



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316655-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Palmer Road, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	RZLT143/22
<b>Appellant(s)</b>	PWCPS
<b>Inspector</b>	Rachel Gleave O'Connor

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## 1.0 Site Location and Description

- 1.1. The site is located to the west of Palmer Avenue, south of Palmer Road and adjacent to a property that flanks Palmer Road. The site bounds agricultural lands to the east, south and on the opposite side of Palmer Avenue to the west. To the north there is a residential property, and residential estates further to the north.

## 2.0 Zoning and other provisions

- 2.1. The site is zoned RA – Residential Area and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029. A Specific Objective to Protect and Preserve Trees, Woodland and Hedgerows is also applicable to the site.

## 3.0 Planning History

- 3.1. F23A/0160 – On 7<sup>th</sup> June 2023 a REQUEST FOR ADDITIONAL INFORMATION was issued by the Planning Authority on an application for the construction of 14 no. residential dwellings comprising 10 no. 3-bed 2 storey terraced houses, 1 no. 4-bed 3 storey detached house, and 3 no. 2-bed 2 storey terraced houses, all with private gardens and associated car parking; 2 no. vehicular accesses on Palmer Avenue including provision of sections of the new East-West Road; landscaping including play equipment; footpaths; boundary treatments; and all associated site infrastructure and engineering works necessary to facilitate the development.

### 3.2. Adjacent Sites:

- 3.3. Skerries Road SHD (Mariners Way) – Lands at Skerries Road, Palmer Road, Palmer Avenue and St Maur's Park, Rush, Co. Dublin. Opposite the subject site on Palmer Avenue. ABP SHD Reg. Ref. 305534-19 for 165 no. residential units (117 no. houses, 48 no. apartments), and associated works. GRANTED 17<sup>th</sup> January 2020. Construction/site preparation works appear underway on the site.
- 3.4. Site to the south of Palmer Road to the west of the subject site:
  - Current first party appeal with An Bord Pleanála ref. 315161-23 (PA Reg. Ref. F22A/0034) for the construction of 74 no. residential units comprising 18 no. 3

bed with study 2.5 storey semi-detached houses, 6 no 3 bed with study 2.5 storey terraced houses and 6 no. 4 bed with study 2.5 storey semi-detached houses, all with private gardens and associated car parking, 44 no. duplex units (22 no. one bed units and 22 no. two bed with study units) contained in 3 no. 3 storey blocks, all provided with gardens/terraces and associated car parking and bicycle parking; 1 no. pedestrian/cycle access on Palmer Road; 2 no. vehicular accesses via Palmer Avenue including provision of sections of new east-west road; proposed vehicular access via previously permitted residential development to the south accessed via Park Road (Hyde Court development under construction - Reg/ Ref. F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/0102); landscaping including play equipment; footpaths; boundary treatments; public lighting; and all associated site infrastructure and engineering works necessary to facilitate the development. Refused by the PA for one reason relating to character, high density and adverse impact on amenity. Previous application F20A/0170 also refused on this adjacent site.

- F23A/0169 – On 9<sup>th</sup> June 2023 a REQUEST FOR ADDITIONAL INFORMATION was issued by the Planning Authority on an application 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. Decision pending.

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission relates to two parcels of land, the subject site and a nearby site to the west south of Palmer Road and subject to current RZLT appeal ref.316650-23, where previous planning history is noted above.
- 4.2. Development of the lands is currently constrained due to the lack of capacity of the adjoining road network i.e. Palmer Road and Palmer Avenue are single carriageway roads which do not have the capacity to accommodate a residential development of the appropriate density required.
- 4.3. The adjoining road network does not have the necessary public infrastructure and facilities such as footpaths or public lighting and therefore it is submitted that the lands are not serviced.
- 4.4. Road access to the subject lands is dependent on the construction of significant sections of new road access across other third-party, private landholdings and therefore it is submitted that the lands are not serviced in terms of road infrastructure.
- 4.5. There are conflicting objectives within the current Fingal County Development Plan 2017-2023 and the Draft Fingal County Development Plan 2023-2029 in relation to the east-west urban street / east-west link road. This road objective has been removed from the Draft Plan which casts uncertainty on the future provision of road infrastructure in the area, which in turn places uncertainty on the future development of the subject lands.
- 4.6. In recent years, strenuous efforts have been made to secure planning permission for residential development on the subject lands under two separate planning applications. However, both applications were refused planning permission. Most recent application has been appealed to ABP, however note significant delays.

## **5.0 Determination by the Local Authority**

- 5.1. The local authority states that the matters in relation to the Development Plan objectives regarding road infrastructure are not considered pertinent to the delivery of residential development on lands in question which are appropriately zoned and

where it would be expected that road improvements as may be deemed necessary to facilitate development, would be addressed as part of the development management process. In this regard the lands are considered serviced, or it is reasonable to consider may have access to services.

- 5.2. As is indicated in the RZLT Guidelines, matters which are unrelated to the criteria identified in section 653B (Finance Act 2021) such as planning permission, commencement on land in scope, finance or personal circumstances are not matters to be taken into account during the consideration of submissions.
- 5.3. The local authority determined that the site was in scope and should remain on the map.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The appeal grounds repeat the submission to the Planning Authority as set out above in section 4.
- In addition, it is noted that in April 2023, two concurrent applications were submitted to FCC for the proposed development of the subject lands. In line with the emerging road network within the locality, the design and site layout included provision for the 'New East-West Road'. It is noted that the Skerries Road SHD (Mariners Way) has provided a significant proportion of the road. Moreover, the increase road capacity is vital for facilitating development of the appropriate density for an 'Outer Suburban/Greenfield Site'. However, provision for the 'East-West Road' has been removed from the Fingal County Development 2023-2029, which places uncertainty on the future development of the subject lands.
- Palmer Road and Palmer Avenue are single carriageways and do not currently have the capacity to accommodate a residential development of the appropriate density required nor do these roads have the necessary public infrastructure and facilities such as footpaths or public lighting. It is therefore submitted that the lands are not serviced.

## 7.0 Planning Authority Response

- 7.1. Reference to an indicative road proposal in the vicinity of the subject lands, previously indicated in the Fingal Development Plan 2017-2023 but not contained within the recently adopted Fingal Development Plan 2023-2029 is noted. The current Development Plan seeks to prepare a Local Transport Plan to inform the future transportation needs of Rush, this may include the feasibility of providing a Distributor Road to the west of Rush.
- 7.2. Matters in relation to the Development Plan objectives regarding road infrastructure are not considered pertinent to the delivery of residential development on lands in question which are appropriately zoned and where it would be expected that road improvements as may be deemed necessary to facilitate development, would be addressed as part of the development management process. In this regard the lands are considered serviced, or it is reasonable to consider may have access to services.
- 7.3. It is noted that a planning application has lodged in respect of the subject lands. Reg. Ref. F23A/0160 seeks permission for 14 no. residential units. Also, permission is sought under Reg. Ref. F23A/0169 for 40 no. units on lands to the west, also under parcel ID held by the applicants.

## 8.0 Assessment

- 8.1. The appeal grounds state that the subject site is insufficiently serviced. However, I note that the Skerries Road SHD has commenced development, with housing available as part of the Mariners Way development. While works have commenced from the east of that site, and further away from the subject site, future phases of that neighbouring development site extend to Palmer's Avenue opposite the subject site and includes infrastructure, including pedestrian footpaths on Palmer's Avenue. Development of the subject site could therefore reasonably connect into the pedestrian network as part of that adjacent development, and Mariners Way connects into existing residential estates to the north. It would be expected as part of any development proposition on the subject site that this include footpaths on its frontage to Palmer's Avenue, and connection to public lighting, water/wastewater, drainage etc can be facilitated via public roadway, and such connection works would form part of a normal development proposition for any site.

## 9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

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.

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Rachel Gleave O'Connor  
Senior Planning Inspector

23<sup>rd</sup> June 2023