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Draft Fingal County Development Plan 2023- 2029

Submission regarding Chapter 3: Sustainable Place Making and Quality Homes

Submission on behalf of Ms. Sinéad Murphy, in respect of lands at Walshestown, Lusk, Co. Dublin.

The submission requests the following:

- That Fingal County Council broaden the rural generated housing need criteria under the Fingal Development Plan 2023-2029, to include provision for persons who have a need to live adjacent to, and provide care for, an elderly parent; and or have lived in the area for 18 years or more and or the land for which the planning permission is sought to have been owned by the family for 5 years or more.

- That Fingal County Council amend draft development plans previous Objective RF30 to read as follows:

*'Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances, or where care is required for an elderly parent or parent / close family member with exceptional health circumstances; and or have lived in the area for 18 years or more and or the land for where the planning permission is sought to have been owned by the family for 5 years or more.*

- That Fingal County Council Insert the following eligibility criteria in draft development plan previously Table RF03:

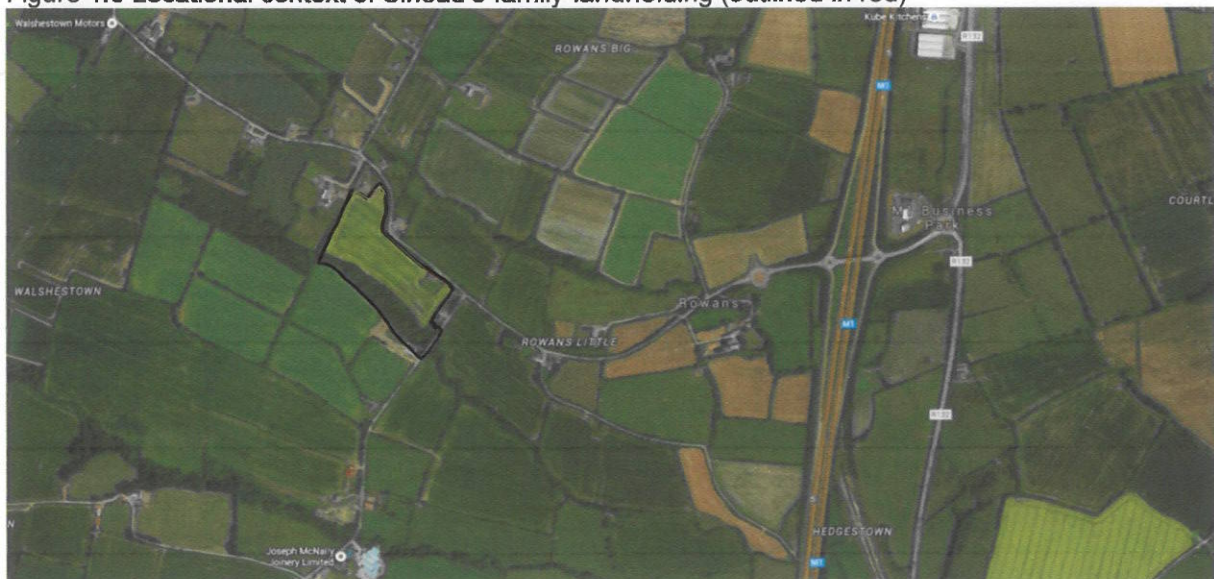
*'A son or daughter of an established householder (who has lived in the area for three years or more) wishing to build a permanent home for their own use to live immediately adjacent to their elderly parents to provide care.'*

We request that the recommendations of this submission be given full consideration in preparation of the forthcoming Fingal Development Plan 2023-2029

## 2.0 Submission Background

As outlined in the introduction section of this report, the submission is being made on behalf of Ms. Sinéad Murphy and concerns the provisions of the rural settlement strategy in the draft development plan where it relates to housing in the countryside. Sinéad's family home, where her parents live, comprises the family house and c. 5 hectares of land. Sinéad's grandfather lived in the old homestead on the eastern side of the land but has since passed away in 2021. The lands are located in the townland of Walshestown approximately 1km west of Junction 5 on the M1 motorway.

Figure 1.0 Locational context of Sinead's family landholding (outlined in red)



Land in current ownership of Sinéads Father highlighted in red



Figure 2.0 Layout of the family landholding (outlined in red)

For the purposes of providing Council with a background to the submission, we will explain Sinead's circumstances.

Sinéad was born and raised in the family homestead and had lived at home for 28 years. She moved out but has since moved back in with her family. She joined An Garda Síochána in 2007 and maintains an active role in the local community. Due to her father's ill-health, Sinéad has a genuine need to be close to his parents to care for them. Sinéad's family were previously involved in farming but this ceased due to sustainability. Sinéad's family through her Grandfather's parents and down the lines have lived in the area for over 100 years. Sinéad has two sisters but neither live in the area. Sinéad's father has since inherited the family land as her Grandfather had passed away in November 2021.

Previously on 17th December 2015, Sinéad lodged a planning application with Fingal County Council seeking permission to construct a new dwelling on a 0.461ha site with frontage some 90m west of her parent's house, where she herself was reared.

However, on 16th February 2016, Fingal County Council made a decision to refuse permission for the following reason:

*'The subject site is zoned High Amenity 'HA' under the Fingal Development Plan 2011-2017, the objective of which is to 'protect and enhance high amenity areas'. Objective RH07 seeks to 'permit houses in areas with a zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.' Residential development is only permitted where the applicant has established a genuine need to live in the rural area by reason of their direct involvement in a family farm or their exceptional health circumstances. The applicant has not satisfactorily demonstrated compliance with the foregoing objective. The proposed development would therefore contravene materially Objective RH07 of the Fingal Development Plan 2011-2017 and as such would be contrary to the proper planning and sustainable development of the area.'*

The principle behind the decision by Fingal County Council forms the basis for this submission. It is contended that, contrary to Section 28 of the Planning and Development Act 2000 (as amended) Fingal



County Council has not adequately considered the provisions of the *Sustainable Rural Housing Guidelines for Planning Authority (2005)*.

### **3.0 Planning Context**

#### **3.1 Sustainable Rural Housing Guidelines for Planning Authority (2005)**

The Sustainable Rural Housing Guidelines set out in detail how the Government's policies on rural housing are to be implemented by planning authorities in making their development plans and in the operation of the development control system to ensure a vibrant future for all rural areas.

The Guidelines state that planning authorities should seek to:

- 1) *Ensure the needs of rural communities are identified in the development plan process, and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated, and*
- 2) *Manage pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as gateways, hubs and other large towns.*

The Guidelines state that in formulating policies for rural housing that are sustainable, planning authorities, in accordance with these guidelines should:

- 1) *Take account of the processes that are triggering changes in settlement patterns in rural areas, particularly those factors that are giving rise to demand for housing in rural areas;*
- 2) *Take account of other related dimensions in relation to rural settlement such as environmental and heritage protection and the need to maintain the integrity of economic resources;*
- 3) *Act as a facilitator in bringing together, within existing local structures, the main interests concerned with rural settlement such as the elected members, farming and community organisations, organisations representing rural dwellers, county development boards, environmental organisations and any other relevant organisations such as the providers of rural public transport;*
- 4) *Develop within the broad interests outlined at (3) above, an awareness of the facts on the ground in relation to population and economic trends in rural areas as well as environmental indicators, that will inform the policy options for the planning authority's development plan;*
- 5) *Work with interests such as those at (3) above to create a shared view of how the issue of rural settlement should be addressed through the development plan in the particular authority concerned.*

The Guidelines encourage that *'suggestions should be included in the development plan illustrating the broad categories of circumstances that would lead the planning authority to conclude that a particular proposal for development is intended to meet a rural generated housing need'*.

The Guidelines outline that such circumstances include persons who are an intrinsic part of the rural community, being persons who will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. The Guidelines provide examples, including *'sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence'* and also *'Returning emigrants who lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire should be also be accommodated.'*

#### **3.2 Fingal County Development Plan 2011-2017**

To provide some context to the submission, we will continue with the example of our client's circumstances. Under the Fingal Development Plan 2011-2017, Sinéad's family landholding is zoned 'HA' - High Amenity, The objective of which is to *'Protect and enhance high amenity areas.'* The vision for this zone is as follows:

*'Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored.'*

Figure 2.0 Extract from Zoning Map No. 2 in the Fingal Development Plan 2011-2017, showing the submission lands highlighted in red

Elegibility for a dwelling on lands zoned 'HA' is set out by Objective RH07 which requires the following: *'permit houses in areas with a zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.'*

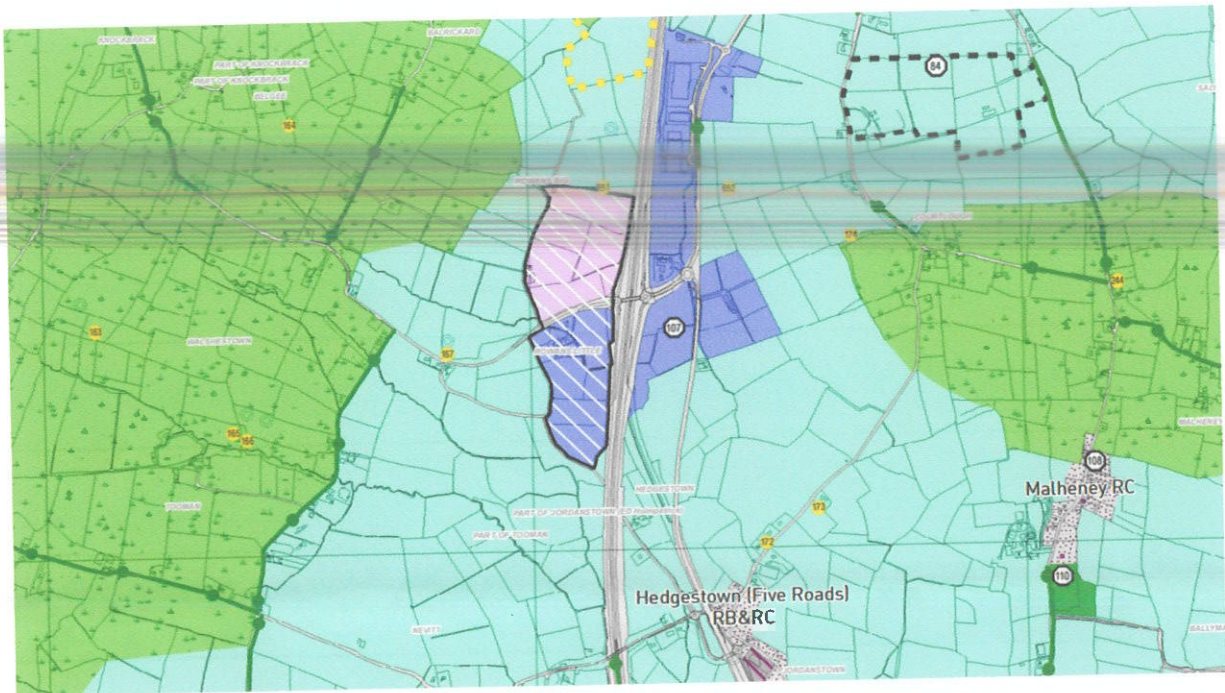


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*'permit houses in areas with a zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.'*

### 3.3 Draft Fingal County Development Plan 2017-2023

Under the Draft Fingal Development Plan 2017-2023, the land use zoning objective remains 'HA' - High Amenity,' with the objective remaining unchanged, 'Protect and enhance high amenity areas.'

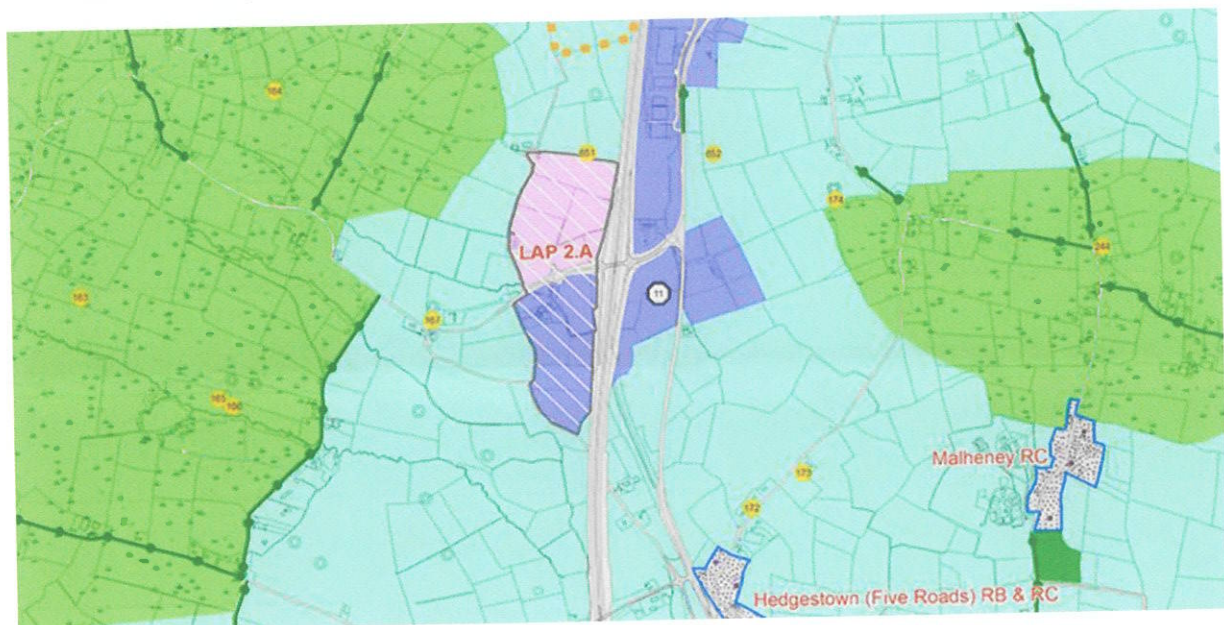


Figure 3.0 Extract from Zoning Map No. 2 in the Draft Fingal Development Plan 2017-2023, showing the submission lands highlighted in red

Chapter 5 of the draft plan deals specifically with Rural Fingal and in terms of rural housing states that *'It is the Council's policy to promote a balance between reinforcing and strengthening sustainable rural communities whilst protecting the rural environment from over-development. The Rural Settlement Strategy is aimed at facilitating those genuine rural generated housing needs of the local rural community (as identified in this Chapter) whilst ensuring that Fingal's rural villages offer an attractive housing alternative to those that want to live in a rural environment but do not comply with the settlement strategy.'*

We support the above statement however we strongly contend that the associated policy needs to reflect the concerns associated with the genuine need for housing for those providing care for elderly family members with exceptional health issues. The draft development plan makes no special dispensation for those in such circumstances.

#### ***Housing in the Countryside***

As regards housing in the countryside, the draft development plan makes a sweeping statement outlining that those with a rural-generated need for a house will be accommodated while those with urban-generated housing need will be directed to the towns and villages. We have no issue with this objective, however as outlined above, we would request that Council broadens the scope of circumstances for which 'rural need' can entail.

The draft development plan states that the Settlement Strategy for housing in the open countryside serves to meet settlement needs which are the result of a genuine rural-generated housing need and that rural-generated housing needs are considered to be the housing needs of people who have social ties, or occupations which are functionally related to the rural areas of the County, and are specifically defined as:

- *Members of farming families who are actively involved in the family farm which is located within rural Fingal as defined in Objective RF35;*
- *Persons who have close family ties to the Fingal rural community as defined in Table RF03 paragraph (i);*
- *Persons who have been in long term employment which is related to, and supportive of, the rural community as defined in Table RF03 paragraph (ii) and where the employment is dependent on the residence of the person within the rural community;*
- ***Persons who are a member of a rural-located family, who are considered because of exceptional and demonstrated health reasons to have a need to reside beside their family home in the rural area as defined in Table RF03 paragraph (iii);***
- *Persons who are "a bona fide" applicant, as defined in Table RF03 paragraph (iv), and who have a demonstrated commitment to set up a rural-related business and who may not already live in the area, nor have family connections there, or be engaged in particular employment or business classified with the local needs criteria. The applicant must have a clearly demonstrated need to live in the rural area to ensure the functioning of the business*

*Objective RF24 Ensure the vitality and regeneration of rural communities by facilitating those with a genuine rural generated housing need to live within their rural community.'*

*Objective RF29 Permit a maximum number of one incremental house for those who meet the relevant criteria set out in this chapter within areas with the zoning objective HA or GB plus one house for a person with exceptional health circumstances.*

*Objective RF30 Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances.*

Criteria which has unchanged from the current development plan is that only those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances, will be considered for a dwelling on land zoned 'HA' High Amenity.

#### **4.0 Submission Request**

The Sustainable Rural Housing Guidelines for Planning Authorities (2005) suggests development plans should illustrate a number of broad categories of circumstances for rural housing need. One of the suggested circumstances highlighted in the Guidelines is ***'to care for an elderly family member.'*** We note this is not a circumstance provided for in the Fingal Development Plan 2011-2017, nor in the Development Plan 2017-2023.

The Guidelines emphasise the importance of catering for all circumstances of rural generated housing need. Both the current and draft Fingal Development Plan's cater for applicants with exceptional health circumstances seeking planning permission, but not for applicants seeking planning permission for a rural dwelling where it is required to allow the applicant to care for an elderly parent or close family member with exceptional health circumstances. Many Councils including Louth, Waterford and Clare



County Councils have recognised the importance of this and have included the circumstance as part of the criteria for rural housing eligibility. The relevant criteria as per the relevant county development plan is as follows:

*Clare CDP 2011-2017 'Having regard to the Department of the Environment, Heritage and Local Government's Sustainable Rural Housing Guidelines (2005), special consideration shall be given in limited cases of exceptional health circumstances – supported by relevant documentation from a registered medical practitioner proving that a person requires to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person. In cases where an applicant requires to reside near elderly parents (who have been living in the local rural area for a minimum of 7 years) so as to provide security, support and care, or where elderly parent(s) need to reside near an immediate family member (who have been living in the local rural area for a minimum of 7 years), favourable consideration will also be given.'*

*Louth CDP 2015-2021. 'That the applicant is providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the older person(s) or person(s) with the disability resides.'*

*Waterford CDP 2011-2017 'A son or daughter of an established householder (who has lived in the area for three years or more) wishing to build a permanent home for their own use to live immediately adjacent to their elderly parents to provide care.'*

It is important for the future that Fingal County Council facilitate the needs and requirements for those in rural areas, in particular those of an older age that find themselves coping with exceptional health issues in isolation. This is of particular importance for rural dwellers, as the older age demographic is set to continue increasing.

Previous Draft development plan Objective RF24 seeks to 'Ensure the vitality and regeneration of rural communities by facilitating those with a genuine rural generated housing need to live within their rural community.' while Objective RF29 of the previous development plan seeks to 'Permit a maximum number of one incremental house for those who meet the relevant criteria set out in this chapter within areas with the zoning objective HA or GB plus one house for a person with exceptional health circumstances.'

We would strongly contend that the criteria (iii) set out previously in Table RF03, where it relates to housing in the 'HA' High Amenity area, facilitates persons that find themselves with exceptional health circumstances being eligible to apply for planning permission on lands adjacent to the family home, however, the same is not the case if the applicant needs to reside adjacent to an elderly parent, a parent / family member with exceptional health circumstances / disability.

Fingal County Council's Rural Housing Policy needs to be reviewed to take account of these circumstances. The Regional Planning Guidelines for the Greater Dublin Area instruct that local authority policies need to take account of the differing types of rural housing needs. It is considered that the rural housing needs of those wishing to care for and reside adjacent to an older family member with exceptional health issues be facilitated in the Rural Housing Policy in the Fingal Development Plan 2023-2029.

#### 5.0 Conclusion

The submission relates to the shortcomings within the draft development plan where it relates to rural housing policy. We request that Council review its rural housing policy framework and adopt a more sensitive approach to eligibility criteria where it relates to rural housing need.

In this regard, this submission requests the following:

- That Fingal County Council broaden the rural generated housing need criteria under the Fingal Development Plan 2023-2029, to include provision for persons who have a need to live adjacent to, and provide care for, an elderly parent; and

- That Fingal County Council amend draft development plan Objective RF30 to read as follows:

*'Permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances, or where care is required for an elderly parent or parent / close family member with exceptional health circumstances; and or have lived in the area for 18 years or more and or the land for which the planning permission is sought to have been owned by the family for 5 years or more*

- That Fingal County Council Insert the following eligibility criteria in draft development plan previously Table RF03:

*'A son or daughter of an established householder (who has lived in the area for three years or more) wishing to build a permanent home for their own use to live immediately adjacent to their elderly parents to provide care.'*

This submission was previously submitted for the Draft of 2017-2023 but the same principles apply. This Draft Fingal Development Plan for 2023-2029 needs to amend the High Amenity Criteria. The previous Development Plans under the high amenity requirements have had no consideration for a person who was born and reared in the area for over 28 years, who own land within the area, whose family have lived in the area for over 100 years, who have previously farmed in the area, whose parents will need care due to a certified medical disability. These are all factors of one person who is seeking to build beside her parents on family land. No other sibling has sought or will seek planning permission as they have built homes outside the Fingal area. Consideration needs to be given to rural family applicants seeking planning permission in this regard as a whole generation are being forced out of the rural areas they have lived and their families live due to the current High Amenity Requirements.

We trust that the Planning Authority will have regard to the contents of this submission in its adoption of the Fingal Development Plan 2023-2029 as it is a draft purporting to be "Housing for all".

Sinéad Murphy

