In the interests of pedestrian and traffic safety, to ensure compliance with Objective DMS32 of the Fingal County Development Plan and in the interests of proper planning and sustainable development</p>
4.	<p>This outline permission relates solely to the principle of the development on this site. The plans and particulars to be lodged for permission consequent on this grant of outline permission shall include the following:</p> <p>(i) Full design details of the proposed development including all proposed dwellings</p> <p>(ii) Contiguous elevations to demonstrate the proposed dwellings and how they will relate to adjoining properties, particularly the adjoining residential units in Tayleurs Point</p> <p>(iii) Details of the materials, colours and textures of all the external finishes to the proposed dwellings</p>

	<p>(iv) A landscape plan prepared by a suitably qualified landscape professional shall be provided to include high quality boundary treatments and landscape finishes including trees planting on private open space, the capping and rendering of existing / proposed block works walls and protection measures for any retained vegetation</p> <p>Reason: In the interest of clarity and to define the subject matter for consideration at permission consequent stage</p>
5.	<p>At the permission consequent stage, drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services</p> <p>Reason: In the interest of public health</p>
6.	<p>At the permission consequent stage, the design of the pedestrian and vehicular access, parking areas, shared surfaces and footpaths and kerbs shall comply with the requirements of the planning authority for such works</p> <p>Reason: In the interests of amenity and of pedestrian and traffic safety.</p>
7.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water prior to commencement of development.</p> <p>Reason: In the interest of public health</p>
8.	<p>Before development commences, a full and detailed construction management plan shall be submitted to and agreed in writing with the Planning Authority, which shall include, inter alia, a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures and details of construction lighting. A Construction</p>

	<p>Manager shall be appointed to liase directly with the various sections of the Council.</p> <p>Reason: In the interest of residential amenity, traffic/ pedestrian safety and proper planning and sustainable development.</p>
9.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity</p>
10.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of urban legibility</p>
11.	<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 of roads, footpaths, watermains, drains, 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 of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer at permission consequent stage or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development</p>

12.	<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 the 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 at permission consequent stage 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>
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Lucy Roche
Planning Inspector

15th July 2022