

An
Coimisiún
Pleanála

Direction
CD-022262-26
ACP-324182-26

The submissions on this file and the Inspector's report were considered at a meeting held on 16/06/2026.

The Commission treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Commission also decided that the planning authority be directed, as follows:

Remove condition 48.

Reasons and Considerations

Having regard to: -

- (a) the nature, scale and form of the proposed development, including the quantum of public open space provided,
- (b) the pattern of development in the area including proximity to permitted public open space with the Kellystown Local Area Plan lands,
- (c) the Fingal County Council Development Contribution Scheme 2021-2025,
- (d) the Fingal County Development Plan 2023-2029, and
- (e) the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024),

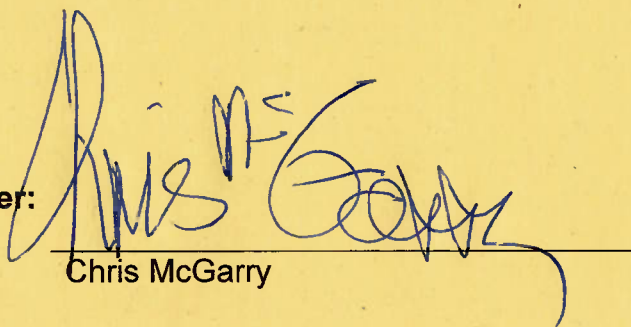
The Commission noted that the proposed public open space provision for the permitted development is 18.8% (8,231sq.m) based on the gross site area of 4.39ha and 16.3% (c.6,544sq.m) based on the net site area of 3.96ha which exceeds the requirements set out in Table 14.12 of the development plan. Having regard to the foregoing it is considered the proposed public open space provision is acceptable given the context of the site (greenfield and on LAP lands) and no short fall occurs when considered in the context of the requirements of the development plan.

Furthermore and in any case, having regard to the proximity to and extent of existing/permitted Class 1 and Class 2 public open space in the immediate vicinity of the subject site, namely associated with the appellant's permitted residential development to date on lands identified within the scope of the Kellystown LAP, it is considered that any argued shortfall of open space based on the requirements of 2.5ha per 1000 population is met through the provision of permitted open space on the appellant's lands to date. Having regard therefore to the specific facts of the case and noting that the application of a contribution in lieu is a discretion, given the nature, scale and form of the development, including the extent and quality of open space provided on site and in the vicinity, it is determined that an in lieu contribution would not be warranted in this instance.

In reaching this determination, the Commission also considered the '*Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities*' issued by the Department of Housing, Local Government and Heritage, issued in January 2024. The Guidelines include Policy and Objective 5.1 - Public Open Space which requires development plans to include objective(s) relating to public open space in new residential developments, whereby such provision shall be not less than minimum 10% of net site area and not more than minimum 15% of net site area save in exceptional circumstances.

In conclusion, the Commission, in accordance with section 48 of the Planning and Development Act 2000, as amended, considered that the terms of the Fingal County Council Development Contribution Scheme 2021-2025 had not been properly applied in respect of condition number 48 and directs the said Council to remove condition number 48.

**Planning
Commissioner:**



Chris McGarry

Date: 16/06/2026