



An
Bord
Pleanála

Inspector's Report ABP-315161-22

Development	Construction of 74 residential units and associated site works.
Location	Lands at Palmer Road and Palmer Avenue, Rush, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F22A/0034.
Applicant	PWCPS.
Type of Application	Permission.
Planning Authority Decision	Refusal of Planning Permission.
Type of Appeal	First Party v Refusal of Planning Permission.
Appellant	PWCPS.
Observer(s)	Eamonn Sheridan & Others.
Date of Site Inspection	25/11/2023.

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1.0 Site Location and Description

- 1.1.** The appeal has a combined stated area of c. 1.84ha and comprises two separate parcels of lands at Palmer Road and Palmer Avenue, Rush, Co. Dublin. The larger site to the west, has an irregular 'L' shape with a frontage to the southern side of Palmer Road. The topography of the site is relatively flat and is greenfield in nature. Vegetation across the site has largely been cleared. I note that there is no formal boundary to Palmer Road to the north or the site to the east. The site has a stated area of c. ha. and extends to the south of the existing dwelling to the immediate west. The parcel of land to the east has a stated area of c. 0.527ha. and has a c. 110m frontage to Palmer Avenue to the east. The site has been cleared off all vegetation and there is no formal boundary to Palmer Avenue. The lands are relatively flat and is consistent with that of the surrounding area.
- 1.2.** The appeal is located within the north-western periphery of the settlement boundary of Rush. In terms of the site surrounds, there are a detached single storey and dormer style dwellings to the immediate west and east of the site respectively. There is recently constructed residential development located to the south of the site at Hyde Court which is accessible through Park Road. The lands to the north of this site would appear to be currently in agricultural use. There is also a residential development to the east of the Palmer Avenue site which is currently at an advanced stage of construction. In addition, detached dwellings are located to the site's north and south. Palmer Avenue is a cul-de-sac which culminates to the south of the appeal site with a pedestrian connection then providing access to Kenure Park.

2.0 Proposed Development

- 2.1.** The proposed development originally sought planning permission for the construction of a residential development, totalling 74 no. residential units. Further to this, the proposed development comprised:
- Car and bicycle parking,
 - 1 no. pedestrian/cycle access on Palmer Road,
 - 2 no. vehicular accesses via Palmer Avenue including the provision of sections of a new east-west link road,

- Proposed vehicular access via a previously permitted residential development to the south accessed via Park Road,
- Landscaping,
- Footpaths,
- Boundary treatments,
- Public lighting; and,
- All associated site infrastructure and engineering works necessary to facilitate the development.

2.2. Across the 2 no. parcels of land, the proposed development comprises 30 no. 2.5 storey semi-detached and terraced houses and 44 no. duplex units (22 no. one bed units and 22 no. two bed with study units) all of which are contained within 3 no. 3 storey apartment blocks. The parcel of land fronting Palmer Avenue comprised 3 pairs of semi-detached dwellings which are orientated to the south and overlook a centrally located public open space area. A 3 no. storey block of duplex apartments is located within the southern portion of the site and is orientated to the south towards the proposed east-west link road which forms part of the Applicant's proposals. The 2 no. apartment blocks located within the eastern land parcel are of a similar design, layout and form. The remainder of the terraced and semi-detached dwellings within this land parcel are located along the northern, western and eastern site boundaries and either overlook the central public open space area or Palmer Road to the north.

2.3. The Palmer Avenue land parcel is to be accessed from a vehicular entrance which is centrally located within the eastern boundary. Surface level car parking is provided to the south of the proposed dwellings within their curtilage and to the north of the proposed apartment block. A new junction access with Palmer Avenue and the east-west link road is also proposed at the southern end of the site's eastern boundary. This is proposed to be temporarily block off to vehicular access until such time that the east-west link road is extended. Vehicular access to the Palmer Road land parcel is proposed via the completed development to the south of the site (Reg. Ref. F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/0102). Pedestrian and cyclist access to the site is also provided via Palmer Road to the north. The 6 no.

dwellings within this portion of the site will be accessed from Palmer Road and each dwelling is provided with in-curtilage parking. The proposed development includes a total of 105 no. on site car parking spaces with off-street car parking (2 no. spaces) provided for the semi-detached and terraced dwellings. A total of 44 no. car parking spaces has been allocated to the proposed apartment blocks.

- 2.4.** In terms of open space, the eastern land parcel is to be served by a centrally located public open space area measuring c. 534sq.m. A communal open space and children's play area is also proposed to serve the western land parcel and is centrally located within this site. This play space measuring c. 1,380sq.m., equates to c. 10.6% of this land parcel. All conventional dwellings within the development are served by private amenity space in the form of rear gardens with a minimum depth of c. 11m. The ground and first floor duplex units are served by private gardens to the rear with additional open space provided to the front of each unit. The second floor level 1 no. bedroom apartments are served by balconies on the south facing façade of each unit.
- 2.5.** In terms of design, all dwellings within the development have a gable sided, pitched roof form and materials and finishes comprise a combination of a buff brick and render finish for the principal elevations with a slate roof. The 3 no. storey apartment buildings have adopted similar palette of materials and finishes, and each building has a gable sided, pitched roof form. Gable projections which enclose the stairwells to the upper floor apartments are located to the rear of each apartment block and the balconies serving these units are recessed within the front roof slope.
- 2.6.** The proposed development was amended at additional information and clarification of additional information stage following concerns raised by the Planning Authority during their assessment of the application. The revisions to the design of the development are discussed in detail in Section 3.2 below.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council refused planning permission for the proposed development for

the following 1 no. reason.

- The proposed development is considered out of character with the established pattern of development in the immediate locality by reason of its high density and the form and design of the proposed duplex units. It is considered the development would impact on the residential amenity of the area and would appear incongruous and out of character and would be contrary to the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009), Quality Housing for Sustainable Communities (2007), Objectives PM41, PM45 of the Fingal County Development Plan 2017-2023, and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.1.1. The Fingal County Council Planning Reports form the basis for the decision. The First Planning Report notes the 'RA' zoning that applies to the lands and considers overall that the residential development on zoned lands in the settlement of Rush offers an opportunity to achieve an optimum and efficient use of a serviced site which is in close proximity to local urban services. In terms of layout and design, the Planning Authority noted that the site and surrounding can be described as transitioning from a traditional peripheral/edge of settlement to an area of urban growth which characterises this area to the north of Rush. It was considered that the proposed development would generally appear to replicate other similar styles of residential development that characterises this area and was therefore acceptable.

3.2.1.2. The Planning Authority noted that the proposed 3 no. storey apartment blocks 'front' onto sections of the indicative east-west link road. In contrast, the rear of these units face onto the internal roadways serving the development and the respective green spaces. Given the style of these units and the double sided road layout, it was considered acceptable in this context as the proposal would provide an interface to the south and support potential further development of this area in the future.

3.2.1.3. The Planning Authority go on to note that the proposed unit mix at this location is generally considered acceptable and the 74 no. dwelling units proposed across the site is not considered to be excessive with regard to the impact on the character of the area. This was considered on account of the built form of the area and the policy provisions for residential development in Fingal and at Regional and National level. Further to this, it was considered that the subject development would not result in overlooking or overshadowing which would negatively impact on the existing residential amenities of the area. In addition, it was considered that the proposed development would not be visually dominant when viewed from the rear gardens of neighbouring properties owing to the separation distances provided and the layout of those units. It was therefore considered that the proposals were acceptable from a residential amenity perspective. However, further information was requested with respect to the following matters:

1. Clarification with respect to the site area and the proposed gross and net density of the development.
2. Revisions to the boundary treatments and clarity provided with respect to the separation distances provided between all the proposed units.
3. Proposals to address the matters raised by Transportation Planning:
 - i. A revised layout for the north boundary of the proposed development along Palmer Road, incorporating a 2m wide footpath.
 - ii. Details on how the applicant proposes to provide space for sufficiently secure bicycle parking for the 1-bed apartments, the 2-bed duplex apartments, and the mid terrace dwellings.
 - iii. Clarification with respect to the layout of bin storage within the communal areas.
 - iv. Revised details for the site boundary along Palmer Avenue, to provide a cycle track to match what will be installed on the opposite side of this road as part of the upgrade of Palmer Avenue under the Skerries Road development (reference SHD-003-19).
 - v. Revised details of the proposed vehicular access from Palmer Avenue to match the detail of what is being provided on the opposite side of the road at the junction to the entrance of the Skerries Road development

- (reference SHD-003-19);
- vi. Clarification with respect to visitor bicycle parking provision;
 - vii. Clarification with respect to car parking provision.
 - viii. The provision of a minimum of 10% of the car parking spaces to have EV charging points;
 - ix. Details of the applicant's proposals to address the deficit in car parking and visitor car parking for the duplex units and apartments on the eastern side of the proposed development;
 - x. A taking in-charge drawing to be provided, if applicable.
4. Proposals to address the following landscape issues:
- i. Clarification with respect to hard and soft boundary treatments for the proposed development (with particular regard along Palmer Avenue);
 - ii. Clarification with respect to proposals which satisfy the Specific Objective of the Fingal Development Plan 2017-2023 which seeks to 'Protect & Preserve Trees, Woodlands and Hedgerows' along Palmer Avenue.
 - iii. A street tree planting plan was required to clearly show the location of street trees including the location of their associated tree pits;
 - iv. A taking in charge drawing to clarify what areas are public and private within the proposed development.
 - v. Clarification with respect to the area of public open space proposed in square metres and the percentage of the Public Open Space area which will be taken up by the proposed SuDS features.
5. The submission of details with respect to the management, maintenance and safeguarding of the proposed sections for the 'East-West' road within the application site until such time as this route becomes operational.
6. The submission of details of the various waste streams, including expected tonnages, which will be generated during site clearance/demolition and construction phases.
7. The submission of an Archaeological Impact Assessment (AIA).

3.2.1.4. As part of the additional information response, the Applicant submitted modified plans

and updated reports to address the issues raised. It was confirmed within the agent's submission that the net density for the site was c .47 units per ha., based on a net developable area of c. 1.5ha. (i.e. east-west link road excluded). With respect to car parking, it was confirmed in the response documentation that the apartment and duplexes within the eastern land parcel would be served by a total of 19 no. spaces, an increase in 3 no. spaces from what was originally proposed. In terms of the Specific Objective of the CDP which seeks to 'Protect & Preserve Trees, Woodlands and Hedgerows' along Palmer Avenue, it was noted that the hedgerow was removed in order to facilitate the road upgrades approved under the Skerries Road SHD to the east of the site. The Applicant confirms within the response that 59% of the open space area is taken up by SuDS. It is stated within the response that should this not be acceptable to the Planning Authority, the Applicant is proposing a possible transfer of lands to Fingal County Council. This parcel of land adjoins the western edge of the lands at Rush Athletic Football Club to the site's west.

3.2.1.5. Within their assessment of the Applicant's response, the Planning Authority revisited the issue of 'density' and noted that the site is on the periphery of the settlement and a lower density of development at this location is not considered unreasonable in order to reflect the context of surrounding area. The Planning Authority refer to the most recent developments to the east (c. 35ha.) and to the south (c. 23ha.). The Planning Authority also raised concerns that the density proposed may leave it difficult for the site between the two land parcels (lands outside the control of the Applicant) to achieve a similar density. A clarification of additional information was therefore requested to address the following matters:

1. With respect to point 1 of the request for Additional Information, it was considered the net density is too high in relation to the character of the surrounding area and recent neighbouring planning decisions, and the deficit in parking and open space provision for the development. The Applicant was therefore requested to reduce the density of the proposed development.
2. With respect to point 2 of the request for Additional Information, the Applicant was requested to clarify the discrepancies regarding the boundary treatments.
3. Clarification with respect to point no. 3 of the Council's request for Additional

Information.

- i. The transition detail with the existing Palmer Road in the north-western corner of the site boundary to be revised.
 - ii. It was noted that a revision to the boundary wall height for the duplex units is not necessary to provide adequate lockable bicycle parking in the rear garden space. It is confirmed that the bicycle parking could be provided with a lower level lockable bicycle cabinet/locker while keeping the boundary walls at the same height as was proposed in the original submitted proposals.
 - iii. Clarification as to whether each apartment unit will have access to an EV charging point.
 - iv. It was noted that the Applicant had not addressed the overall deficit of parking for the proposed development, in accordance with the County Development Plan standards.
4. The Applicant was requested to address the following:
- i. Reduction in the height of the proposed Type B wall to 1.2m and the inclusion of hedge planting to the front private open space of the proposed duplex units.
 - ii. The proposed play provision within a 400mm deep stormwater detention basin is of significant concern to the Parks & Green Infrastructure. The applicant was requested to submit a revised play space layout showing natural play spaces only, no/minimal overlap between SUDS & play spaces and the inclusion of durable materials. If necessary, a contribution in lieu of a play provision shortfall may be agreed.
 - iii. Clarification as to how the Applicant proposes to provide an area identified as in lieu open space, and how this would work as the lands in question appear to be landlocked and the ground conditions are unclear.
5. The landscape and boundary detail proposed as part of the AI response to Item 5 was not considered acceptable by the Transportation section and the Applicant was requested to amend the drawings as follows:
- i. Replace the end wall to either side of the east-west link road with either a wall with railings or a fence. The proposed road should extend to the

boundary of the Site Nos 1 & 2 and Site No.4 with the adjoining neighbouring green field to prevent a ransom strip occurring.

- ii. Clarification with respect to the detail of the raised planters and row of temporary bollards on the revised 'proposed road layout' drawing no. C152-CSC-XX-XX-DR-C-0005 at the entrance to the section of the east-west link road from Palmer Road.
- iii. The revised detail at the junction where the 'east-west link road meets the proposed vehicular access to the south was not satisfactory and the Applicant was requested to revise the junction to address the concerns raised.

3.2.1.6. As part of their response, the Applicant confirms that the number of duplex units proposed has been reduced from 44 to 36 (total no. of units 66) which will result in a revised net density of c. 43.5 units per ha. The Applicant also refers the Planning History of the site to the east on the opposite side of Palmer Avenue (i.e. Skerries Road SHD) (which I note is now at an advanced state of construction). Specific reference is made to commentary of the Planning Inspector in this case who noted that the net density of that scheme is likely to be substantially higher than the stated density (c. 35.5 units per ha.) as it included the east-west spine route through the site. Notwithstanding this, it is stated that in that case the higher density was deemed appropriate for the site. The Applicant has also put forward an alternative proposal (Option 2) which provides for the further reduction of 4 no. duplex units, thereby resulting in a reduced net density of c. 40.9 units per ha. The Applicant also submitted responses to the other various items within the clarification of additional information.

3.2.1.7. Within their assessment of the Applicant's response, the Planning Authority acknowledge the Applicant's proposals to reduce the number of units across the site. However, it was stated that there was a lack of clarity in the plans and particulars submitted for either option for a complete assessment to be made. Notwithstanding the density of the reduced options, it was still considered that the density of development was excessive and out of character with the area. A refusal of planning permission was therefore recommended for 1 no. reason. It would appear that the

remaining items raised were generally addressed to a satisfactory standard and were deemed to be acceptable by the Planning Authority.

3.2.2. Other Technical Reports

Environment: No objection to the proposed development subject to compliance with conditions.

Heritage Officer: Two (2) reports on file stating no objection to the proposed development.

Parks and Green Infrastructure: Initial report recommending additional information. Second report on file recommending a clarification of additional information. Third report on file stating no objection to the proposed development subject to conditions.

Transportation: Initial report recommending additional information. Second report on file recommending a clarification of additional information. Third report on file stating no objection to the proposed development subject to conditions. The final report on file confirms that Option 2 would result in car parking nos. that exceeded the CDP standard.

Water Services: Three (3) no. reports on file stating no objection to the proposed development subject to compliance with conditions.

Housing: No objection to the proposed development subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection subject to compliance with a condition.

Department of Housing, Local Government and Heritage: Initial report on file recommending additional information. Second report on file recommending conditions to be attached in the event of a grant of permission.

3.2.4. Third Party Observations

11 no. observations were received by Third Parties. The issues raised within the observations can be summarised as follows:

- Road safety and traffic related issues.
- Traffic calming measures should be introduced.
- Concerns regarding the adequacy of on-site car parking.
- Drainage related concerns.
- Issues raised with respect to flooding on the site and in particular, Palmer Road. Concerns also raised that the proposals may have an adverse impact on adjoining sites.
- Concerns regarding the lack of proposals which support active travel.
- Bicycle storage is deficient within the scheme.
- Concerns with respect to the lack of childcare facilities.
- There are currently pressures on childcare and schools in the surrounding area which will be exacerbated by the proposed development.
- Concerns regarding the lack of infrastructure and services in Rush to cater to another development of this scale.
- Concerns that the boundary has not been correctly delineated on the submitted documentation.
- Concerns regarding the proposed boundary treatments.
- Concerns that the development is to be accessed through an existing development.
- Proposals to transfer lands to the County Council in lieu of on-site open space is inappropriate and unsuccessful in the past in other cases.
- Concerns regarding the layout of the proposed development.
- Concerns highlighted with respect to the scale and height of the proposed development.
- The proposal is not in keeping with the character of the surrounding area.
- The site is not suitable for the development of apartments.
- The Applicant should be required to prepare a detailed Construction Management Plan.
- Concerns highlighted with respect to the construction phase of the project.

- Concerns that a LAP has not been implemented for the area.
- Concerns with respect to the inadequacy of open space provision on site.
- Concerns highlighted that all the hedgerows and trees have been cleared from the site and the associated ecological damage.

Six (6) no. further observations were received following the submission of additional information. The matters raised in the submissions can be summarised as follows:

- Continued concerns raised with respect to flooding and photographs have been enclosed of Palmer Road during periods of heavy rainfall.
- A traffic management plan is required in this instance.
- Concerns raised with respect to the density of the proposed development and the scale and height of the proposed development.
- Concerns highlighted with respect to the reliance on access to the site via the recently constructed residential development to the south.
- The existing development of the south at Hyde Court was not built to accommodate the volumes of traffic that would be generated by the proposed development.
- Concerns highlighted with respect to the inadequacy of the open space provision on site. It is highlighted that the transfer of lands elsewhere in lieu of sufficient open space is inappropriate and against what the community needs.
- It was highlighted that there are currently four other developments within this area that are currently under construction and the noise pollution is already unbearable.
- It is noted that there appears to be no mention within the documentation as to how the Applicant proposes to deal with drainage on site.
- Concerns highlighted with respect to the adequacy of the proposed boundary treatments.

Two (2) no. further observations were received following the submission of additional information. The matters raised in the submissions can be summarised as follows:

- The proposed development is premature pending the construction of the east-west link road.

- Access arrangements are not acceptable.
- Continued concerns regarding the volume of traffic that would be generated and its reliance on the access through the south via Hyde Court.
- Concerns highlighted with respect to flooding.
- Concerns highlighted with respect to scale and density of development proposed. It is noted that the permitted apartment developments within the surrounds should not set a precedent for apartment developments of this nature. It is contended that an apartment development is not suitable for this site.
- The surrounding road network cannot accommodate another development of this scale.
- The proposal will result in cars being parked along Palmer Road which is a substandard and busy country road which cannot cater to a development of this scale.
- Concerns with respect to the inadequacy of public open space. It is highlighted that the Applicant should be not afforded the opportunity to transfer lands elsewhere to the Local Authority in lieu of sufficient open space.

4.0 Relevant Planning History

4.1. The Subject Site.

- 4.1.1. **F23A/0169:** Planning permission has been sought for the construction of 40 no. residential units comprising 30 no. terrace types units (26 no 3-bed 2 storey houses, 2 no. 3-bed 2.5 storey houses, and 2 no.4-bed 3storey houses), and 10 no. semi-detached type units (8 no.4-bed with study 2.5 storey houses and 2 no. 3-bed 2.5 storey houses), all provided with private gardens and associated car parking; proposed vehicular access via previously permitted residential development to the south accessed via Park Road (Hyde Court development substantially complete- Reg. Ref F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/0102); provision of sections of new East- West Road; 1 no. pedestrian/cycle access on Palmer Road; landscaping including play equipment; footpaths; visitor car parking; boundary treatments; public lighting; and all associated site infrastructure and engineering works necessary to facilitate the development.

This application relates to the western land parcel (Palmer Road) only and the Planning Authority have requested additional information.

- 4.1.2. **F20A/0170:** Planning permission refused by the Planning Authority which sought permission for the construction of a residential scheme of 43 no. residential units comprising 15 no. detached / semi-detached two-storey houses, along the eastern half of the subject lands and 28 no. apartments/duplexes in 2 no. three-storey height building blocks located to the southern-west of the application's site, 35 no. surface car parking spaces to the front of the 2 no. proposed apartment / duplex buildings, 34 no. bicycle parking spaces (28 no. residents and 6 no. visitors) in proximity of the 2 no. building blocks, 1 no. new vehicular entrance, internal vehicular route and associated road works including the construction of a section of the new East-West Urban Street along the southern site boundary and its connection to permitted site development Reg Ref. F16A/0148 and road layout permitted under Reg. Ref. F15A/0294; pedestrian / cycling linkages to Palmer Road, the new East-West Urban Street and Park Road via permitted site development Reg. Ref. F16A/0148 located south of the application's site; provision of public open space (1,416sqm) located to the south-eastern corner of the site; Bin Store, collections areas, street lighting and SuDs drainage comprising car parking bays fitted with permeable paving, detention pound, rainwater butts, filter drains and a new underground surface water attenuation system; and all associated and ancillary site development and infrastructural works, hard and soft landscaping and boundary treatment works to facilitate the development.

The application was refused for the following 4 no. reasons:

1. Having regard to the design and layout of the proposed development, in particular the location and configuration of public open space, the design of the apartment buildings within the scheme, the absence of a sufficiently defined urban edge to Palmer Road and the lack of permeability with the east-west road to the south of the site, the proposal would result in a poor-quality urban environment and would therefore be contrary to the proper planning and sustainable development of the area.

2. The communal amenity space serving block 2 is un surveilled and remote from the units it serves, the location and design of the bin/bicycle store for block 2 and the internal access arrangements to private amenity space within the one-bedroom apartments within block 2 would provide an unacceptable level of amenity for future residents, would be contrary to the standards and guidance set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 (Department of Environment, Community and Local Government) and would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development would contravene materially Objective DMS66 of the Fingal Development Plan 2017–2023 in relation to the provision of open space to the side/rear of residential units and would be contrary to the proper planning and sustainable development of the area.
4. The subject development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity.

4.2. Site Surrounds.

4.2.1. South (Hyde Court)

F21A/0218: Permission refused by the Planning Authority in June 2021 for alterations to the boundary treatments of the residential development and associated works previously permitted under planning permission Reg. Ref. F15A/0294; F15A/0294/E1; F16A/0148/PL06F.246808; F19A/0102; and all associated site works necessary to facilitate the development. The application was refused for the following 1 no. reason:

1. The proposed development which comprises alterations to the boundary treatments of the residential development permitted under PL06F.246808 by An Bord Pleanála would materially contravene Condition No. 2 of PL06F.246808 which specifically directed that concrete post and concrete/timber panel fences shall not be used as boundary treatments for the rear gardens. It is therefore considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

There is a history of planning applications on the lands to the south (F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/010) of the site which relate to the recently constructed development of 22 no. detached, semi-detached and terraced houses and various infrastructural upgrades along Park Road. It is proposed to access the appeal site (Palmer Road land parcel) via Park Road and through the Hyde Court development.

4.2.2. East (Lands at Skerries Road, Palmer Road, Palmer Avenue &, St. Maur's Park, Rush, Co Dublin)

SHD/003/19 (ABP-305534-19): Planning permission granted by the Board for a residential development of 165 No. units, comprising 117 No. houses and 48 No. apartments. The houses comprise of 28 No. two bed units, 65 No. 3 bed units, and 24 No. 4 bed units. The development included 294 No. surface car parking spaces, 118 No. bicycle parking spaces, public open space including a children's playground, new vehicular entrances to Skerries Road and Palmer Avenue including new signalised junction at Skerries Road, internal vehicular routes including a new East-West link street, the widening and upgrade of Palmer Avenue to include footpaths and cycleways, ESB substations, all site services, refuse/bin stores, public lighting, boundary treatment, pedestrian/cycle linkages to St. Maur's Park to the South and Palmer Court to the North, repair and making good of retained elements of the existing boundary wall to Skerries Road, re-use on-site of material from the boundary wall to Skerries Road required to be removed to facilitate the site entrance, removal of existing bus stop on Skerries Road adjacent to site, and all other associated and ancillary development/works.

Condition No. 3 of this permission required the development to be amended such that house number 35 shall be omitted and re-placed by a childcare facility and associated open space play area which shall be the subject of a future planning application to Fingal County Council, unless an alternative location is agreed with the planning authority.

5.0 Policy and Context

5.1. Fingal County Development Plan, 2023-2029 (CDP)

- 5.1.1. The Fingal County Development Plan, 2023-2029 (CDP) came into effect on 5th April 2023, and after the decision of the Planning Authority to refuse planning permission. Therefore, the 2023-2029 Development Plan is the operative plan for the purposes of the appeal determination. The appeal site is within an area zoned 'RA' (Residential Area), the objective of which is to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. The zoning objective applies to the lands to the west of the site on Palmer Road and the site located between the 2 no. land parcels. The lands to the north and south of the site are zoned 'RS' (Residential), the objective of which is to 'Provide for residential development and protect and improve residential amenity'. There is an indicative route for the GDA (Cycle Network Plan) which bisects the site and also adjoins the site's northern and eastern boundaries to Palmer Road and Palmer Avenue respectively. A Specific Objective to 'Protect & Preserve Trees, Woodlands and Hedgerows' applies to the site which has an abuttal to Palmer Avenue. I note that all vegetation has been cleared from this site.
- 5.1.2. Rush is identified as a Self-Sustaining Town, with a development strategy to promote the creation of a vibrant town core by providing a high-quality living environment for the existing and future population and providing for the development of necessary community, commercial, cultural and social facilities in tandem with new residential development and accordingly a 10% increase in population is appropriate. Table 2.14 Core Strategy identifies an estimate population in 2023 of 10,877 and estimated population in 2029 of 11,802 (growth 925), projected housing demand is 500 units, zoned land available is 53 hectares with a potential yield of 1,600 units and extant permissions provide for 388 units.
- 5.1.3. General policy and objectives regarding the settlement strategy and Rush are set out in the plan including Policy CSP34 'consolidate the growth of Self-Sustaining towns including Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries as set out in the Settlement Strategy for RSES and by encouraging infill development and compact

growth rather than greenfield development and by intensification at appropriately identified locations’ and Objective CSO58 ‘facilitate the development of Rush as a vibrant town and retain its market gardening tradition’.

5.1.4. Chapter 3 sets out the strategy to guide successful healthy placemaking and ensure quality housing. It includes a range of policies and objectives which accord with the NPF and RSES, the Housing Strategy and HNDA prepared in support of the Development Plan, and national planning guidance.

5.1.5. Chapter 4 outlines the importance of community infrastructure and open space to healthy place making. Relevant policies and objectives include the following:

- Policy CIOSP2 – Promotes the preparation of community and social infrastructure audits for large-scale developments.
- Objective CIOSO5 – Ensure proposals for large scale residential developments include a community facility, unless needs are already adequately served.
- Objective CIOSO44 – Facilitate the provision of appropriately scaled children’s playground facilities within new and existing residential development in line with the Council’s Play Policy.

5.1.6. Chapter 5 outlines the role of the plan in helping Fingal realise its potential to be a low carbon society and mitigating the impacts of climate change. It encourages the form, design, and layout of new development to positively address climate change.

5.1.7. Chapter 6 ‘Connectivity and Movement’ recognises and supports a collaborative approach that needs to be taken by all stakeholders to ensure the delivery of a sustainable transport network including key transport projects, new walking and cycling infrastructure, behavioural change initiatives and improved roads access. Relevant policies and objectives include the following:

- Policy CMP2 – Concentrate compact growth around existing and planned transport services ensuring that travel demand and car-based travel is reduced.
- Policy CMP25 – Implement a balanced approach to car parking, using parking as a demand management measure to promote a transition towards more

sustainable forms of transportation, while meeting the needs of businesses and communities.

- 5.1.8. Chapter 9 deals with 'Green Infrastructure and Natural Heritage' and aims to develop and protect a network of interconnected natural areas, biodiversity, and natural heritage. Objective GINHO20 relates to new residential development proposals and seeks, where appropriate, to maximise the use and potential of existing parks, open spaces and recreational provision, by upgrading and improving the play and recreational capacity of these existing facilities through development contributions in lieu of new open space or play provision.
- 5.1.9. Chapter 11 deals with 'Infrastructure and Utilities'. It outlines a range of policies and objectives to develop and protect water and waste infrastructure, and to protect air, noise, and light conditions.
- 5.1.10. Chapter 14 outlines 'Development Management Standards' in an aim to ensure that development occurs in an orderly and efficient manner which contributes to the Core Strategy and related policies and objectives. Relevant aspects include the following:
- Section 14.5.2 and 14.5.3 promote building density and height in accordance with national and regional policy and guidance.
 - Section 14.6 outlines a range of design criteria and standards for various types of residential development, which is based on national guidance documents including the Apartments Guidelines.
 - Section 14.13 deals with Open Space based on the principles of 'Hierarchy and accessibility', 'Quantity', and 'Quality'. The following elements are noted:
 - Objective DMSO50 – Require the monetary value in lieu of play facilities to be in line with the Fingal County Council Development Contribution Scheme.
 - Objective DMSO51 – Requires a minimum public open space provision of 2.5 hectares per 1000 population.
 - Section 14.13.2. - It is the intention of the Council to ensure, except under exceptional circumstances, that public open space provision exceeds 10% of a development site area.

- Objectives DMSO52 and DMSO53 – Require that public open space shall be provided in accordance with Table 14.12 and other provisions.
- Objective DMSO56 – Ensure every home within a new residential scheme is located within 150 metres walking distance of a park.
- Objective DMSO57 – Require the monetary value in lieu of open spaces to be in line with the Fingal County Council Development Contribution Scheme.
- Objective DMSO68 – Provide appropriately scaled children’s playground facilities within residential development (4 sq m per residential unit). Objective
- DMSO69 – Ensure that equipped playgrounds shall occupy an area of no less than 0.02 hectares and include a minimum of one piece of play equipment for every 50 sq. m.

5.1.11. Section 14.17 ‘Connectivity & Movement’ outlines a range of transport standards and objectives, including bicycle and car parking standards.

5.2. Section 28 Ministerial Guidelines.

5.2.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the ‘Sustainable Residential Development Guidelines’), including the associated Urban Design Manual (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2022) (the ‘Apartment Guidelines’)
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme

- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

5.3. Climate Action Plan (CAP) 2023

- 5.3.1. The CAP implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.4. Project Ireland 2040 National Planning Framework (NPF)

- 5.4.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:
- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
 - NPO 4 promotes attractive, well-designed liveable communities.
 - NPO 6 aims to regenerate cities with increased housing and employment.
 - NPO 11 outlines a presumption in favour of development in existing

settlements, subject to appropriate planning standards.

- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

5.5. 'Housing for All - a New Housing Plan for Ireland (September 2021)'.

5.5.1. is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price
- Built to a high standard in the right place
- Offering a high quality of life.

5.6. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

5.6.1. The primary statutory objective of the RSES is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas.

5.7. Natural Heritage Designations

5.7.1. The nearest designated site is the North-West Irish Sea Special Protection Area (Site Code: 004236), located c. 650m to the east of the appeal site.

5.8. EIA Screening

- 5.8.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party appeal has been prepared and submitted on behalf of the Applicant. The appeal statement provides a description of the site and surrounds and an overview of the proposed development, which includes details as to how the development was amended through the application process at additional information and at the clarification of additional information stages.
- 6.1.2. It is highlighted within the submission that the Planning Authority's initial request for additional information found the density and design of the development to be appropriate for the appeal site. The submission notes that clarity at additional information stage was merely sought on density calculations as it was not clear to the Planning Authority within the application documentation if the lands accommodating the east-west link road were included or excluded from the figures. It is stated that the Planning Authority's view of the scheme then changed within the request for clarification of additional information which then expressed concerns with respect to the actual density of the overall scheme. In particular, the following items are raised within the appeal submission:
- The Planning Authority in their first planning report concluded that the proposal, including the duplex units, was considered to be acceptable in terms of layout and design. It is stated that the Planning Authority's first planning report is at odds with the subsequent report and the ultimate refusal decision.
 - The appeal submission wishes to stress the Applicant's disappointment in the ultimate refusal decision, particularly on foot of the comprehensive planning application process. The different stages of the process and ultimately the

refusal decision made on the application would suggest that different case officers assessed the file at various stages of the process.

- It is stated that the proposed density is suitable for the locality, which is transitioning to an area of urban growth, as identified in the Planning Authority's first report. The proposed net density has been informed by the adjacent SHD development (Skerries Road) which had a comparable density. It is also highlighted that the development is in line with the *Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities* for outer suburban / greenfield sites, not within 1km of public transport, i.e. 35 - 50 units per ha.
- It is contended that the proposed development reflects both the existing and emerging character of the area and reference is made to developments within the immediate surrounds of the appeal site, where 3 no. storey apartment buildings have been constructed.

6.1.3. The grounds of appeal are summarised as follows:

The Local Pattern of Development.

- It is highlighted that the scheme's design has been cognisant of both the existing and emerging pattern of development in the locality. It is indicated that there are existing residential developments within the surrounds which reflect the proposed scheme's design. Kenure Gate is situated to the south of the site along Park Road and is of a similar design idiom to the current proposal and includes the development of a 3 no. storey apartment block which is situated alongside semi-detached units.
- The Palmer Avenue residential estate is situated 100m to the north of the proposed development and this mixed residential state includes 2 no. 3 storey apartment blocks. The appeal submission also refers to the emerging urban edge of Palmer Avenue which is being established under the approved Skerries Road SHD which is at an advanced stage of construction.
- The emerging character of the area was discussed in the initial planning report on the file. However, it is stated that the assessment does not align with the

decision to refuse planning permission. It is respectfully submitted to the Board that the proposed duplex units have been designed to positively respond to the east-west link road alignment as per the provisions of the County Development Plan. Moreover, the design has been aligned with the emerging urban edge at Palmer Avenue. Therefore, a refusal on design grounds is not justified.

The Proposed Density.

- It is important to highlight that the Planning Authority did not deem the density to be excessive within their initial assessment of the application, but rather just required clarity as to how it was calculated for the site.
- The gross site density was 41 units per ha. and the net site density was 47 units per ha., once the east-west link road was excluded from the calculations. It is submitted that the density originally proposed, while on the upper end, is appropriate for the site and is in accordance with the emerging pattern of development in the area.
- It is highlighted that the Planning Authority then only raised fundamental concerns over the density of development proposed at the clarification of additional information stage. The Applicant then submitted amended plans which provided for the overall reduction in unit numbers. Two options were submitted for 66 no. units (Option 1) and 62 no. units (Option 2). Option 1 resulted in a net site density of 43.46 units per ha.
- Reference is made to the planning history of the site to the east on the opposite side of Palmer Avenue (i.e. Skerries Road SHD). The submission quotes commentary of the Planning Inspector in their report which noted that the net density of that scheme is likely to be substantially higher than the stated density (c. 35.5 units per ha.) as it included the east-west spine route through the site. Notwithstanding this, it is stated that in that case, the Board deemed the higher density to be appropriate for the site. The Applicant completed a CAD exercise for the Skerries Road development by removing the east-west road which resulted in a net site density of c. 39 units per ha.

Design of the Duplex.

- The submission notes that the scheme was refused in relation to the form and design of the proposed duplex units. However, it is stated that the site layout and duplex design was formulated to create an appropriate response to the east-west road alignment as per the provisions of the County Development Plan.
- It is stated that the concept of the design is to provide strong urban edges to the Palmer Road and the east-west link road. The duplex units are three stories and are orientated to the south towards the link road with the rear of the building overlooking the internal road. It is highlighted within the submission that the Planning Authority did not take issue with the design of the proposed duplexes and they noted that the design was an appropriate response to the east-west link road and amendments to the design were not sought.

Other Discrepancies.

- The appeal submission notes that a meeting was held between a representative of the Applicant and a member of the Planning Authority's Parks Department to discuss boundary treatments, treatments at the east-west link road, the play area and a contribution in lieu of open space and it is noted that these issues had been agreed in principle. Notwithstanding this, further queries arose at clarification of additional information stage. It is stated that these issues and the final decision are at odds with the Planning Authority's initial assessment of the proposal and the discussions between the design team and the Planning Authority.
- In terms of the useability of the open space and a land transfer in lieu, it is confirmed that the total SuDS area takes up c. 59% of the total open space. It is noted within the submission that the open space provided across the scheme may not be considered to be sufficient, and the Applicant is proposing the potential transfer of lands in lieu of the shortfall which they note had been discussed previously with the Planning Authority. Some details of this land parcel is included within the appeal and it is suggested that the Board could apply a suitable condition in this regard.

The appeal submission provides also an overview of the relevant policy at National and Regional level and outlines how the proposal is in compliance with same.

6.2. Planning Authority Response

The Planning Authority confirms its decision and requests the Board to uphold the decision to refuse permission.

6.3. Observations

- 6.3.1. One (1) no. observation has been submitted on behalf of Eamonn Sheridan (jnr) and Kevin Sheridan who are the owners of the semi-detached dormer bungalows immediately east of the subject site and Eamonn Sheridan (snr) who is the owner of the house and lands situated between the 2 no. land parcels.
- 6.3.2. Concerns are raised within the observations that the boundary has not been correctly delineated on the submitted documentation. It is stated that the Applicants should be requested to clarify this in detail and final demarcation of the entire eastern site boundary will be a matter for on-site agreement between the 2 parties and their professional advisers.
- 6.3.3. Concerns are raised within the observation with respect to the proposed boundary treatment along the eastern boundary. It is stated that it is critical that a 2m high concrete block wall, plastered on both sides and capped is provided along the entire length of the site boundaries. These walls are to be completed at the outset of the site construction works so as to ensure an appropriate level of privacy and security to the observer's properties for both the duration of the works and upon completion/occupation of the proposed dwellings.

6.4. Further Responses

None.

7.0 Assessment

The main issues are those raised in the First Party appellant's grounds for appeal, the

Planner's Report and the consequent reason for refusal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development & Density
- Design & Visual Impact
- Open Space & Landscaping
- Residential Amenity
- Access & Parking
- Flooding & Drainage
- Appropriate Assessment

7.1. Principle of Development & Density

7.1.1. Under the Fingal County Development Plan (CDP), 2023-2029, the appeal site is located within the settlement boundary of the self-sustaining growth town of Rush and is in an area zoned 'RA' (Residential Area), the objective of which is to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. The vision for 'RA' zoned lands is to 'Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities.' It also seeks to 'Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities'. The proposed development originally sought planning consent for the construction of a residential development, comprising a total of 74 no. units in the form of semi-detached and terraced houses (30) and duplex apartments (44). Given the nature of the proposed development (i.e. a permitted in principle land use), the residential zoning objective that applies to the lands and the established and emerging pattern of development in the surrounding area, I am satisfied that that the principle of the proposed development is acceptable at this location. The Planning Authority shared this sentiment, and in their initial report on the planning file indicated that the subject proposal provided the opportunity to achieve an optimum and efficient use of a serviced site which is in close proximity to local urban services. From my observations on site, it is evident that the surrounding area is transitioning to an area of urban growth, where there a number of

residential developments at advanced stages of construction. It was also noted within the Planning Authority's initial assessment that the scheme appeared to replicate other similar styles of development that characterise this area and no concerns were raised.

7.1.2. As detailed in Section 3 of this report, the Planning Authority did however seek clarity from the Applicant as to how the proposed density of development was calculated and whether the stated density (i.e. 46 units per ha.) was based on the gross site area or the net developable area (i.e. excluding the east-west link road). The Applicant responded by confirming that the net density for the site was c .47 units per ha., based on a net developable area of c. 1.5ha. (i.e. east-west link road excluded). It was at this stage that the Planning Authority returned to the issue of density and noted that a lower density of development would not be unreasonable in this instance given the location of the appeal site on the periphery of the settlement and in order for the scheme to reflect the area's established character. In forming this view, the Planning Authority had regard to the density of permitted developments which are currently under construction on lands to the south and east of the appeal site. In response to the Planning Authority's request, the Applicant then modified the proposed development and put forward 2 no. potential design options for their consideration. Design Option 1 omitted a total of 8 no. units (66 no. units in total) and Design Option 2 omitted a further 4 no. 1 bedroom units (62 no. units in total). Included within this documentation was revised site layout plans, contiguous elevations and site sections of both potential options. The design changes on foot of the unit reduction reduced the overall length of the apartment blocks within the eastern and western (eastern block) land parcels. I note that the relocation and reduction in the length of the proposed apartment blocks provided greater boundary setbacks and increased pedestrian permeability through the site. Notwithstanding the submitted revisions, it was still considered by the Planning Authority that the density of development was excessive and out of character with the area and a refusal of permission was recommended.

7.1.3. The Planning Authority's reason for refusal notes that the proposed development was considered out of character with the established pattern of development in the immediate locality by reason of its high density. Section 14.6.3 (Residential Density)

of the current CDP notes that generally, the density and number of dwellings to be provided within residential schemes should be determined with reference to Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009. The Planning Authority's initial assessment considered the site to be an 'Outer Suburban/Greenfield Site' as defined in these guidelines. These guidelines note that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. It goes on to note that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. As mentioned in the foregoing, Option 2 omitted a total of 12 no. units, thereby resulting a total of 62 no. units across the 2 no. land parcels. This results in a density of c. 43 units per ha. based on the site's net developable area (i.e. exclusion of east-west link road). Having inspected the appeal site and surrounds, it is evident that the scheme is largely consistent with the area's emerging character where I observed a variety of typologies, including the recently constructed apartment blocks to the east of the site on Palmer Avenue. Although newer developments in this area are predominantly characterised by traditional semi-detached and terraced housing, the provision of smaller 1 and 2 no. bedroom units within this development can make a positive contribution to the area's housing mix and cater to a wider demographic, including those wishing to downsize. In addition to the local level policy support for developments of this nature, I am satisfied that the proposed development would represent a more efficient use of a zoned site. This is particularly relevant in the context of national policy objectives which seek to ensure that 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

- 7.1.4. I also note that there are significant improvements to the scheme's design that have been achieved with Desing Option 2 which I will discuss in further detail in the following sections of my report. Therefore, having regard to the established and emerging pattern of development in the area and given the site's location on zoned land within the settlement boundary of Rush, I would not share the concerns of the Planning

Authority with respect to the overall density of development being proposed. For these reasons, I am satisfied that the principle and density of development is acceptable at this location. Although it is clear that the consolidation of the site with the lands separating the 2 no. land parcels would achieve greater design efficiencies (including the completion of the east-west link road), I am generally satisfied that a similar density of development could be achieved on the adjoining site should development proceed in the future. The key issues that need to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the design, layout and quality of the development, the impact on the amenities of adjoining residents and the sustainable planning and development of the area which I will discuss in detail below.

7.2. Design & Visual Impact

- 7.2.1. The proposed residential development comprises a combination of semi-detached and terrace 2.5 no. storey dwellings and 3 no. storey duplex apartments blocks. Within the eastern land parcel, 3 no. pairs of semi-detached dwellings are orientated to the north and are accessed via Palmer Road. The dwellings are set back from Palmer Road with designated car parking provided within the front setback of each dwelling. Pedestrian and cyclist access is provided from Palmer Road which leads towards the central communal open space area. The principal entrances to Unit Nos. A36 & A37 (Design Option 2) have been orientated to the west and east respectively so that passive surveillance of this pedestrian connection is provided. A similar design has been adopted for Units Nos. A21 & A44 (Design Option 2), where they provide for an activation of the internal roadway serving the development. The remaining terraced and semi-detached dwellings within the development are located to the west and east of the central open space area and vehicular access to these dwellings is to be provided via the recently constructed Hyde Court development to the south. The 2 no. apartment blocks are located within the southern portion of the site and on street car parking is provided to their north. Pedestrian access to the ground floor duplex apartments is provided via the south, with each unit benefiting from a front and rear garden. Access to the second floor level apartments is provided to the north of blocks and these units are orientated to the south with balconies provided on the front

elevations on the upper floor level which are recessed within the front roof slope. The proposal also includes the construction of a section of the east-west link road which runs along the full length of the land's southern boundary.

7.2.2. Vehicular access to the eastern land parcel is via Palmer Avenue. The dwellings and apartments within the development are located to the north and south of a centrally located public open space area and the proposal also includes the construction of a junction access to the south for a portion of the east-west link road, where it connects with Palmer Avenue. It is noted that this junction is located opposite the junction of the Skerries Road SHD with Palmer Avenue which is currently at an advanced stage of construction. It was evident from my inspection of the appeal site and surrounds that road works associated with the Skerries Road SHD along Palmer Avenue have been undertaken but are currently inaccessible. As is the case with the other apartment blocks, the duplexes are orientated to the south with pedestrian access to the upper level apartments provided to the rear of the building. A pedestrian footpath and cycle lane is also proposed along Palmer Avenue and set within the site boundary. This is of similar design to what has been constructed on the development to the site's east. Within the proposed development, Unit No. F57 has been orientated to the east and provides for an activation of Palmer Avenue and passive surveillance of the street. A similar design approach has been adopted for the proposed apartment block, whereby own door access to the duplex apartment is provided directly from Palmer Avenue. The boundary treatments along Palmer Avenue have also been carefully considered and includes a c. 900m high rendered and brick capped blockwork wall along the full length of the public open space area. A 1.8m high rendered and brick capped blockwork wall will form the eastern boundary of the private amenity space of Unit No. F57 and a 1.2m high rendered and brick capped blockwork wall with a hedging strip to the front will form the boundaries of the amenity areas associated with the duplex units.

7.2.3. The Planning Authority's reason for refusal indicated that the proposed development would be visually incongruous and out of character with the pattern of development in the immediate locality by reason of the form and design of the proposed duplex units.

I note that concerns had also been raised by observers to the planning application with respect to the nature, scale, height and form of the proposed apartment blocks. It is noteworthy to highlight that within their initial assessment, the Planning Authority was satisfied that the design of the apartments within the scheme were generally consistent with the area's prevailing neighbourhood character. In addition, it was confirmed that the interface to the south, adjacent to the east-west link road was appropriate and site responsive. Following concerns raised at the clarification of additional information stage with respect to development density, the Applicant then modified the scheme to reduce the overall unit nos. across the site. Notwithstanding the revisions, concerns remained with respect to the design and overall density of the scheme and planning permission was consequently refused.

7.2.4. In terms of the layout of the proposed apartment blocks, it is my view that the initial iteration of the scheme pushed the envelope of what is acceptable on this site given the minimal side boundary setbacks provided (i.e. c. 1.3m). However, the modified proposal addressed this issue, whereby the setbacks have been sustainably increased and additional pedestrian footpaths are located to the sides of the proposed apartment blocks. I note that the side boundary setbacks have increased to a minimum of between c. 5-6m within the western land parcel and c. 9m in the eastern land parcel. This has afforded the opportunity to incorporate additional landscaping along the sides of the blocks which can further soften the presentation of the units when viewed from the site surrounds and will help assimilate the buildings within its surroundings.

7.2.5. In addition to the relocation and reduction in length of the proposed apartment blocks, Design Option 2 has provided for the omission of the second floor level unit at either end of the 2 no. apartment blocks within the western land parcel. It is evident from the submitted contiguous elevations that the design modifications add visual interest and articulation within both the elevations and roofscape of the apartment blocks. The reduction in height at either end of the block also provides a graduation in height adjacent the site boundaries which is welcomed. Whilst the apartment blocks are orientated to the south, the design of the rear façade is well considered, and passive surveillance is provided of the internal road and central open spaces areas within the

development. I note that the palette of materials and finishes are also durable, of a high standard and would require limited maintenance. Overall, I am satisfied that the design of the proposed apartment blocks provide an appropriate transition in height within the site and surrounding context and it is evident that the design of the blocks are reflective of the area's emerging character. However, I do recommend the inclusion of a condition requiring the omission of the upper floor level apartment (Unit Nos. 46 & 56) at either end of the block within the western land parcel given its visibility and prominence along Palmer Avenue. A condition should also be included which requires the Applicant to submit floor plans, elevations and sections (Design Option 2) for the modified apartment blocks. Subject to compliance with this condition, I am satisfied that the proposed development is acceptable having regard to the visual amenity of the site and surrounding area.

7.3. Open Space & Landscaping

- 7.3.1. As noted above, the 2 no. separate land parcels are served by public open space areas which are centrally located and overlooked by both the apartments and houses within the scheme. The exception to this is the 3 no. pairs of semi-detached dwellings that address Palmer Road with their northern orientation. As per the documentation submitted at the clarification of additional information stage, Option 2 provides a total combined public open space of c. 1,800sq.m. across the 2 no. land parcels. This equates to approximately 12% (i.e. 11.8%) of the site's net developable area (i.e. exclusion of the east-west link road). As per Section 14.13.2 (Quantity) of the current CDP, the overall standard for public open space provision is a minimum 2.5 hectares per 1000 population. For the purposes of this calculation, Objective DMS051 of the Plan notes that public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. The extent of this space which must be provided within the site development area is unclear given that objectives DMS052 and DMS053 are somewhat contradictory with regard to minimum standards. On the basis of mix of units proposed under Design Option 2 (including the omission of a further 2 no. units as recommended by way of condition), the proposal would generate a requirement to provide 3,300sq.m. of public

open space. However, I note that Table 14.12 of the Plan also prescribes a minimum public open space requirement of between 12-15% of the site area for new residential development on greenfield sites. In addition, it is policy (Objective DMSO53 – Financial Contribution in Lieu of Public Open Space) of the Plan that a minimum target amount of 15% is expected, except in cases where the developer can demonstrate that this is not possible. However, the Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision for the acquisition of additional open space or the upgrade of existing parks and open spaces.

7.3.2. Although the application does not provide the overall Development Plan standard of 3,300sq.m., the proposal is generally compliant with the alternative standard for new residential developments on greenfield sites (i.e 12-15% range). Given the proposal includes the partial construction of the east-west link road, it is reasonable for this standard to be applied to the developable site area given a similar approach has been applied to the density of development. I am also conscious of Section 4.19 of the Sustainable Residential Guidelines which notes the practice of including such standards in development plans but highlights the difficulty of the approach given the unpredictability of occupancy rates. Therefore, having regard to the location, layout and design of the open space and its accessibility to the general public, I am satisfied that the open space arrangement is generally in accordance with the policy provisions of the Development Plan and will afford a good standard of amenity to its future occupants. Further to this, it is evident from reviewing the submitted Daylight & Sunlight Assessment that the communal open space areas will benefit from excellent solar access.

7.3.3. Notwithstanding the foregoing, I acknowledge the Development Plan seeks a minimum target amount of 15% for greenfield sites. In this regard, it is my view that a financial contribution is warranted in this instance in lieu of the public open space shortfall as per the provisions of Objective DMSO53 of the Plan. A suitable condition can therefore be attached to a grant of permission. On the basis of the combined public open spaces areas (c. 0.18ha) across the scheme, the proposed development results in a shortfall of c. 0.15ha. Any such perceived shortfall would have to be charged in

accordance with 'Note 5' of the Development Contribution Scheme.

- 7.3.4. In terms of open space design, Section 4.13.3.1 (Design of Public Open Spaces) of the Development Plan notes that open spaces must be designed to a high specification, they should be overlooked and designed in such a way that anti-social behaviour is reduced through passive surveillance. The Planning Authority initially raised concerns regarding the extent of the open space area that incorporated SuDS features, including the location of the proposed play provision within a stormwater detention basin. The Applicant was requested to submit a revised play space layout showing natural play spaces only, no/minimal overlap between SUDS & play spaces and the inclusion of durable materials. Revised proposals were submitted in accordance with the Planning Authority's request, and it was confirmed within the Applicant's response that c. 59% of the open space areas were taken up by SuDS features (Drawing No. CAI-610 indicates a figure of 65%). Unlike the policy of the previous plan (Objective DMS73), there is now no maximum numerical standard for the area of an open space that is permitted to be taken up SuDS features. Notwithstanding this, I acknowledge that Objective DMSO203 (FCC SuDS Guidance Document) seeks to ensure that the design of SuDS enhances the quality of open spaces and when included as part of any open space provision, it must contribute in a significant and positive way to the design and quality of the open space. In addition, the policy notes that open space areas shall not be dominated by SuDS features.
- 7.3.5. In this case, I note that the proposed SuDS features comprise a bio-retention bed which will have a mown grass finish within a shallow depression. This area of the site also contains the proposed natural play area and can comprise functional and useable open space. As part of the application, the Applicant had suggested a potential land transfer of c. 4,000sq.m. at the nearby Rush Athletic Football Club as Class 1 open space. The Planning Authority's Parks & Green Infrastructure Division deemed this arrangement to be acceptable in principle and a suitable condition was recommended in the event of a grant of permission. Whilst the Board may deem it appropriate to attach a condition of this nature, I note that the lands in question would appear to fall outside the settlement boundary of Rush on 'RU' (Rural) zoned lands. With the

exception of the indicative location of these lands being identified, there is minimal information on file with respect to this parcel of land. In addition, I note that there would not appear to be policy provisions within the current Development Plan which support the transfer lands at alternative locations in lieu of open space. As noted in Section 7.3.3 of this report, it is my view that the inclusion of a condition requiring the payment of a financial contribution in this instance is warranted in lieu of the public open space shortfall. A condition should also be included requiring the final details of the proposed play area to be submitted to the Planning Authority for written approval prior to the commencement of development on site. Subject to compliance with these conditions, I deem the proposed development to be otherwise acceptable and will afford a good standard of amenity to its future occupants and the wider community.

- 7.3.6. The observers to the appeal are the owners of the lands which divide the 2 no. separate land parcels which form part of the proposed development. These lands comprise a detached dormer and a pair of semi-detached dormer dwellings which are accessed directly from Palmer Road to the north. The site also comprises a larger garden area to the rear which extends down to the southern site boundary which it shares with the boundary of the recently constructed Hyde Court Development. Within their observation, they have indicated that it is critical that a 2m high concrete block wall, plastered on both sides and capped is provided along the entire length of the site boundaries which it shares with the appeal site. It is also contended that these walls are to be completed at the outset of the site construction works so as to ensure an appropriate level of privacy and security throughout the works and upon completion/occupation of the proposed dwellings. From a review of the 'Proposed Landscape Layout & Boundary Details' plan (Drawing No. CAI-610), it is evident that the Applicant has now proposed a 1.8m high rendered blockwork wall with a brick capping. The submitted documentation also confirms that the wall is to be rendered on both sides. I am satisfied that this is a high quality boundary treatment which will ensure that the ongoing amenity of the adjoining property is preserved. Whilst I do not consider it necessary for these boundary walls to be constructed in full prior to the commencement of development given that they could potentially be damaged during construction, I do recommend the inclusion of a condition requiring the preparation

and submission of a detailed construction management plan. This construction management plan shall provide full details of security hoarding for the entirety of the appeal site which is to be agreed in writing with the Planning Authority prior to the commencement of development.

7.4. Residential Amenity

- 7.4.1. The Planning Authority's reason for refusal has indicated that the proposed development would impact on the residential amenity of the area by reasons of the scheme's high density and the form and design of the proposed duplex units. Concerns with respect to the scale, height and form of the proposed development had also been raised by observers during the application process. Notwithstanding this, it is relevant to note that the Planning Authority did not raise concerns with the scheme during their initial assessment of the application. On account of its location and siting, it was noted that the proposal would not result in overlooking or overshadowing which would negatively impact on existing residential amenities. Further to this, it was considered that the development would not be visually dominant when viewed from the rear gardens of the neighbouring properties owing to the separation distances provided and the layout of the proposed units. Overall, it was deemed that the development was acceptable from a residential amenity perspective.
- 7.4.2. The proposed duplex apartment blocks are located within the southern portion of the appeal site. As per Design Option 2, each block has a total length of c. 32m and a separation distance of c. 23m is provided between the front façade of each block and the southern site boundary which it shares with the Hyde Court development and the existing detached dwelling to the south of the eastern land parcel on Palmer Avenue. I note that there is a separation distance of c. 45m between the apartment blocks and the northern façade of the properties within the Hyde Court development. The buildings have a pitched roof form with a maximum height that ranges from between c. 10.9m and 12m above natural ground level. Having regard to the layout, scale, height and form of the proposed apartment blocks, the orientation of the site and the separation distances provided, I am satisfied that the proposed development will not unduly compromise the residential amenity of properties within the vicinity of the site

by reason of overlooking, overshadowing, loss of daylight/sunlight or by being visually overbearing. For this reason, I deem the proposed development to be acceptable having regard to the residential amenity of properties within the vicinity of the appeal site.

7.4.3. All terraced and semi-detached dwellings within the proposed development have a 2.5 storey building height with the upper floor level of each unit contained within a pitched roof profile. A dormer window is provided on the front roof slope of each dwelling with 'velux' style roof lights provided to the rear. The dwellings within the development have a maximum height of c. 9.4m and each dwelling is served by a rear garden with a minimum depth of c. 11m. The exception to these is Unit Nos. B33 & B34 (fronting Palmer road) which have garden lengths of c. 10.4m. Having regard to the layout, scale, height and form of the proposed dwellings and the separation distances provided from the respective site boundaries, I am satisfied that the proposed development will not unduly compromise the residential amenity of properties within the vicinity of the site by reason of overlooking, overshadowing, loss of daylight/sunlight or by being visually overbearing. It is also my view that the overall siting and layout of the dwellings within the development will ensure that the development potential of adjoining sites is not compromised or unduly restricted by the proposed development. For this reason, I deem the proposed development to be acceptable having regard to the residential amenity of the site and surrounds.

7.4.4. In terms of the amenity of the proposed dwellings, the internal floor areas range in size from c. 131.5sq.m. to c. 145.5sq.m. and are in compliance with the standards set out in the Quality Housing for Sustainable Communities, 2007 (Department of the Environment, Heritage and Local Government). The internal layout of the dwellings are well proportioned with the ground floor kitchen/dining rooms having direct access to the principal amenity space. Each dwelling is served by dedicated private amenity spaces in the form of rear gardens. Although there would appear to be some discrepancies on the Applicant's schedule of accommodation (Clarification of Additional Information) in terms of the open space provision, each garden has a minimum depth of c. 11m and examining the submitted plans have floor areas which

generally exceed the relevant development management standards set out in Table 14.8 (Private Open Space for Houses) and Objective DMSO27 (Minimum Private Open Space Provision) of the current CDP, i.e. 60sq.m. for 3 bedrooms or less and 75sq.m. for 4 bedrooms or more. Overall, I am satisfied that the dwellings within the development are designed to a high standard and will afford a good standard of amenity to its future occupants, with private open spaces that benefit from excellent solar access.

- 7.4.5. In terms of the apartments within the development, I note that the duplex apartments are generously sized between 114.7sq.m. and 116.8sq.m. Having examined the plans and particulars, it is evident that the apartments within the proposed development are in compliance with the relevant Specific Planning Policy Requirements (SPPRs) of the Apartment Guidelines in terms of housing mix (SPPR 1 & 2), minimum floor areas (SPPR 3), dual aspect (SPPR 4), floor to ceiling heights (SPPR 5) and lift and stair shafts (SPPR 6). In addition, the proposal meets the minimum recommended standards with respect to internal storage and private amenity space, a point which is also confirmed within the Planning Authority's initial assessment of the application. Overall, I am satisfied the apartments within the proposed development and their respective gardens/terraces will afford a good standard of amenity to its future occupants and are therefore acceptable. However, I note that Boundary Treatment B (1.2m high wall) is proposed to the rear of the duplex units. As the rear garden is directly accessible from the dining room of each unit and will form their principal amenity space, it is my view that the height of the side walls to these open space areas should be increased to 1.8m as a measure to enhance the amenity and privacy of these spaces. The 1.2m high northern wall (with hedging) of each amenity space should be retained so as to animate the streetscape at this location.

7.5. Access & Car Parking

- 7.5.1. The Palmer Road land parcel is proposed to be accessed via the recently constructed Hyde Court development (F16A/0148 (PL06F.246808)) to the south of the appeal site. This development is confirmed to be under the control of the Applicant. This access arrangement is proposed to be on a temporary basis only, pending the full completion

of the east-west link road. I note that the delivery of the east-west link road was an objective of the previous County Development Plan and the Kenure Local Area Plan. Whilst this objective has been removed from the current Development Plan mapping and there does not appear to be an objective to prepare an updated Local Area Plan for Kenure area, the delivery of the entirety of the east-west link road will facilitate the development of the appeal site and other lands within the site surrounds. Within their assessment of the proposal, the Planning Authority's Transportation Planning Section indicated that the access arrangement for the western land parcel would be preferable than an access onto Palmer Road. They go on to note that this interim vehicular access shall be used as a vehicular access only up until such time as the 'missing' middle section of the east-west link road is complete, and from then the access for motor vehicles through Hyde Park shall be removed; but a pedestrian and cycle permeability link shall be maintained thereafter. Notwithstanding this, I am conscious of Condition No. 7 of Reg. Ref. F16A/0148 (PL06F.246808) which is included as follows:

- The access from the development from Park Road shall be closed to vehicular traffic but retained for pedestrian/bicycle traffic, once the East-West road to the north of the development has been constructed. The area thus released shall be landscaped and planted, with the exception of a pedestrian walkway and cycle path, and details of this provision shall be submitted to, and agreed in writing with, the planning authority prior to commence of development. Reason: In the interests of pedestrian safety and permeability.

I note that upgrade works to Park Road to the south have taken place in the intervening period since the above referenced decision. Nonetheless, those upgrade works (F15A/0294) had been permitted at the time of that decision and it is therefore apparent that the rationale for the inclusion of this condition (i.e. Condition No. 7) is still relevant today. This condition was included in order to avoid the Hyde Court development becoming a vehicular short cut and the potential traffic hazard that could result as a consequence (i.e. between the east-west link road and Park Road). The retention of the vehicular access linking Hyde Court and the east-west link road is therefore critical given this will serve as the primary vehicular access serving the Hyde Court development in the future.

7.5.2. As noted, the eastern land parcel is proposed to be accessed via Palmer Avenue and the scheme also includes the construction of the section of the east-west link road and the junction where it connects with Palmer Avenue. From my observations on site, it is evident that the upgrade works to Palmer Avenue are at an advanced stage and the proposal will include the construction of a footpath and designated cycle lane along the full length of the eastern site boundary. At the clarification of additional information stage, the Transportation Planning section requested the Applicant to:

- Replace the end wall to either side of the east-west link road with either a wall with railings or a fence. Extend the east-west link road to the boundary of both sites to prevent a ransom strip occurring.
- Provide clarity regarding the detail of the raised planters and row of temporary bollards at the entrance to the section of the 'east-west link road from Palmer Road.
- Provide clarity as to how it is intended to temporarily block-off vehicular access to the sections of the east-west link road, which shall remain in place until such time as the east-west link road is further developed.

7.5.3. The Applicant submitted an amended 'Proposed Road Layout' Plan (Drawing No. C152-CSC-XX-XX-DR-C-0005) in response to the matters raised which the Transportation Planning section deemed to be acceptable. This included revised boundary treatments, details of temporary bollards and raised planters within the east-west link road and the extension of the link road to avoid these ransom strips being created. I note that no further concerns were raised by the Planning Authority at this juncture. Whilst I acknowledge that the interim access arrangement for the western land parcel and the future closure of vehicular access serving Hyde Court (i.e. via Park Road as required by Condition No. 7 of Reg. Ref. F16A/0148 (PL06F.246808)) is dependent on the completion of the central section of the east-west link road, I consider the Applicant's proposals to be generally acceptable subject to appropriate conditions. One such condition is the requirement to submit proposals for more substantial barricades and screening to ensure that vehicular access is prohibited to the temporary cul-de-sac of the east-west link road until such time a future application

is forthcoming for the extension of this road. In addition, a timber post and rail fence currently forms the southern boundary of the western land parcel which it shares with a section of the public open space associated with the Hyde Court development. The boundary treatment along this interface does not appear to have been detailed in the submitted documentation. The Applicant shall therefore be requested to submit full details of the proposed boundary treatment along the southern site boundary which is to be agreed in writing with the Planning Authority (Parks Division) prior to the commencement of development.

7.5.4. In terms of car parking, each terraced and semi-detached dwelling within the development is served by 2 no. in-curtilage car parking spaces (i.e. total of 60 no. spaces). A reduction in the car parking requirement was initially sought for the apartments within the development. Following concerns raised by the Planning Authority with respect to the car parking deficit, the layout of the development was amended at clarification of additional information stage and the Applicant confirmed that a total of 105 no. resident car parking spaces would be provided on site which would be based on Design Option 1 (i.e. 66 no. units). The apartments within the development (36 no. units) would be served by 45 no. spaces and a total of 9 visitor car parking spaces would serve the entire development (i.e. total of 114 no. car parking spaces). However, from examining the amended plans, it would appear that only 112 no. spaces have been provided on site. As per Table 14.19 of the current County Development Plan, the appeal site is located within Zone 2 and Design Option 1 would therefore generate a requirement to provide a total of 60 no. spaces for the dwellings and 32 no. spaces for the apartments. Further to this, the proposal would generate a requirement to provide a total of 12 no. visitor car parking (i.e. overall requirement to provide 116 no. spaces). However, I have outlined that Option 2 is a more appropriate design response for the appeal site and I have also recommended the omission of a further 2 no. units within the eastern apartment block. Based on the recommended number of units to be permitted (i.e. 30 no. houses and 30 no. apartments), the proposal would therefore generate a car parking requirement of 112 no. spaces. The modified proposals would therefore comply with the relevant car parking standards of the current County Development Plan, and I deem the proposed development to be

acceptable in this regard.

7.6. Flooding & Drainage

- 7.6.1. I note that a number of observers have raised concerns with respect to flooding on the appeal site during the planning application stage. Also included within an observation was photographs of flooding along Palmer Road. In support of the application, the Applicant has submitted a Site Specific Flood Risk Assessment (SSFRA) for the proposed development. In accordance with the Flood Risk Management Guidelines, I note that dwellings are classified as highly vulnerable developments. The Flood Risk Management Guidelines have developed an appropriateness matrix for various developments and their potential risk factor. Table 3 of the SSFRA indicates whether a further analysis is required in the form of a justification test. However, as the appeal site is located within Flood Zone C, a justification test is not required.
- 7.6.2. In terms of fluvial flooding, the report notes that the appeal site is located outside the 0.1% AEP fluvial floodplain. It is confirmed that the Kenure Stream is located to the north-east of the subject site but does not pass through the subject lands. It is stated within the SSFRA that local evidence indicates that the open section of the Kenure Stream, approximately 50 meters to the north-east, has flooded in the past, due to physical constraints of the culvert under the road. However, it is indicated that these floodwaters have never affected the subject lands. The SSFRA also indicates that there have been no historical flood events recorded on the site based on the OPW flood mapping.
- 7.6.3. The SSFRA confirms that the site's proximity to the coast indicates that the potential for on-site flooding due to tidal action needs to be considered. It is noted within the report that the site is located outside the 0.5% AEP tidal floodplane. The report also examines the OPW modelling as part of the 'Irish Coastal Protection Strategy Study – Phase 3' which looked at potential future flooding should climate change have a dramatic effect on sea levels. The mapping (Appendix E of SSFRA) confirms that the site would be outside the flooded area. In terms of pluvial flooding, it is stated that the historical and predicted flooding information (OPW National Flood Hazard Mapping)

does not indicate that the subject lands are at risk from pluvial flood events and there has been no historical flood events recorded on the site. In addition, the SSFRA indicates that the proposed alteration to the existing site shall not increase the potential for groundwater flooding and as such the risk is deemed acceptable.

7.6.4. The Planning Authority's Water Services Section have reviewed the application and have indicated that the Applicant's SSFRA is acceptable and in accordance with the Flood Risk Management Guidelines. I note that the Planning Authority in their final report on file addressed further concerns raised by Third Party's with respect to the potential for flooding on site and have indicated that the Applicant's proposals were deemed to be acceptable. Having considered the Strategic Flood Risk Assessment (SFRA) for the Fingal Development Plan 2023-2029, it is evident that the appeal site is located outside Flood Zone A and B (Appendix A) and is not identified as being susceptible to flooding under the Climate Change Flood Extent Maps in both the Mid Range Future Scenario (Appendix B) and the High End Future Scenario (Appendix C) of the SFRA. Having regard to the detail contained with Applicant's SSFRA and the updated flood maps of the SFRA of the current Development Plan, I am satisfied that the Applicant's proposals do not constitute a flood risk on site or elsewhere downstream and the proposed development is therefore considered to be acceptable.

7.6.5. In terms of surface water drainage, an existing stone culvert has been identified on the appeal site which crosses from the south-western to the south-eastern boundary, running perpendicular to Palmer Road. The Applicant is proposing a diversion which shows the existing culvert re-routed in a 225mm diameter concrete stormwater sewer which shall intercept the existing culvert at the northern boundary of the subject site and maintain the existing outfall. For the development's SuDS proposals, bio-retention areas are provided for the western and eastern sections of the site which are in the form of shallow planted depressions that allow runoff to pond temporarily on the surface, before filtering through vegetation and underlying soils for collection and limited infiltration. The proposal also includes integrated constructed tree pits in areas of the development to cater for the surrounding road run off. The Planning Authority's Water Services section reviewed the Applicant's proposals and in their report on file

confirmed that the SuDS strategy includes permeable paving, tree pits, bio retention areas, and above ground storage. In summary, the water service section had no objection to the proposed development subject to the standard conditions. Overall, I am satisfied that the Applicant's proposals for the disposal of surface water on site are acceptable.

7.7. Appropriate Assessment

7.7.1. Introduction

7.7.1.1. This section of my report considers the likely significant effects of the proposal on European sites, with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening prepared by Altemar Marine and Environmental Consultancy, submitted with the application.

7.7.2. The Project and its Characteristics

7.7.2.1. The detailed description of the proposed development can be found in Section 2 of this report.

7.7.3. Stage 1 Screening - The European Sites Likely to be Affected

7.7.3.1. The development site is not within or directly adjacent to any Natura 2000 site. The site is greenfield in nature and located in an emerging suburban area, adjacent to existing residential development to the south, east and west with greenfield lands located to the north. I have had regard to the submitted Appropriate Assessment Screening which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number of Natura 2000 sites sufficiently proximate or indirectly linked to the site which require consideration of potential effects. However, I note that the Appropriate Assessment Screening did not have regard to the North-West Irish Sea Special Protection which has been designated after the decision of the Planning Authority to refuse planning permission.

7.7.3.2. The qualifying interests and conservation objectives of the relevant sites are included

as follows:

Table 7.1

European Site	Qualifying Interest/ Conservation Objectives	Distance to Development
North-west Irish Sea SPA (004236)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065] Little Gull (<i>Larus minutus</i>) [A177] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Kittiwake (<i>Rissa tridactyla</i>) [A188] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Little Tern (<i>Sterna albifrons</i>) [A195] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]</p>	0.65km
Rogerstown Estuary SAC (000208)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	1.5km
Rogerstown Estuary SPA (004015)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p>	1.5km

	<p>Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p>	
Rockabill to Dalkey Island SAC (003000)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Reefs (1170) Harbour porpoise (<i>Phocoena phocoena</i>) (1351)</p>	1.9km
Skerries Islands SPA (004022)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Purple Sandpiper (<i>Calidris maritima</i>) [A148] Turnstone (<i>Arenaria interpres</i>) [A169] Herring Gull (<i>Larus argentatus</i>) [A184]</p>	4km
Rockabill SPA (004014)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Purple Sandpiper (<i>Calidris maritima</i>) [A148] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>	4.5km
Lambay Island SPA (004069)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Fulmar (<i>Fulmarus glacialis</i>) [A009] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p>	5.8km

	<p>Greylag Goose (<i>Anser anser</i>) [A043] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]</p>	
Lambay Island SAC (000204)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Reefs [1170] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Halichoerus grypus (Grey Seal) [1364] Phoca vitulina (Harbour Seal) [1365]</p>	5.8km
Malahide Estuary SAC (000205)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	6km
Malahide Estuary SPA (004025)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p>	7.1km

Baldoyle Bay SAC (000199)	To maintain the favourable conservation condition of the qualifying interests. Qualifying Interests Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	12.5km
Baldoyle Bay SPA (004016)	To maintain the favourable conservation condition of the qualifying interests. Qualifying Interests Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]	12.7km
Irelands Eye SAC (002193)	To maintain the favourable conservation condition of the qualifying interests. Qualifying Interests Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	13.5km
Irelands Eye SPA (004117)	To maintain the favourable conservation condition of the qualifying interests. Qualifying Interests Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]	13.7km

7.7.3.3. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, and I have also visited the site. The AA Screening Report indicates that that no European sites are deemed to be in the potential Zone of Influence. However, following the precautionary principle, screening of all European sites within the 15km of the appeal

site is carried out in Table 2 of the screening report. In addition, the AA screening section of the submitted document outlines through figures 6 and 7, the mapped geographical spread of sites relative to the subject site.

7.7.3.4. In terms of Potential impacts, the screening report notes that for the Rogerstown Estuary SAC (000208) and Rogerstown Estuary SPA (004015), there is an indirect pathway from the development site to these European sites via the foul network which will be treated at the Portrane - Donabate WWTP. However, it is stated that this WWTP is identified as having sufficient capacity. Given the distance from the site to this SAC and SPA, it is noted that any pollutants, dust or silt laden runoff will be diluted or dispersed in the marine environment and would be expected to be at a negligible levels before reaching the site. Therefore, there is no predicted impact on the conservation of the features of interests of this SAC and SPA. For all other European sites within 15km of the appeal site, the Screening Report notes that there are no direct or indirect hydrological pathways from the proposed development to these SACs or SPAs. The Screening Report notes that stormwater from the site will intercept the existing culvert at the northern boundary of the site and will ultimately outfall to Rush beach. Given the separation distances, any pollutants, dust or silt laden runoff will be diluted or dispersed in the marine environment and would be expected to be negligible levels before reaching the site. It is noted for all other European sites within 15km, there are no direct or indirect pathways via the foul sewer network, which will ultimately be treated at the Portrane - Donabate WWTP, which is again identified as having capacity. The AA Screening Report concludes that there are no effects, either during the construction or operation phase of this project, that are likely to arise to any SPA or SAC in light of their conservation objectives.

7.7.3.5. As noted above, the Screening Report rules out likely significant effects on all Natura 2000 sites referred to, either as a result of the lack of a pathway or connection to same and/or the distance from the relevant Natura 2000 site. I consider this acceptable when considering that there is no evidence that qualifying interests of these sites utilise the proposed site or would be likely to be impacted from construction or operational impacts from the site. In relation to the water dependant SACs and SPAs, taking into

consideration the minimal effluent discharge from the proposed development works (to be treated at the Portrane - Donabate WWTP), the distance between the proposed development site and these designated conservation sites, the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites and the dilution effect with surface water runoff and following this, seawater, I am satisfied that this development would not give rise to any significant effects to these designated coastal sites. However, the North-West Irish Sea SPA (004236) has been designated after the decision of the Planning Authority to refuse planning permission. Therefore, it is my view that this site should be carried forward for further assessment.

7.7.3.6. The North-west Irish Sea SPA constitutes an important resource for marine birds. The estuaries and bays that open into it along with connecting coastal stretches of intertidal and shallow subtidal habitats, provide safe feeding and roosting habitats for waterbirds throughout the winter and migration periods. These areas, along with more pelagic marine waters further offshore, provide additional supporting habitats (for foraging and other maintenance behaviours) for those seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands. These marine areas are also important for seabirds outside the breeding period. This SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area and is ecologically connected to several existing SPAs in this area. The Qualifying Interests for the SPA have been identified in Table 7.1 of this report.

7.7.3.7. As noted, the Applicant has confirmed that stormwater from the site will intercept the existing culvert at the northern boundary of the site and will ultimately outfall to Rush beach, c. 650m to the east of the appeal site. There is also an indirect pathway from the development site to this SPA via the foul network which will be treated at Portrane – Donabate WWTP. Therefore, drainage from the site, both foul and surface water, would be seen as outputs from the site during construction and operation that could potentially extend to this Natura 2000 site. The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of this European site. In addition, any noise from construction or operational works would be localised to the vicinity of the

site given the scale of the development. There are intervening buildings and roads between the proposed development site and this SPA and therefore any noise from the works would be deemed to have a negligible impact on the qualifying interests due to the distance and existing background noise levels in the vicinity of the SPA.

7.7.3.8. The project is limited in scale and extent and the potential Zol is seen to be restricted to the immediate vicinity of the proposed development. However, as mentioned above it should be noted that there is an indirect pathway whereby stormwater from the site will intercept the existing culvert at the northern boundary of the site and will ultimately outfall to Rush beach. A potential pathway by which silt mobilised from the development site could enter the SPA. Similarly, oil or other chemicals accidentally discharged from the site could reach this European site by the same pathways and by causing a deterioration in water quality effect the Qualifying Interests of the SPA. Having examined the submitted information I consider that the only likely significant risks to the SPA arise from potential construction and/or operation related surface water discharges from the development site and the potential for these effects to reach the downstream European site. The following points are noted in this regard:

- The nature and scale of the proposed development being a moderately sized residential development on serviced land.
- The development cannot increase disturbance effects to birds given its distance from these sensitive areas. There are no sources of light or noise over and above that this is already experienced in this suburban location.
- Habitats on the site are not suitable for regularly occurring populations of birds which may be features of interest of the SPA.
- The development will not lead to the loss of any wetland habitat area within the SPA.
- Wastewater from the development will be treated at the Portrane - Donabate wastewater treatment plant, which is licenced by the EPA to discharge treated effluent to the Irish Sea. The plant is built to modern standards and has a capacity to treat a population equivalent (P.E.) of 65,000.
- Construction management measures would be implemented to control the possibility of potential pollutants exiting the site during construction and

operation (in respect of SUDs). These measures are also detailed in the Engineering Report and the Outline Construction Management Plan and include surface water management, material storage and waste management. These can be described as a standard approach for construction works in an urban area, and it should be noted that their implementation would be necessary for a residential development on any site in order to protect the surrounding environs regardless of proximity or connections to any European Site or any intention to protect a European Site. I am satisfied that the measures outlined are typical and well proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission.

- Noise from the works would be localised to the vicinity of the site. There are intervening buildings and main roads between the proposed development site and the SPA. Noise from the works would be deemed to have a negligible impact due to the distance and existing background noise levels in the vicinity of the SPA.
- In order to restrict surface water drainage, sustainable drainage systems (SuDS) will be implemented. This will include permeable paving, tree pits, bio retention areas and above ground storage. The SuDS measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site.

7.7.3.9. On the basis of the foregoing, I am satisfied that there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated site in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

7.7.4. **In-combination Effects.**

7.7.4.1. The expansion of Rush is catered for through land use planning, including the Fingal County Development Plan, 2023-2029 covering the location of the application site. This has been subject to AA by the Planning Authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is located on residential zoned lands

in a transitioning suburban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. While this project will marginally add to the loadings of the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising.

7.7.4.2. In-combination effects are also considered in the Applicant's screening report and following the consideration of a number of planning applications in the area, there is no potential for in-combination effects given the scale and location of the development. Whilst the Screening Report has failed to mention a number of significant permitted development within the site surrounds, these mainly relate to other residential development and would be subject to the similar construction management and drainage arrangements as the subject proposal (cannot be considered as mitigation measures as they would apply regardless of connection to European Sites). The Screening Report concludes that no potential for cumulative or in combination effects arise in this instance. This conclusion is accepted.

7.7.5. **Conclusion and Screening Determination.**

7.7.5.1. Therefore, in conclusion, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a transitioning suburban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

8.0 Recommendation

8.1.1. Grant of permission is recommended.

9.0 Reasons and Considerations

9.1.1. Having regard to:

- i. The site's location on lands with a zoning objective for residential development, and the policy objectives and provisions in the Fingal County Development Plan 2023 - 2029 in respect of residential development;
- ii. The nature, scale and design of the proposed development which is consistent with the provisions of the Fingal County Development Plan 2023 - 2029 and appendices contained therein,
- iii. To the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- iv. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- v. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2022,
- vi. Housing for All, issued by the Department of Housing, Local Government and Heritage in September 2021,
- vii. To the pattern of existing and permitted development in the area, and
- viii. To the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and density of development and would be acceptable in terms of traffic and pedestrian 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, and as amended by further plans and particulars received on the 22 nd June 2022 and the 22 nd September 2022 (Design Option 2), except as may otherwise be required in
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	<p>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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) Unit Nos. 46 & 56 shall be omitted from Design Option 2 (i.e. 2 no. end of block, 1 bedroom units).</p> <p>Floor plans, elevations and sections for the amended Design Option 2, as received on 22nd September 2022, shall be submitted to the Planning Authority for written agreement prior to the commencement of development.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Details of the materials, colours and textures of all external finishes to the residential units shall be in accordance with the drawings and specifications hereby approved.</p> <p>Reason: in the interest of visual amenity and to provide for acceptable standard and quality of development for future residents.</p>
4.	<p>Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, and the common good.</p>

5.	<p>The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to service areas shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any housing unit and shall have regard to impact in terms of biodiversity.</p> <p>Reason: In the interests of amenity and public safety.</p>
7.	<p>a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.</p> <p>b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
8.	<p>Prior to the commencement of development on site, the Applicant shall submit a Construction and Demolition Resource Waste Management Plan for the proposed development which is prepared in accordance with the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects, 2021.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>

9.	<p>The construction of the development shall be managed in accordance with a Construction Environmental 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 the intended construction practice for the development.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
10.	<p>Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
11.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority (Water Services Section) for such works and services.</p> <p>Reason: In the interest of public health.</p>
12.	<p>Prior to the commencement of development, the developer shall enter into water and waste-water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
13.	<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. All existing overground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>a. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted. In addition, a revised landscape masterplan shall be submitted to the Planning Authority for written agreement prior to the commencement of development, which provides for the following:</p>

	<ul style="list-style-type: none"> i. Boundary Treatment B (1.2m high wall) which is located to the rear of the proposed duplex apartments shall be revised so the side wall of each garden area is increased to 1.8m as a measure to enhance the privacy of the amenity area. ii. Proposals for more substantial barricades and screening to ensure that vehicular access is prohibited to the temporary cul-de-sac of the east-west link road (east and west land parcel) until such time a future application is forthcoming for the extension of this road. iii. Details of the proposed boundary treatment along the southern site boundary where it abuts the boundary (including public open space) associated with the Hyde Court development. iv. Incorporation of additional boundary landscaping (medium trees if feasible) between the site boundaries and the proposed duplex apartments. <p>b. The Applicant shall submit to the Planning Authority for written agreement final details of the proposed play provision prior to the commencement of development on site.</p> <p>Reason: In the interest of residential and visual amenity.</p>
15.	<ul style="list-style-type: none"> a. The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company. b. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
16.	<ul style="list-style-type: none"> a. A plan containing details for the management of waste (and, in

	<p>particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>b. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
17.	<p>Site development and building works shall be carried out only between the hours of 0700 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>
18.	<p>Prior to the commencement of development, the Applicant shall prepare and submit a Construction Management Plan to the Planning Authority for their written agreement. The Construction Management Plan shall deal with issues relating to traffic management, noise and dust mitigation measures, site hoarding and security, details of construction lighting and waste minimisation.</p> <p>Reason: In the interest of clarity and to safeguard the amenities of property in the vicinity.</p>
19.	<p>a. The Applicant is required to engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals for further Archaeological Assessment and Monitoring of ground disturbance as described in the Archaeological Impact Assessment</p>

	<p>Report (Section 5.2, page 42).</p> <p>b. Should previously unidentified archaeological material be found during the course of assessment and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or preservation by record) and should facilitate the archaeologist in recording any material found.</p> <p>c. The Planning Authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.</p> <p>Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
20.	<p>A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
21.	<p>Prior to commencement of development, the applicant 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, as amended. Where such an</p>

	<p>agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.</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>
22.	<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> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
23.	<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 or 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</p>

	<p>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>
24.	<p>The developer shall pay to the Planning Authority a financial contribution in lieu of public open space provision, in accordance with the terms of note 5 'open space shortfall' 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. The application or indexation required by this condition 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 shortfall in public open space for this purposes of this condition is set at 0.15 hectares.</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>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Enda Duignan
Planning Inspector

01/12/2023

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála	ABP-315161-22		
Case Reference			
Proposed Development Summary	Construction of 74 residential units, (30 houses and 44 duplex apartments).		
Development Address	Lands at Palmer Road and Palmer Avenue, Rush, Co. Dublin.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?		Yes	Yes
(that is involving construction works, demolition, or interventions in the natural surroundings)		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	500 residential units	Class 10(b)(i)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 1st December 2023

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315161-22	
Proposed Development Summary	Construction of 74 residential units, (30 houses and 44 duplex apartments).	
Development Address	Lands at Palmer Road and Palmer Avenue, Rush, Co. Dublin.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
•	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>The proposed development is for a residential development within the settlement boundary of Rush which has a number of existing housing developments and is connected to public services.</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> • Size of the Development • Is the size of the proposed development exceptional in the 		<p>No</p>

<p>context of the existing environment?</p> <ul style="list-style-type: none"> Are there significant cumulative considerations having regard to other existing and/or permitted projects? 		No
<ul style="list-style-type: none"> Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>No designations apply to the subject site.</p> <p>The development would be connected to the public wastewater services.</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> Conclusion 		
<ul style="list-style-type: none"> There is no real likelihood of significant effects on the environment. EIA not required. 		

Inspector: _____

Date: 1st December 2023

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)