



An
Coimisiún
Pleanála

Direction
CD-021969-26
ACP-322994-25

The submissions on this file and the Inspector's report were considered at a meeting held on 27/02/2026.

The Commission decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:

Eamonn James Kelly

Date: 04/03/2026

Eamonn James Kelly

DRAFT WORDING FOR ORDER

Reasons and Considerations

Having regard to the Mayo County Development Plan 2022-2028, to the Core Strategy Policy CSP 4 supporting the compact growth of towns, to the designation of Ballina as a Tier 1 Key Town and Strategic Growth Town, to Policy Objective SSO6 encouraging compact growth of settlements, to the Ballina Local Area Plan 2024-2030, and to the zoning of the site as 'New Residential', it is considered that, subject to the conditions set out below, the development would represent sustainable intensification and consolidation of the existing built environment in Ballina through appropriate infill development at an appropriate scale and density in line with the Core Strategy, would have no significant traffic impacts of concern, and would

through its design promote healthy placemaking. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Commission noted the Development Plan requires minimum densities of 20 units per hectare as set out in Volume 2, Section 4.4, Table 2. However, the preceding text in Section 4.4 states that the appropriate residential density of a site shall be determined with reference to amongst other things the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009). In addition, Policy Objective TVHO 2 of the Development Plan requires residential development to demonstrate that a housing density appropriate to its context is achieved. The Commission therefore considered there was some scope for site-specific flexibility with respect to Table 2 in Section 4.4.

The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) replaced the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) as stated in Section 1.2 and are to be implemented in the consideration of individual planning applications as stated in Section 2.1. In Section 3.3.3, Table 3.5 of these 2024 Compact Settlement Guidelines, it is indicated that net densities in the range 30-50 dwellings per hectare shall generally be applied at suburban and urban extension locations of Key Towns and net densities less than 30 should be discouraged. While the Inspector correctly noted Policy Objective 3.1 of the Compact Settlement Guidelines (2024) requires the recommended residential density ranges set out in Section 3.3 are applied in individual planning applications, the Commission also noted Section 3.3.6 sets out exceptions that may take precedence over the densities set out in Section 3.3.

While the proposed development is low at 17.9 units per hectare, the Commission noted that the proposed development site is infill in nature, almost entirely surrounded by low density, car-oriented, residential lands at the edge of Ballina, and the density of the partially completed permission for the adjacent Lansyn development is in the region of 17 units per hectare. Having regard to the exceptions set out in Section 3.3.6 of the Compact Settlement Guidelines and Policy Objective TVHO 2 of the Development Plan, the Commission considered this very

small infill site at this particular location is not of sufficient scale to define its own character and density and a higher density on this particular site would not respond to the scale, form and character of the surrounding development and, in light of the issues raised, would not protect the amenities of surrounding properties. On that basis, the Commission was satisfied that the low residential density is justified in this location.

In addition, the Commission was satisfied that the matter of excessive density was raised in the appeal and did not, therefore, constitute a new issue. While the material contravention of the Development Plan is noted, the planning authority granted permission and therefore the Commission was satisfied for the aforementioned reasons to also grant permission pursuant to Section 37(2)(a) of the Planning and Development Act 2000, as amended.

The Commission also noted a material contravention of the Development Plan in relation to Section 4.8 (Private Open Space). However, it concurred with the Inspector that it can be justified, per Section 37(2)(a) of the 2000 Act by reference to SPPR1 of the Compact Settlement Guidelines which effectively allows for rear garden depths of 8 metres.

The Commission further noted a material contravention in relation to Section 4.5.5 of the Development Plan which provides for a minimum separation distance between side walls of adjacent dwellings of 3 metres in this regard. It was noted this minimum requirement would not be achieved in most cases where side elevations face within the development although it would be achieved in relation to separation with the existing houses surrounding the site. On this basis, it was considered that there would be a material contravention of the Section 4.5.5 in relation to the 3m separation distance requirement. However, the Commission concurred with the Inspector that it can be justified, per Section 37(2)(a) of the 2000 Act to grant permission on the basis that side-facing windows at first floor can be conditioned to be in opaque glass, and therefore the reduced separation distances would not give rise to any undue overlooking, overshadowing or overbearing of adjacent residential properties.

Finally, the Commission noted the deficiency in visitor car parking spaces and that the failure to provide for an additional visitor space for each of the 3, 4 and 5 bedroom units would materially contravene Table 7 of Volume 2 of the CDP. However, having regard to SPPR3 of the Compact Settlement Guidelines where two spaces per dwelling is provided for as a maximum rate of parking provision in intermediate/peripheral locations, it concurred with the Inspector's consideration that the omission of visitor spaces for the 3, 4 and 5 bedroom units is justified and that permission could be granted for the development per Section 37(2)(a) of the 2000 Act.

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 the 26th day of May 2025, 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.

Reason: In the interest of clarity.

2. The following shall be incorporated into the scheme:

- (a) The pedestrian link at the northeast of the site adjacent to unit number 9 contained in the original plans shall be reinstated.
- (b) Unit number 9 shall be reconfigured so that the main doorway entrance faces east, and with no boundary wall to be provided along the eastern elevation and front garden of this unit.

(c) Unit number 26 and unit number 35 shall be reconfigured so that the main doorway entrance faces the laneway west, and with no laneway boundary wall to be provided along the full north west elevations and front gardens of these units.

(d) Measures to protect the Belleek Castle wall and boundary trees.

(e) Side-facing windows at first floor level of all units shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of clarity and residential amenity, and to ensure an appropriate high standard of development.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/structures/buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. 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. Prior to the commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

5. Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

6. 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.

7. A Stage 1/2 Road Safety Audit shall be implemented into the detailed design and construction. The proposed link road to L-1130 shall be included in the Audit with regard taken to increase in all traffic modes (motorised / non-motorised); and the response required by way of road safety features as applicable. Subsequent Stage 3 and Stage 4 Road Safety Audits shall be completed at the appropriate stages.

All findings shall be implemented into the relevant phases.

Roads, footpaths and turning areas shall be designed and constructed in accordance with the Design Manual for Urban Roads and Streets, (Department of Transport, Tourism and Sport and the Department of Housing, Planning and Local Government) May 2019.

Reason: In the interest of establishing relevant standards and ensuring safety of vulnerable road users

8. All roads and footpaths and cycleways where applicable shown to adjoining lands 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 and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

9. 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.

10. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development, following consultation with the Local Authority Archaeologist. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation.

The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation by record of places, caves, sites, features or other objects of archaeological interest"

11. 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. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

12. The construction of the development shall be managed in line with best practice and 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 in line with best 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) Provision of parking for existing properties during the construction period;

(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(k) 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;

(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

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

(n) 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

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 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.

14. Proposals for an estate/street name, house 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 numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

15. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

17. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees, hedgerows, stone walls specifying which are proposed for retention as features of the site landscaping,

(ii) The measures to be put in place for the protection of these landscape features during the construction period,

(iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,

(iv) Details of screen planting which shall not include *cupressocyparis x leylandii*,

(v) Details of roadside/street planting which shall not include *prunus* species,

(vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment, and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation including details of phasing.

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 interest of residential and visual amenity.

18. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands 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 Coimisiún 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.

19. 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 of roads, footpaths, watermains, drains, 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 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 Coimisiún Pleanála for determination.

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

20. (a) Prior to the commencement of 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), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential 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 of the residential units 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.

21. 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 Coimisiún 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.