

An  
Coimisiún  
Pleanála

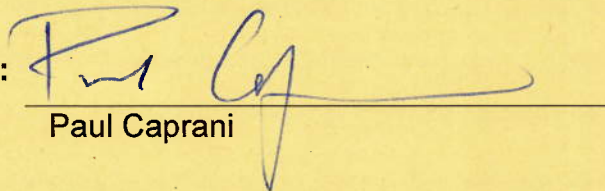
**Direction**  
**CD-022100-26**  
**ACP-324034-26**

The submissions on this file and the Inspector's report were considered at a meeting held on 21/04/2026.

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

**Planning**

**Commissioner:**

  
Paul Caprani

**Date:** 21/04/2026

### **DRAFT WORDING FOR ORDER**

#### **Reasons and Considerations**

In coming to its decision, the Commission performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, in accordance with the provisions of the Climate Action Plan 2024 and Climate Action Plan 2025, and also had regard to the following:

- (a) the location of the site on lands zoned for RS – Residential in the Fingal County Development Plan 2023-2029,
- (b) the correspondence received from the Department of Education indicating that the existing site is not required for the provision of a school and the policies and objectives of the Fingal County Development Plan 2023-2029 and the Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES),
- (c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- (d) the nature, scale and design of the proposed development comprising an amendment to a permitted development on the site,
- (e) the existing pattern of development in the area,
- (f) the availability of a wide range of physical, social and community, infrastructure and services in the area,
- (g) the proximity of the site to transportation modes,
- (h) the nature, scale and design of the proposed development comprising an amendment to a permitted development on the site, the documentation submitted with the planning application and the appeal,
- (i) the submissions and observations received on file, including from the planning authority, prescribed bodies, and the applicant,
- (j) 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,
- (k) the planning history in the vicinity of the site, and
- (l) the report of the Planning Inspector.

The proposed development constitutes a material contravention of the Fingal County Development Plan 2023–2029 by reason of the failure to provide a post-primary school on lands identified for such use under Map 6B; it is considered that a grant of permission is justified under Section 37(2)(b)(ii), in that there are conflicting

objectives in the development plan or the objectives are not clearly stated, and Section 37(2)(b)(iv), having regard to the established pattern of development and permissions granted in the area.

### **Appropriate Assessment Screening:**

The Commission agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report and found that the proposed development would not result in likely significant effects on any European Site. The subject site is located 0.6 kilometres west from the North-west Irish Sea Special Protection Area (Site Code: 004236), The Rogerstown Estuary Special Area of Conservation (Site Code: 000208), 1.0 kilometres south of the site, The Rogerstown Estuary Special Protection Area (Site Code: 004015) , 1.0 kilometres south of the site, and the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000). The proposed development would have no likely significant effect in combination with other plans and projects on any European Site. Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is, therefore, not required.

### **Environmental Impact Assessment:**

The Commission completed an environmental impact assessment screening of the proposed development. Having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Paragraphs 10 (b)(i) and (iv), Paragraph 10 (f) (ii), and Paragraph 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on land zoned 'RS –Residential' in the Fingal County Development Plan 2023-2029,
- (c) the existing use of the site which comprises of improved agricultural grassland and the pattern of development in the vicinity,

- (d) the availability of public water and foul services to serve the proposed development, and
- (e) the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable scale and density of development in this urban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of layout, urban design, would be acceptable in terms of traffic and pedestrian safety and convenience, and would not be detrimental to the Conservation Objectives of any European Sites or to the quality of receiving waters. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission noted the map-based objective for the proposed site, as set out under Map 6B of the Fingal County Development Plan 2023-2029. The provision of residential dwellings on RS zoned land is not considered to be a material contravention; however, the failure to provide a school materially contravenes a map-based objective of the Fingal County Development Plan 2023-2029.

The Commission noted the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended, where the Commission may 'decide to grant a permission even if the proposed development contravenes materially the Development Plan.' Subject to the provisions of Section 37(2)(b), the proposed development would be justified on Residential Zoned lands having regard to the provisions under Section 37(2)(b)(ii) and (iv) of the Planning and Development Act 2000, as amended, that Section 37(2)(b)(ii), that there are conflicting objectives in

the development plan or the objectives are not clearly stated, in so far as the proposed development is concerned.

Section 37(2)(b)(iv), having regard to the established pattern of development and permissions granted in the area.

The Commission considered that the zoning objectives pertaining to the site which seek to provide for residential development and improve residential amenity. It is therefore an objective to provide residential development on the site. The provision of a post primary school which constitutes a community facility conflicts with the primary zoning objective relating to the site. The Commission further noted that the other lands reserved to a post primary school to the c0.5km to the north west of the is situated on lands governed by the zoning objective 'CI – Community Infrastructure' where the zoning objective is to provide for and protect civic, religious, community, education, health care and social infrastructure'. The proposed school clearly aligns with the Community Infrastructure zoning. The Commission are of the opinion therefore that having regard to the intended educational use and the variation in land use zoning objectives on lands intended to accommodate the educational use, that there are there are conflicting objectives in the development plan or the objectives are not clearly stated, in so far as the proposed development is concerned.

Furthermore the Commission noted that Rush is identified as a Self-Sustaining Growth Town in the development plan, where Policy CSP34 promotes infill development and compact growth at appropriate locations. The subject site, being zoned for residential development, represents such a location. Policy CSP18 further supports the delivery of housing on appropriately zoned lands to address existing shortfalls in supply. On the basis of the above, and noting the conclusions reached in the Inspector's report that the proposed development is in accordance with the proper planning and sustainable development of the area, the Commission was satisfied that, notwithstanding the provisions of the map-based objective for the provision of a school, it is appropriate for the Commission to grant permission, taking into account the correspondence on file from the Department of Education stating the site is no longer required for the provision of a school and the wider support for residential development set out in the Fingal County Development Plan 2023-2029, as well as national and regional policy support for residential development. In conclusion, on this matter, the Commission was satisfied that the proposed

residential development located on residentially zoned lands in Rush, County Dublin is acceptable and, in relation to the current proposal, is in accordance with the proper planning and sustainable development of the area.

Note: The Commission did not share the Inspectors opinion that the proposed development satisfied the criteria under the provisions of Section 37(2)(b)(i), ie that the proposed development in question constituted development that was of Strategic or National importance. While the Commission acknowledged that the delivery of housing supply is of major economic and social importance to the State, the Commission considered consisted that the provision of an additional 35 dwellings was not of a scale or quantum in terms of housing supply to constitute a development that was of sufficient size which would qualify as being of Strategic or National important. Nevertheless for reasons set out above, the Commission considered that Section 37(2)(b)(ii)&(iv) had been met to justify a material contravention in this instance.

## Conditions

1. The amendments to the development permitted under appeal reference number ABP-316065-23 shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached hereto.

**Reason:** To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission (appeal reference number ABP-316065-23), unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Full detail of pedestrian access points and boundary treatments at all locations of the development.

**Reason:** In the interest of residential amenity and visual amenity.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
  - (a) Engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals contained in the Archaeological Assessment report for archaeological test excavation in advance of construction works and provide a conservation plan for preservation in-situ of the well (SMR No. DU008-014\_). No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.
  - (b) The archaeologist shall be required to notify the Department in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.
  - (c) The archaeologist shall carry out any relevant documentary research and shall excavate test trenches, at locations chosen by the archaeologist, having consulted the proposed developments.
  - (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the Department for consideration.
  - (e) Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (excavation) and/or monitoring shall be required and the Department shall advise the developer with regard to these matters.
  - (f) No site preparation or construction works shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the Department.

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

5. 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 interest of visual and residential amenity.

6. The road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, and access road to service areas, shall be in accordance with the detailed construction standards of the planning authority for such works.

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

7. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

8. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the

installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning EV charging stations/points.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

9. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

10. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann prior to commencement of development.

**Reason:** In the interest of public health.

11. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

12. (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 planning 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 the development in the interest of residential amenity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

14. The construction of the proposed development shall be managed in accordance with a Construction Environmental 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 proposed development with measures to reflect mitigation described in the submitted draft Construction Environmental Management Plan, Ecological Impact Assessment and Tree Survey, in addition to the following:
  - (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
  - (b) The location of access points to the site for any construction related activity.
  - (c) The location of areas for construction site offices and staff facilities.

- (d) Details of site security fencing and hoardings.
- (e) Details of on-site car parking facilities for site workers during construction.
- (f) 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.
- (g) Measures to obviate the queuing of construction traffic on the adjoining road network.
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same.
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during site development works.
- (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 kept for inspection by the planning authority.

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

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays or public holidays. Deviation from these times shall 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.

16. 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 (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may 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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

17. Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all 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.

**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.

18. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 Coimisiún Pleanála for determination.

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

19. 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.

20. The developer shall pay to the planning authority a financial contribution in lieu of the shortfall in public open space to be provided as part of the development 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.