

An
Bord
Pleanála

Board Order
ABP-320358-24

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F23A/0801

Appeal by Joe and Ann McGloughlin of Chapel Lane, Garristown, County Dublin and by Garristown Community Council care of Eileen Neylon of Tobergregan, Garristown, County Dublin against the decision made on the 8th day of July, 2024 by Fingal County Council to grant subject to conditions a permission to Cabot Land Holdings Limited care of O'Daly Architects of 1st Floor, Unit 13B, Mullaghboy Industrial Estate, Navan, County Meath in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of the construction of 11 number detached two storey four bedroom houses, two number semi-detached two-storey four bedroom houses, two number detached two-storey three bedroom houses and six number semi-detached two-storey three bedroom houses, widen the western side of existing Chapel Lane carriageway along the side frontage, provide new grass verge and public path along site frontage with Chapel Lane, new vehicular entrance, internal road and paths, public open space, landscaping, public lighting and all associated site works on lands to the west of Chapel Lane, Garristown, County Dublin, as amended by the further public notices received by the planning authority on the 29th day of April, 2024.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2023-2029, including the 'RV Rural Village' land use zoning objective for the area and the relevant policies and objectives of the development plan, including Objective SPQHO56 'Rural Villages', and having regard to the scale, form, design, and layout of the proposed development, and to the pattern of development in the area including recorded monuments, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or character of the area or of property in the vicinity, would support the development of the rural village, would not seriously injure the residential amenity of dwellings in the area, would not be prejudicial to public health, would comply with the relevant provisions of the development plan and would constitute an acceptable form of residential development at this zoned location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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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 24th day of April, 2024 and the 13th day of June 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.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All external finishes to be used shall be the same as that used in the adjoining residential areas.

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

3. The detailed design and construction of the upgrade works and all ancillary works to Chapel Lane Road infrastructure and services, drainage, public lighting, signing and road markings, and details of the footpath in the vicinity of the 'spout' feature, including drawings and reports, programme and phasing shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of clarity, public safety and to ensure the proper planning and sustainable development of the area.

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4. The following shall be complied with:

- (a) the developer shall undertake the recommendations set out in Sections 3.2 to 3.5 inclusive (excluding Section 3.1) contained within the Stage 1 & 2 Road Safety Audit submitted to the planning authority on 24th day of April 2024, unless the planning authority approves a departure in writing, and
- (b) upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall complete Stage 3 and 4 Road Safety Audits, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team and agreed in writing with the planning authority.

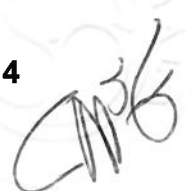
Reason: In the interests of pedestrian and traffic safety.

5. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority

Reason: In the interest of public health.

6. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

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

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7. 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.

8. The following shall be complied with:
- (a) the site shall be landscaped in accordance with a comprehensive scheme of landscaping and boundary treatments, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development,
 - (b) the boundary treatment scheme shall be in accordance with drawing reference PP424-03 'Boundary Plan' prepared by Jane McCorkell Design and submitted to the planning authority on the 13th day of June 2024,
 - (c) the landscaping scheme shall be in accordance with the drawing reference PP424-01 'Landscape Masterplan' prepared by Jane McCorkell Design and submitted to the planning authority on the 13th day of June 2024, subject to inclusion of the three number spaces identified on that drawing as 'public open space – lawn area' located adjacent dwellings numbers 11 and 12 as part of the private lawn area of those dwellings, and

- (d) 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 three 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 residential and visual amenity.

9. 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 shown on the 'Landscape Masterplan' drawing reference PP424-01 prepared by Jane McCorkell Design and submitted to the planning authority on the 13th day of June, 2024. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

10. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including, construction traffic management, management of works to the public road, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and amenity.

12. 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.

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13. (a) 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. Prior to the commencement of such works, the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service 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.
- (b) 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.
- (c) 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 of places, caves, sites, features or other objects of archaeological interest.

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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(s) 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(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 and to ensure the use of locally appropriate placenames for new residential areas.

15. 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 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.

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16. (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.

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17. 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 reinstatement of public roads and 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.

18. 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.

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 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.

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20. The developer shall pay to the planning authority a financial contribution as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The shortfall in public open space for the purposes of this condition is 465 square metres. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any 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 contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

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21. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of footpaths along Chapel Lane, which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.




Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 25th day of March 2025.