



An
Coimisiún
Pleanála

Inspector's Addendum Report

ABP-318987A-24

Development	Construction of 40 residential units and all associated site works.
Location	Palmer Road, Rush, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0169
Applicant(s)	PWCPS (F. Price, F. Wilson, B. Carroll, T. Phelan & L. Schwer)
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Camillus Archer
Observer(s)	None
Date of Site Inspection	22.09.2025
Inspector	Mary Mac Mahon

1.0 Introduction

- 1.1. This report is an Addendum Report to the Planning Inspector's report in respect of ABP-318987-25 (dated 29th May 2025). The Planning Inspector for the case is currently on extended leave. Therefore, I am preparing the Addendum Report.
- 1.2. On the 12th June 2025 the Commission decided to defer consideration of this case to issue a section 132 notice to the applicant. The notice required specific information, set out in Section 2 below. The contents of the response from the applicant are to be circulated to the planning authority and appellant for comment.

2.0 Section 132 Notice

- 2.1. A Section 132 Notice enable the Commission to require a person specified in the Notice to submit particular documents within a specified timeframe. In this case, the Commission issued the following request:

“Notwithstanding the provision of section 34(13) of the Planning Act 2000, that a person is not entitled solely by reason of a permission to carry out development and, Condition 4 attached by the Planning Authority in their grant of permission the Board requires the following information for the purposes of enabling it to determine the appeal.

- 1. A copy of the 2015 Tailte Eirean document, referred to by the application, in its first party response to the appeal, that sets out the current boundary with the appellant, specifically as the boundary relation to the southwestern corner of the site.*
- 2. Documentary conformation (e.g. titles/agreements/licence) demonstrating that the applicant has permission to connect the diverted sewer currently shown outside the applicant's red and blue lines on the Proposed Drainage Layout (drawing number C152-CSC-XX-XX-DR-C-00510), submitted to the planning authority on 6 December 2024.*

- 2.2. For information, Condition 4 of the Decision to Grant Permission by Fingal County Council, states that the developer shall be in possession of all necessary third party consent and approvals in relation to access arrangements and connectivity prior to commencement of development on site.

3.0 Response to S132 Notice served on 10 June 2025

- 3.1. The applicant's agent submitted the following response:

- In relation to Item 1, a copy of the correspondence with the architect and the Property Registration Authority (PRA) dating from 2015 is submitted [*Inspector's note – the PRA was subsequently subsumed into Tailte Eirean*]. It includes a drawing titled 'Land Registry Compliant Map' prepared by the architect and initialled, indicating plots in different three different ownership, the boundaries of which appear to follow physical demarcations on the land. Folio reference numbers are indicted opposite the initials. The purpose of the drawing is stated to be for the rectification of boundary between Folios DN19491, DN17951 and DN92806F.
- In relation to Item 2, CS Consulting Engineers have prepared a report and drawing, with confirmation of the relevant licences and agreements in respect of this item.
- The report states that an existing stone culvert passes through the site and is in the ownership of the applicant (Point A to Point B on Drawing No. C152-CSC-XX-XX-DR-C-0067). A separate surface water drain comes from the Third Party's land onto the site, from Point C. Spurs will be taken from Points A to C1 and Points C to C1 into a single pipe, within the First Party's landholding. The pipe continues to Point D, where it will connect to an existing pipe (Points E to F). This pipe outfalls to the public road to an existing stormwater drain. The pipe was connected under licence F/S2023-01. The pipe was constructed for surface water from Hyde Court and has been sized to accommodate both developments. Surface water from the proposed development will be collected at Point G, which joins Points E to F. Letters of Consent between the applicant and the developer of Hyde Cout (Harmonhall

Ltd.) are provided. *[Inspector's note- the names of directors of Harmonhall Ltd and the names of directors of PWPCS Ltd. are the same.]*

4.0 Response from the Planning Authority

None received.

5.0 Response from the Third Party Appellant

- 5.1. A detailed response has been received from the Third Party, which includes draft maps from Murphy Geospatial, and commentary from the company, which states that the wall between Hyde Court and the Third Party's land, in places, has encroached on the Third Party's land in places, in their professional opinion. Murphy Geospatial do not consider that buildings have encroached on the land. In regards to the current site, they estimate a variance of circa 1.4 metres in terms of land ownership. A report from a Questioned Document Examiner and Consultant Graphologist is also included.
- 5.2. The lands are the matter is subject of a High Court case, as referred to the Third Party.
- 5.3. The submission includes other information, which I have read and recommend to the Commission to read.

6.0 Assessment

- 6.1. **Item 1 – 2015 Tailte Eireann Document and Boundary to Southwest Corner of the site**
- 6.2. As outlined above, the applicant's agent has submitted the document referenced is the 2015 'Land Registry Compliant Map'.
- 6.3. I would advise the Commission that the Commission has no role in determining property lines or whether encroachment has otherwise occurred. Such matters are resolved in the courts. However, the Commission can decide whether or not to grant planning permission, even where there is a dispute about the property boundary line. I refer the Commission to the previous Inspector's advice, that the planning system is

not intended to regulate boundary disputes and that Section 34 (13) applies – that the grant of planning permission does not confer the right of development. She included Condition 18, in her list of conditions, which reflects Condition 4 of the Planning Authority Decision.

6.4. Evidence of right to alter surface water network

- 6.5. The applicant's engineers have described that a surface water drain has been constructed through the site, which service Hyde Court and can serve future developments on the site. The connection to the public surface water drain was subject to licence by Fingal Council. I remind the Commission that such works are exempted development under Class 48 of Schedule 2 of the Planning and Development Regulations, 2001 as amended. The exemption applies to the breaking open of a street or any other land for that purpose.
- 6.6. The planning application refers to engineering works necessary to facilitate the development. It includes the removal of a stone drain running through the south of the site, shown as A to B on the submitted drawing, C152-CSC-XX-XX-DR-C-0087. To collect the storm water that currently passes through the site, it is proposed to take a spur from within the site and connect it via a new manhole (C1) and lay a pipe from C1 to the existing surface water drain, E to F at D. It is proposed that the storm water pipe be taken-in-charge by Fingal County Council. I am satisfied that the surface water drainage works can take place within the site.

7.0 Conclusion in relation to S132 Note

- 7.1. Generally, boundary disputes are not central to the planning permission process unless it is very clear that there is a fundamental issue, which cannot be severed. In this particular case, I do not consider the physical areas in dispute are so central to the proposed development that the proposed development is incapable of being carried out. I consider that the relevant drainage licences are in place.
- 7.2. No appropriate assessment or EIA issues arise in this Addendum Report.

8.0 Recommendation

- 8.1. I recommend that permission for the development be granted, subject to condition, as per the previous Inspector's Reasons and Considerations and Conditions.

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.

Mary Mac Mahon
Assistant Director of Planning
24 October, 2025