

An
Bord
Pleanála

Board Direction
BD-019269-25
ABP-321437-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/03/2025.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

In coming to its decision the Board has had regard to the following:

- (a) the nature, scale, and extent of the proposed development and the pattern of existing and permitted development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the proposal's consistency with the provisions of the Climate Action Plan (2024),
- (d) the provisions of the National Biodiversity Action Plan 2023-2030, which have been considered,
- (e) the provisions of the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (f) the provisions of the Urban Development and Building Height Guidelines for Planning Authorities (December 2018),
- (g) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),

- (h) the provisions of the Design Manual for Urban Roads and Streets (2019),
- (i) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031,
- (j) the provisions of the Fingal Development Plan 2023-2029 including the 'RA – Residential Area' zoning for the site,
- (k) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report and Natura Impact Statement, and the grounds of appeal,
- (l) the submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,
- (m) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (n) the planning history of the site and the vicinity of the site, and,
- (o) the report of the Planning Inspector.

Appropriate Assessment Screening

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that North-west Irish Sea Special Protection Area (SPA) (site code 004236) is the only European site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment

The Board considered the Natura Impact Statement and associated documentation submitted with the planning application, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely North-west Irish Sea SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies and observers in the course of the application, and,
- (d) The Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned conclusion on the significant effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment, with the implementation of the proposed migration measures, are as follows:

- significant direct positive impact for population, due to the substantive increase in the housing stock during the operational phase,
- significant, direct negative noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, and,
- significant beneficial visual impact from a number of locations in the immediate environs in the operational phase as it would improve the landscape/townscape.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. Overall the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Fingal Development Plan 2023-2029, would make efficient use of an appropriately zoned site on the edge of Balbriggan, would positively contribute to an increase in housing stock and both physical and recreational infrastructure in the area, would be acceptable in terms of urban design, layout and building height, and also would be acceptable in terms of pedestrian and traffic safety, and would provide

an acceptable form of residential amenity for future occupants. The proposed development would not preclude the delivery of the C-Ring Road, or a potential upgrade of the L1130/L5450 and R122 crossroads junction, and would not seriously injure the residential or visual amenities or unduly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 the planning authority on 9th day of October 2024, except as may otherwise be required in 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. For the purposes of clarity, the proposed duplex units proposed fronting onto the R122, as submitted in the drawings received by Fingal County Council on the 6th Day of August 2024 shall be constructed on site and not the proposed townhouses as indicated on the drawings submitted to An Bord Pleanála as part of the first party appeal.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR) shall be implemented.

Reason: To protect the environment.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

4. The development shall be carried out in accordance with the plans and particulars lodged with the planning application, as amended by the further plans and particulars received by the planning authority on the 9th day of October 2024, except as follows:
- (a) The F3 house types shall be as per drawing no. A507-DCA-XX-XX-DR-A-112 received by the Board on the 11th day of December 2024. A first floor side elevation window to Bedroom 1 shall be added to House Nos. 11, 12, 38, 41, 71, 92, 127, 128, 152-156, 162-164, 171 and 177.
 - (b) The 18 no. G house types addressing the Boulevard Road and the proposed C-Ring Road shall be replaced by the H type houses (drawing nos. A507-DCA-XX-XX-DR-A-143/144/145) received by the Board on the 11th day of December 2024.
 - (c) The four duplex blocks addressing the R122 shall be as per drawing no. A507-DCA-XX-XX-DR-A-137 received by the Board on the 11th day of December 2024.

Reason: To clarify the plans and particulars for which permission is granted.

5. (a) Prior to commencement of development the applicant shall transfer the area of land under its ownership along the L1130 to the planning authority, as shown on the Land Ceding Map (drawing no. A507-DCA-XX-XX-DR-A-029) received by the planning authority on the 9th day of October 2024.
- (b) Prior to commencement of development the developer shall submit, for the written approval of the local authority, the detailed design and specification of the signalised junction of Boulevard Road and R122. This junction upgrade shall be delivered in its entirety and be operational prior to the occupation of any residential units hereby permitted.

Reason: In the interest of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area and to comply with the provisions of the planning application.

6. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority a management scheme for the later living / age friendly housing units, restricting the occupation of these units to relevant persons and their spouses/partners. These units shall be occupied in accordance with the agreed management scheme thereafter.

Reason: To comply with objective DMSO37 (Age Friendly Housing) of the Fingal Development Plan 2023-2029 and to ensure the occupation of the proposed later living/age friendly units are appropriately restricted.

7. Unless otherwise agreed in writing with the planning authority, no residential unit in the proposed development hereby permitted shall be occupied until such time as the childcare facility permitted as part of Fingal County Council planning register planning reference F20A/0026 is operational, or it has been fully fitted out and is suitable for immediate occupation and operation.

Reason: In the interest of residential amenity.

8. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the planning authority. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the planning authority prior to the commencement of works on site.

Reason: To comply with objective DMSO194 (Provision of Public Art) of the Fingal Development Plan 2023- 2029.

9. (a) The landscaping scheme shown on the Landscape General Plan L_100 drawing, as submitted to the planning authority on the 9th day of October 2024, shall be carried out within the first planting season following substantial completion of external construction works.

(b) In addition to the proposals in the submitted scheme, prior to the commencement of development the developer shall submit for the written approval of the planning authority:

- (i) a revised landscape plan for the area along the L1130 and R122 along the south west and southern boundaries of the site, and,
 - (ii) a long-term management plan outlining a methodology so that any trees to be removed (T55 to T76) are gradually replaced by mature native trees so that the continuous canopy cover at this location can be maintained and enhanced for bats.
- (c) Vegetation clearance on site shall only be undertaken outside the main bird breeding season i.e. from September to February inclusive.
- (d) Prior to the commencement of development the developer shall submit for the written approval of the planning authority detail in relation to the landscaping of headwalls, design and layout of playgrounds, a method statement for all in-stream works, and detail of the treatment of the riparian area as well as a maintenance management plan and detail of the pedestrian crossings/bridges.
- (e) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of biodiversity, residential and visual amenity.

10. (a) Full details of the specific use of the commercial units shall be submitted to and agreed in writing with the planning authority prior to occupation of the units.
- (b) Details of commercial unit signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of the units

Reason: In the interests of clarity, the orderly development of the site, and the visual amenities of the area.

11. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless

otherwise agreed in writing with the local authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the relevant Section of the Council for such works and services.

Reason: In the interest of public health and surface water management.

13. The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

14. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the open space areas. Such lighting shall be provided prior to the making available for occupation of any residential unit in that phase.

Reason: In the interest of amenity and public safety.

15. 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.

Reason: In the interests of visual and [residential] amenity.

16. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed

construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interest of amenity and of traffic and pedestrian safety.

17. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

18. Roads and footpaths shown to adjoining lands, including to the front of number 60 in the western parcel and number 66 in the southern parcel, shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning & Development Regulations, 2001 (as amended).

Reason: In the interest of permeability and proper planning and sustainable development.

19. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

20. (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.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

21. (a) The applicant shall engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals contained in the Environmental Impact Assessment Report for archaeological excavation (preservation by record) of the archaeological features already identified in advance of construction works, the wade survey of the designated sections of Clonard Stream, and the archaeological monitoring of ground disturbance at construction stage across the development site.

(b) The archaeologist shall assist in the integration of the archaeological mitigation into the Construction and Environmental Management Plan.

(c) Should previously unidentified archaeological material be found during the course of 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 National Monuments Service of the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action e.g. preservation in situ or excavation, and shall facilitate the archaeologist in recording any material found.

(d) The planning authority and the National Monuments Service shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

22. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

23. (a) A plan containing details for the management of waste (and, in 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) For the duplex apartments and mixed-use block this plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) For the terraced housing this plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0900 to 1300 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

25. The construction of the development shall be managed in accordance with a Construction 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 intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) location of areas for construction site offices and staff facilities.
- (c) details of site security fencing and hoardings.
- (d) details of on-site car parking facilities for site workers during the course of construction.
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) measures to obviate queuing of construction traffic on the adjoining road network.
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

(k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.

(l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

(m) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

26. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection and residential amenities.

27. 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 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

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 for the area.

28. (a) 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 relevant 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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, in the common good.

29. 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

30. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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.

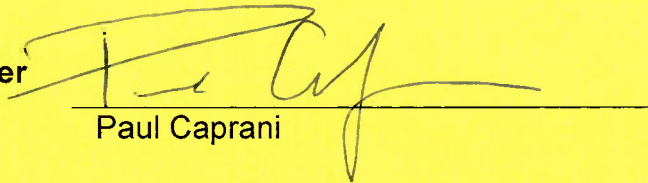
Reason: To secure the protection of trees on the site.

31. 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 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.

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.

Board Member



Paul Caprani

Date: 24/03/2025