



An
Bord
Pleanála

Inspector's Report

ABP-315373-22

Development	Subdivision of house to create two houses with associated site works
Location	'Meadowfield', Golf Links Road, Milverton Td., Skerries, Co. Dublin, K34 XT67
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0528
Applicant(s)	Joe McKenna
Type of Application	Permission (s. 34)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party (s. 37)
Appellant(s)	Joe McKenna
Observer(s)	Elizabeth McKenna-Bailey
Date of Site Inspection	21 st August 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site lies within the rural townland of Milverton, west of Skerries Golf Club and some 1.3km south, southwest of Skerries town centre, in north Co. Dublin. It is located along and to the northern side of the Golf Links Road, northeast of its junction with the L1285, which links the R127 and the R128. The surrounding area is characterised by rolling agricultural lands, a pattern of ribbon development extending south-westwards towards the L1285, and some leisure, quarry, and educational uses.
- 1.2. The appeal site is irregular shaped with a stated area of 2.5035ha and road frontage of some 60m. Site topography is marginally below road level and falls gently in a northerly direction towards the rear of the site. The roadside boundary is defined by a vehicular access framed by stone piers and curved wing walls, mature trees and hedgerow. This access is shared with the adjacent house to the west. The remaining boundaries are defined by trees and hedgerow. The appeal site consists of a detached house known as 'Meadowfield' with residential annex known as 'Nexdor'. Save for a flat-roof dormer projection to the rear, the building is single-storey with a pitched roof structure laid out in an L-shape, with single-storey projections to the side and rear. Finishes include roof slates with smooth and roughcast render external walls. A detached shed with block walls and metal clad roof lies to the west. There are mature gardens to the front and rear of the house with a fallow area to the north. A drainage ditch runs along the western boundary towards the Mill Stream, adjacent to the R127.

2.0 Proposed Development

- 2.1. Planning permission is sought for the subdivision of a house to create two individual housing units. It represents a *de facto* change of use of the existing house which was originally permitted with a 'granny flat' type annex as noted above and detailed below.
- 2.2. 'Meadowfield', or the main house, is illustrated as a 4-bed unit. It occupies the majority of the building and has a front door in the south-eastern elevation and a rear door in the north-western elevation, via the sunroom. 'Nexdor', or the residential annex, is illustrated as a 2-bed unit. It has a front door in the south-west elevation and a rear door in the north-east elevation. There is no internal link between the residential units illustrated on the floor plans. The overall building has a stated floor area of 292sq.m.

- 2.3. The proposed subdivision will result in the floor area of the annex increasing by one additional bedroom resulting in a 3-bed residential unit. The main house will remain a 4-bed unit through internal alterations. The proposal will therefore split the planning unit into a 3-bed semi-detached dwelling and a 4-bed semi-detached dwelling. Both dwellings will be served by individual domestic wastewater treatment systems (DWWTSs). Private open space of 80sq.m, delineated by timber fencing, is illustrated to the side/rear of the 3-bed unit with parking space for two vehicles to the front/side.
- 2.4. Layout and section drawings illustrating the proposed DWWTS for 'Nexdor' were submitted as part of the appeal. I note that some of the separation distances are marginally different than the corresponding layout lodged with the application.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was refused on 23rd November 2022 for the following reason:

1. On the basis of the information submitted the applicant does not have a genuine rural generated housing need and has not demonstrated compliance with the Rural Settlement Strategy as set out in Table RF03 of the Fingal Development Plan 2017-2023. The proposed development if granted would contravene materially Objective RF39 which aims to permit new rural dwellings in areas which have zoning objectives RU, on suitable sites where the applicant meets the criteria set out in Table RF03 in the Fingal Development Plan 2017-2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- Planning Report (22/11/22): Basis for the Planning Authority decision. It considered that neither the applicant nor his daughter demonstrated compliance with the Rural Settlement Strategy as set out in the Fingal Development Plan 2017-2023 and therefore concluded that the proposal would materially contravene Objective RF39 which seeks to permit new rural dwellings on suitable sites within

the RU zoning where the applicant meets the criteria set out in Table RF03. Refusal was recommended on this basis. No AA or EIA issues arose.

3.2.2. Other Technical Reports

- Roads (24/10/22): Further information requested.
- Parks (20/11/22): No objection subject to condition.
- Water Services (19/10/22): No objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water (01/11/22): No objection.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal site:

PA ref. XA/1137 – permission granted in September 1982 for two bungalows and septic tank. Condition 8 restricted the use of the ‘minor bungalow’ to a residential use directly associated with the ‘main bungalow’ and the structure from being subdivided.

4.2. Adjacent site (due west):

PA ref. F07A/1395 – permission granted in March 2008 on consequent of outline permission granted in March 2007 under PA ref. F06/1708 for a dormer house etc. and combined entrance with family home. Condition 2 imposed an occupancy clause.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

- 5.1.1. The current Development Plan came into effect on 5th April 2023. The Planning Authority decision of 23rd November 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan.

- 5.1.2. The appeal site is zoned 'RU' Rural with a zoning objective to *'Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'*.
- 5.1.3. 'Residential' is amongst the development types listed as 'permitted in principle' in this zoning subject to compliance with the Rural Settlement Strategy.
- 5.1.4. The main objectives relevant to the proposal are set out in chapters 3 (Sustainable Placemaking and Quality Homes) and 14 (Development Management Standards) of the Written Statement.
- 5.1.5. The following sections are relevant to the proposed development:
- 3.5.13.2 – Family Flats
 - 3.5.15 – Housing in Rural Fingal
 - 3.5.15.3 – Fingal Rural Settlement Strategy Rural Generated Housing Need
 - 3.5.15.5 – New Housing for the Rural Community (other than those Farming)
 - 3.5.15.7 – Layout and Design for Housing in Rural Fingal
 - 3.5.15.13 – Vernacular Buildings
 - 14.12.3 – Design Guidelines for Rural Dwellings
 - 14.20.2 – Rural Housing – Wastewater Treatment
 - 14.20.3 – Sustainable Urban Drainage (SuDS)
- 5.1.6. Summary of the relevant policies and objectives:
- SPQHP45 Seeks to promote appropriate sustainable growth of the rural villages and clusters, balanced by carefully controlled residential development in the countryside, as viable options for the rural community.
- SPQHP46 Seeks to permit housing in the countryside only for those people who have a genuine housing need as per the Rural Housing Policy.
- SPQHP48 Seeks to encourage the re-use and rehabilitation of existing housing stock in rural areas in preference to new build and actively promote the protection of rural buildings.
- SPQHO52 Seeks to encourage the re-use and adaptation of the existing rural residential building stock and other building types.

- SPQHO71 Seeks to provide that the maximum number of dwellings permitted under any of the rural zonings will be less any additional house which has been granted permission to a family member since 19th October 1999.
- SPQHO72 Seeks to permit a maximum number of two incremental houses for those who meet the relevant criteria in areas within zoning objective RU, plus one house for a person with exceptional health circumstances etc.
- SPQHO75 Requires that any house which is granted permission in areas with the zoning objective, RU, HA, or GB will be subject to an occupancy condition for a minimum period of 7 years.
- SPQHO81 Seeks to permit new rural dwellings in areas zoned 'RU' on suitable sites where the applicant meets the criteria set out in Table 3.5. The criteria can be summarised as follows (i) 'close family ties'; (ii) 'employment related to the community'; (iii) 'exceptional health reasons'; and (iv) '*bona fide* business reasons'. Paragraph (i) of Table 3.5 is relevant. It states:
- One member of a rural family who is considered to have a need to reside close to their family home by reason of close family ties, and where a new rural dwelling has not already been granted planning permission to a family member by reason of close family ties since 19th October 1999. The applicant for planning permission for a house on the basis of close family ties shall be required to provide documentary evidence that:*
- *She is a close member of the family of the owners of the family home.*
 - *She has lived in the family home identified on the application or within the locality of the family home for at least fifteen years.*
- SPQHO89 Seeks to encourage new rural dwellings be sited near the family home where drainage can be safely accommodated and where such clustering will not have a negative impact on the amenities of the original house.

5.1.7. Table 3.3 sets out the maximum number of houses which will be permitted per existing house i.e. 2 (+1 for exceptional health reasons, +1 for exceptional farming circumstances) for areas zoned 'RU'.

5.2. Other Guidance

5.2.1. Domestic Waste Water Treatment Systems (EPA, March 2021)

Guidance relating to domestic wastewater treatment systems (DWWTSs) for single houses or equivalent development with a population equivalent (PE) of less than or equal to 10 is set out in this Code of Practice (CoP). It details methodology for site assessment and selection, installation and maintenance of an appropriate DWWTS.

5.2.2. DN-GEO-03060 (TII, May 2023)

Guidance relating to the geometric design of junctions including direct accesses is set out in this TII publication. Table 5.4 details the X-distances on the minor road for visibility measurements and Table 5.5 details the required Y-distances on such roads.

5.3. Natural Heritage Designations

North-West Irish Sea SPA (Site Code 004236) – 1.5km east

Skerries Islands SPA (Site Code 004122) – 1.9km northeast

5.4. EIA Screening

- 5.4.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001 (as amended) and therefore no preliminary examination is required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 1st Party appeal has been lodged by Michael Halligan Planning Consultants, on behalf of the applicant, Joe McKenna.

- 6.1.2. The main grounds of appeal can be summarised as follows:

Rural Settlement Strategy

- It is requested that the Board consider the applicant's daughter, Elizabeth Bailey-McKenna, as being connected to the application. It is stated that she qualifies for a rural house under "close family ties" and complies with the criteria in Table RF03.

- It is stated that the applicant's other daughter received permission (PA refs. F06A/1708 and F07A/1395) on adjacent land and the current proposal comes within the two-house limit permissible under Table RF01.
- It is requested that the Board treat this application as exceptional in that the building/house exists and is being subdivided internally to provide independent living accommodation for the applicant's daughter and her family.
- It is stated that there will be no material change in planning circumstances in terms of overall occupancy, access and visual impact. Moreover, it is suggested that the environmental context will be improved as an existing septic tank is being replaced with a modern treatment plant.
- It is requested that the Board consider this application on the stated facts and the current housing crisis and not be constrained by the earlier permission in these exceptional circumstances. I note the applicant is open to an occupancy condition.
- It concludes that the proposal would allow the applicant's daughter to have her own home adjacent to her original home, availing of mutual family support, and states that the existing house and site are large enough to accommodate both families.

Traffic

- Referring to the internal Roads report, it is stated that the provision of 145m sightlines in both directions would require the removal of native hedgerow which would conflict with the Development Plan and internal Parks report.
- It is submitted that the new house will continue to use the existing shared access and as the new house will be occupied by the applicant's daughter, no traffic intensification issues arise.

Services

- It is stated that two new wastewater treatment systems are proposed for the two houses, one for the new house and a replacement for the existing septic tank serving the main house.
- It is submitted that this will result in a much-improved treatment of waste, and it is noted that Irish Water have no objection regarding the public water supply connection.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- Refers the Board to the Planner's Report.
- Provision should be made for financial contribution if the appeal is successful.

6.3. **Observations**

6.3.1. An observation was received from Elizabeth McKenna-Bailey, the applicant's daughter, of 'Nexdor', Golf Links Road, Skerries. It can be summarised as follows:

- It is stated that 'Meadowfield' and 'Nexdor' have operated as wholly independent houses on the appeal site, each having separate front and back doors and independent power supply.
- It is submitted that 'Nexdor' initially accommodated the applicant's aunt and uncle and has since been occupied by the applicant's children at different times, and now the observer and her young family.
- Referring to the Government's 'Healthy Age Friendly Homes' initiative, it is suggested that there will be a degree of 'right-sizing' and modernisation for the applicant over the coming years in their family home with considerable costs involved.
- To assist with the costs, the observer submits that she was advised to transfer 'Nexdor' into her name but to do so requires altering the relevant condition of the parent permission. This would allow her to continue to assist her elderly parents.

7.0 **Assessment**

7.1. **Preliminary Points**

7.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal.

7.1.2. The issues can be addressed under the following headings:

- Principle of Development
- Access and Sightlines
- Public Health
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The Planning Authority's sole refusal reason states that the applicant failed to demonstrate compliance with the Rural Settlement Strategy set out in Table RF03 of the Fingal Development Plan 2017-2023 and therefore did not have a genuine rural generated housing need. This, the Planning Authority states, would materially contravene Objective RF39 which sought to permit new rural dwellings in areas which are zoned RU, on suitable sites where the applicant meets the criteria in Table RF03.
- 7.2.2. The current Development Plan came into effect on 5th April 2023 and an identical policy approach is reflected in Objective SPQHO81, as summarised above. I also note that Table 3.5 (eligibility criteria for rural housing) is identical to Table RF03 and Table 3.3 (max. number of houses to be permitted per existing house) is identical to Table RF01.

Rural Generated Housing Need

- 7.2.3. Permission was previously granted in the applicant's name under PA ref. XA/1137 for a pair of semi-detached bungalows on the appeal site, known as 'Meadowfield' and 'Nexdor'. As noted, Condition 8 of that permission restricted the use of the 'minor bungalow', or 'Nexdor', to a residential use associated with the 'main bungalow', or 'Meadowfield'. I accept that the applicant has resided at 'Meadowfield' since it was constructed c. 40 years ago. I also accept the *bona fides* of the observation made in respect of the occupancy of 'Nexdor', with the applicant's daughter, the named observer, being the latest occupant. There is sufficient documentary evidence on the appeal file to corroborate this occupation and her previous residency in 'Meadowfield'.
- 7.2.4. In the absence of a housing need *per se*, the applicant himself cannot demonstrate a rural generated housing need and I therefore agree with the Planning Authority in this regard. Moreover, section 3.5.15.3 of the Development Plan precludes an individual applicant from receiving permission for more than one house. The applicant submits

however, that his daughter qualifies for a rural house under the 'close family ties' criteria in Table RF03 of the previous Plan and the proposal falls within the two-house limit permissible under Table RF01. The Board is asked to consider this connection.

- 7.2.5. Whilst it is arguable that a similar situation prevails, and the applicant's daughter has her own housing need satisfied by virtue of her occupancy of 'Nexdor', I note that this has its own limitations as a result of Condition 8 of the parent permission. This is clearly an atypical proposal and forms the crux of this appeal. I am therefore willing to consider her circumstances in the context of the Rural Settlement Strategy, despite the fact that she is not the applicant having regard to the wording of Objective SPQHO81. Future occupancy of the resultant house could be controlled by condition.

Rural Settlement Strategy

- 7.2.6. Paragraph (i) of Table 3.5 sets out the relevant criteria for those seeking a rural house on zoned RU lands on the basis of 'close family ties'. The criteria are identical to that considered by the Planning Authority under Table RF03 of the 2017-2023 Plan.

- 7.2.7. I am satisfied that there is sufficient documentary evidence on the appeal file to demonstrate that the applicant's daughter, the named observer, is a close member of the family and has lived in the family home for at least fifteen years. On this basis, she would appear to have a rural generated housing need, however this need is subject to there being no new rural dwellings having been granted permission in the name of a family member by reason of 'close family ties' since 19th October 1999.

- 7.2.8. The applicant's daughter does not therefore appear to fully meet criteria (i) of Table 3.5 having regard to the permission consequent granted in March 2008 under PA ref. F07A/1395. I therefore consider that the proposal is contrary to Objective SPQHO81 of the Development Plan and agree with this assessment of the Planning Authority.

Material Contravention

- 7.2.9. The Planning Authority suggest that this was a material contravention. In such circumstances, they would be precluded from granting permission other than under the provisions of s. 34(6) of the Planning and Development Act 2000 (as amended).

- 7.2.10. Section 3.5.15.3 of the Development Plan notes that the maximum number of incremental houses permissible in the rural area on the basis of an existing house is limited, and each of the rural zoning objectives has a specified limit. This limit is set

out in Table 3.3 and controlled generally by Objective SPQHO71, and specifically by Objective SPQHO72 in respect of the number of incremental houses in the RU zoning.

- 7.2.11. The applicant suggests that the proposal falls within the two-house limit permissible under Table RF01, now Table 3.3. I note that Objective SPQHO72 provides that the two-house limit is contingent on the 'relevant criteria' being met. I also note that it, together with Table 3.3, provides for one additional house for a person with exceptional health circumstances and one additional house where exceptional farming circumstances prevail. Overall, it would appear that an absolute maximum of 4 no. houses are permissible per existing house within the RU zoning, but only one of these can be allocated to an applicant with 'close family ties' having regard to Table 3.5.
- 7.2.12. It is my interpretation of Objective SPQHO72 that the prospective applicant of the remaining, or second, house permissible under the zoning in the present case would have to meet one of the other relevant eligibility criteria in Table 3.4 i.e. employment related to the community, exceptional health reasons, or '*bona fide*' business reasons.
- 7.2.13. On further examination of these criteria under Table 3.5, it is unclear to me, how they, other than the criteria relating to exceptional health reasons, could be explicitly linked to the existing house. I specifically note that under '*bona fide*' business reasons, the applicant does not have to live in, or have any family connections to, the relevant area. Moreover, Objective SPQHO72 could permit two incremental houses on the basis of exceptional health circumstances, which is an odd policy approach, in my opinion.
- 7.2.14. What is clear is that Objective SPQHO81 cannot be read in isolation of Objective SPQHO72 and whilst they may not be considered as conflicting objectives *per se*, there is a sufficient degree of ambiguity in the latter to quell any concerns that I may have regarding a potential material contravention. On this basis, I do not consider the proposal is in material contravention of Objective SPQHO81 or the zoning objective.
- 7.2.15. Alternatively, if the Board considers that the proposed development does represent a material contravention and are minded to grant permission nonetheless, I am satisfied that such permission could be granted under section 37(2)(ii) of the Planning Act as neither objective is clearly stated, insofar as the proposed development is concerned.

Alternative Approach

- 7.2.16. Notwithstanding my consideration and assessment of the Planning Authority's refusal reason as set out above, one must consider whether the correct policy test was applied in the first instance. As noted, this is a unique proposal which seeks to remove a traditional 'granny flat' condition to allow the applicant's daughter unfettered use of the 'minor bungalow', or 'Nexdor'. In simple terms, the applicant is seeking to split the planning unit into two separate planning units, albeit with a shared vehicular access. Other than separate DWWTs for each house, limited external works are proposed.
- 7.2.17. The use of the rural housing policy test set out under the Rural Settlement Strategy has not been challenged by the applicant or observer, but it is arguable that this, or at least Objective SPQHO81 which refers specifically to 'new rural dwellings', is not the most appropriate test of planning principle. I specifically note that the prevailing circumstances are entirely different to a proposal for a new build on a greenfield site.
- 7.2.18. Having regard to Policy SPQHP48, which seeks to encourage the re-use and rehabilitation of existing housing stock in rural areas in preference to new build, and Objective SPQHO52, which seeks to encourage the re-use and adaptation of the existing rural residential building stock and 'other building types', I am of the opinion that there is an alternative policy approach to considering the principle of this proposal.

Existing Rural Building Stock – New Issue

- 7.2.19. In this regard, the applicant has requested that the Board treat this application as exceptional in that the building/house exists and would be subdivided internally to provide independent living accommodation for his daughter and family. Moreover, it is stated that there will be no increase in overall occupancy which I consider plausible and there will be no negative visual impact as a result of the proposed development.
- 7.2.20. It is also important to note the distinction between the proposed development and 'family flats' that allow for 'semi-independent' accommodation as per section 3.5.13.2. The housing needs of the applicant's daughter exceeds the provisions of a family flat.
- 7.2.21. In my opinion, and having specific regard to the particular circumstances of this case, including but not limited to the size of the appeal site, the nuanced planning history and the demonstrable housing needs of the applicant's daughter, the proposed development represents the best viable option for, and use of, the existing house in

accordance with Policies SPQHP45 and SPQHP48, and Objective SPQHO52. Otherwise, the applicant could be left in the preposterous position of occupying a house and residential annex of c. 290sq.m that vastly exceeds his own housing needs.

Conclusion on Principle

- 7.2.22. The proposed development is unusual and exceptional in its circumstances. It does not fit neatly into any particular policy context, and it raises some contemporary housing issues facing the population generally including 'down-sizing' and 'right-sizing' in order for people to live independently in their own homes for as long as possible.
- 7.2.23. On balance, I am satisfied that the benefits of the development, which I consider to be an eminently sensible proposal that will meet the housing needs of both the applicant and his daughter in a carefully controlled manner, vastly outweigh their failure to fully comply with the Rural Settlement Strategy. I therefore attach greater weight to Policy SPQHP45 (Rural Housing) than I do to Policy SPQHP46 (Rural Settlement Strategy), with determining weight attached to Policy SPQHP48 and Objective SPQHO52, which reflect a national policy shift towards building adaptation as opposed to new build.
- 7.2.24. In this regard, I also note that section 10.5.2.5 of the Plan, albeit in the context of 'vernacular or built heritage assets', states that embodied carbon contained within the older building stock combined with full building life cycle cost considerations mean that their retention and continued use or 'reuse' exemplifies sustainable development and best energy conservation practice, which is supported by national and regional policy.
- 7.2.25. I therefore conclude that the proposal is acceptable in principle and not contrary to the proper planning and sustainable development of the area, subject to an occupancy condition being applied to the 'minor bungalow', or 'Nexdor'. In this regard, I am also satisfied that there is no material contravention of Condition 8 of the parent permission.

7.3. Access and Sightlines

- 7.3.1. Whilst not explicitly raised as a reason for refusal, the applicant notes the comments provided by the local authority roads section. They state that the suggested sightlines of 145m in both directions would require the removal of native hedgerow and submit that there will be no intensification of traffic as overall occupation will be unchanged.
- 7.3.2. The appeal site is located along a poorly aligned section of local road where the posted speed limit is 80kph, although observed traffic volume was light, and speeds appeared

significantly lower than the posted limit on the date of my site inspection. TII technical guidance (DN-GEO-03060) provides that the desirable minimum X-distance is 3m, with a relaxation to 2m on lightly trafficked local roads, with a Y-distance of 160m for road design speed of 85kph, 120m for 70kph, 90m for 60kph and 70m for 50kph.

- 7.3.3. The proposed access is *in situ* and currently serves 'Meadowfield', 'Nexdor' and the dwelling of another family member. The local authority roads section has stated that the sightlines at this entrance are substandard. This is consistent with my on-site observations, but I agree with the applicant that sightlines of 145m in both directions are excessive along this road. I particularly note that the south-westerly sightline would require the removal of c. 100m of trees and hedging on the golf course side but given the road alignment, I am not convinced that it would result in major improvement.
- 7.3.4. A north-easterly sightline of 2m by 90m would appear to be achievable with the removal of some vegetation across the front of the site boundary. A south-westerly sightline of 2m by 70m would appear to be achievable with some minor hedge cutting. Given the vertical and horizontal alignment on both approaches to the appeal site and having regard to DN-GEO-03060, I consider that these sightlines are both reasonable and within the control of the applicant to provide in the event of a grant of permission.
- 7.3.5. I also note that section 14.12.3 of the Development Plan encourages the sharing of vehicular entrances, where appropriate, in order to avoid a proliferation of access points, and promotes the use of existing entrances, avenues and driveways where a house is to be sited adjacent to existing dwellings. The proposed access is therefore acceptable from a policy and technical perspective, subject to appropriate condition.

7.4. Public Health

- 7.4.1. Similarly, public health issues were not raised as a reason for refusal, but the applicant submits that new DWWTSs, including the replacement of the existing septic tank serving 'Meadowfield', will result in a much-improved treatment of waste, nonetheless.
- 7.4.2. As noted, separate DWWTSs are proposed for both 'Meadowfield' and 'Nexdor' and the local authority water services section had no objection subject to conditions regarding installation, separation from surface water drainage and compliance with the EPA CoP. As noted, the foul drainage layout submitted with the appeal is marginally different to the corresponding layout lodged with the application in terms of separation distances. On this basis it is important to consider the SCR and drawings *de novo*.

- 7.4.3. The SCR identifies that the appeal site is located on a 'locally important aquifer' where vulnerability is 'high'. EPA mapping confirms that the bedrock here is a 'locally important aquifer – Karstified' although I note that water supply is via a public mains connection. The SCR indicates that the trial hole was dug to 2.10mBGL and no bedrock was observed. The water table was observed at 1.90mBGL and mottling at 1.60mBGL, suggesting a higher winter water table. The soil conditions found in the trial hole are described as sand/clay with gravels present. A Ground Protection Response of R1 is noted by the applicant. Accordingly, I note the acceptability of the appeal site subject to normal good practice including construction and maintenance.
- 7.4.4. Percolation test holes were dug and pre-soaked twice. The time of the pre-soaking has been indicated. A surface percolation value (PV) of 31.39 was recorded indicating good drainage in the topsoil. A subsurface PV of 49.44 was recorded indicating poorer drainage in the subsoil. The tests appear to have been carried out in accordance with Appendix D of the CoP and the results would be consistent with my observations of the area, albeit without an examination of the trial hole or percolation test holes which had been filled in, and grassed over, on the date of my site inspection. The SCR indicates that the ground is suitable for a tertiary treatment system and infiltration area.
- 7.4.5. Table 6.3 of the CoP requires a minimum depth of unsaturated soil and/or subsoil of 0.9m below the base of the polishing filters following secondary systems and infiltration areas following tertiary systems. Table 7.2 details the minimum percolation trench length e.g. 108m for 6 PE. Table 7.3 details percolation trench requirements including slope of trench from distribution device (1:200) and individual pipe lengths (18m max.). Table 10.1 details the infiltration/treatment area and trench length design for tertiary treatment, per PE e.g. $\geq 15\text{sq.m}$ per person for tertiary infiltration for $41 \leq PV \leq 50$.
- 7.4.6. The applicant proposes to install 2 no. 6 PE capacity packaged treatment systems with tertiary coconut husk media filters. The filter plants are roughly 2.5m long, 1.2m wide and 0.8m deep and will be bedded on 90sq.m of 300mm of crushed stone. A cross-section through the proposed filter illustrates that there will be a minimum of 0.9m of suitable percolating material between the base of the lowest part of the distribution bed and the winter water table at 98.40mBGL. I am satisfied that the proposed systems will provide the required depth of percolation material to treat effluent on the appeal site and complies with the required separation distances set out in Table 6.2 of the CoP, notwithstanding the marginal differences as referred to above.

7.4.7. The SCR submitted with the application concludes that the appeal site is suitable for development. Based on the information submitted, I agree that the appeal site is suitable for the proposed DWWTSs, including the size of the infiltration area having regard to Table 10.1 of the CoP, although I note that the proposed layout drawing indicates this area as 91sq.m. I recommend that a DWWTS condition be attached in the event of a grant of permission, albeit amended to reflect the two systems proposed.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development, which is for the subdivision of a house to create two individual houses, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1. I recommend that permission be **granted** for the reasons and considerations below.

9.0 **Reasons and Considerations**

9.1. Having regard to the provisions of the Fingal Development Plan 2023-2029, the small scale nature of the proposal and the prevailing pattern and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would not seriously injure the amenities of the area. 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, as amended by the further plans and particulars received by An Bord Pleanála on the 16 th day of December, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be
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	<p>agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Full visibility shall be made available for 90 metres on the north-easterly side of the entrance and for 70m on the south-westerly side of the entrance from a point 2 metres back in from the edge of the road carriageway over a height of 1.05 metres above road level.</p> <p>Reason: In the interest of traffic safety.</p>
4.	<p>(a) The treatment plant(s) and polishing filter(s) shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 30th day of September, 2022, as amended by the further plans and particulars received by An Bord Pleanála on the 16th day of</p>

	<p>December, 2022, and in accordance with the requirements of the document entitled “Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤10)” – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system(s) has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system(s) shall be entered into and paid in advance for a minimum period of five years from the date of installation and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling(s) and paved areas of the site shall be diverted away from the location of the polishing filter(s).</p> <p>(e) Within three months of the installation of the system(s), the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system(s) has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter(s) is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>

6.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, formerly Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<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 Contributions Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Philip Maguire

Planning Inspector

10th November 2023

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-315373-22		
Proposed Development Summary	Subdivision of a house to create two houses		
Development Address	'Meadowfield', Golf Links Road, Milverton Td., Skerries, Co. Dublin, K34 XT67		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		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	X	N/A	The proposal is a <i>de facto</i> change of use and falls outside the scope of Class 10 (b)(i)
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No			Preliminary Examination required
Yes			Screening Determination required

Inspector: _____

Date: _____