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14 April 2025

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

AN BORD PLEANÁLA	
LDG- <u>079371-25</u>	
ABP- _____	
16 APR 2025	
Fee: € <u>220</u>	Type: <u>Chg</u>
Time: <u>9.40</u>	By: <u>Rem Post</u>

A

Re: Planning Appeal on Section 5 Declaration ref. F55/020/25 (Fingal County Council).

As constructed variations to the housing development granted under Planning ref. F17A/0357 (ABP-300045-17), i.e. minor alterations to the road alignment and house type elevations.

At Baile Bhuín, Oldtown, Dublin.

A Chara,

On behalf of MNH Carlow Holdings Limited, we wish to appeal the decision of Fingal Co. Co. reference F55/020/25 dated 7 April 2025.

The refusal relates to a Section 5 Declaration request to the Planning Authority.

The application relates to permission registration numbers F17A/0357 and ABP-300045-17.

The issues for which a declaration is sought are as follows:

1) Turning area on estate roads and slight realignment of roads:

The attached drawing shows the as-constructed turning areas overlaid on the turning area as per the Planning Permission. These areas were constructed to comply with Condition 7 of the permission —

“The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works “.

The turning heads were constructed to Type (ii) of Figure 2.2 "Residential Turning Bays" in "Recommendations for Site Development Works for Housing Areas" in order to comply with Condition 7 and Fingal Taking in Charge Policy & Specifications.

The Bord are requested to determine that the as constructed turning bays are in compliance with condition 7 of the granted permission.

2. The realignment of sections of road was necessitated by a change by Irish Water from the original Irish Water Agreement during construction. IW instructed that the foul manholes be situated in the road rather than the footpath. As a result, it was necessary to adjust the alignment and length of parts of the road in order to achieve the required falls and clearances.

The Bord are requested to determine that these amendments, made during construction are de minimis modifications and of such minor nature as not to constitute a breach of the planning permission.

3. House Type A:

The footprint of the houses is as per the granted permission.

The permission provided for a domestic garage to the side. The garages were built however on the advice of the selling agent and having regard to the changing work practices i.e. working from home these were changed to a room. This was excellent advice as it was a positive factor in selling the houses.

The Bord are requested to determine that the conversions, which were completed after the construction of the houses and garages is exempted development.

4. The front elevation contains the following differences from the granted permission.

House Types: A, B, C

A

- Ground floor:
- 2 windows to one side of the front door in place of 3.
 - Bay window has a flat roof in place of an apex.
- First floor:
- A larger window in main bedroom.
 - A flat roof on a larger window than granted and skylight in place of a second window.

B

- The footprints of the houses are as per the granted permission.
- The dormer windows and bay window have flat roofs as opposed to apex as shown in the planning drawings.

C

- Footprint of the houses are as per the granted permission.
- The bay window has a flat roof instead of an apex and there are 2 windows on the opposite side of the front door as opposed to 1 shown in the planning drawing. The apex over these windows has been slightly extended to include the front door.

These amendments to House types A, B and C which make better use of natural light and solar gain do not materially affect the external appearance of the houses so as to render their appearance inconsistent with the character of the structure or of neighbouring structures.

These relate to variations to the development during its construction phase from those planning drawings upon which the planning permission was granted. We suggest that these works do not constitute standalone type developments in accordance with Section 3(1) of the Planning and Development Act 2000 as amended and are de minimis modifications and of such minor nature as not to constitute a breach of the planning permission. The Bord are requested to so determine.

ABP decision 301406-18 we consider to be a relevant precedent.

In conclusion it is submitted that the amendments, which are consistent in the three house types, are an improvement on the granted permission and do not materially affect the external appearances to the extent that they render the appearance inconsistent with the character of the development or the character of neighbouring structures.

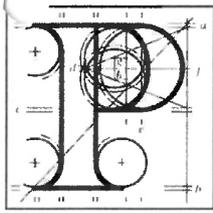
In support of this application, we include the following information:

<u>Name</u>	<u>Description</u>
024 PL7 Appeal Form_R0	Planning appeal form
FS5.020.25 D	Copy of Section 5 Declaration
024-PL6-001 Site Location Map 1-10560_R0	Site location map
024-PL6-003 Site Location Map 1-1000_R0	Site location map
024-PL6-200 House Types Roads	Overlay of roads as granted and as built House type A, B and C front elevations as granted and as built
Fee cheque	€220

Mise le meas,



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An
Bord
Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

MNH Carlow Holdings Limited

(b) Address

Garryhill, Bagenalstown Co. Carlow R21 KP44

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Liam Minogue

(b) Agent's address

Strutec, Garryhill, Bagenalstown Co. Carlow R21
KP44

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Fingal County Council

(b) Planning authority register reference number

(for example: 18/0123)

FS5/020/25

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Baile Bhuín Oldtown Co. Dublin

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please see attached cover letter.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.





**Liam Minogue,
Strutec Ltd
Garryhill
Bagnelstown
Carlow
R21KP44**

**NOTIFICATION OF DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED**

Decision Order No. PF/1004/25	Decision Date: 07-Apr-2025
Ref: FS5/020/25	Registered: 14-Mar-2025

Area: Balbriggan

Applicant: MNH Carlow Holdings Ltd

Development: As constructed variations to the housing development granted under Planning Ref. F17A/0357 (ABP-30045-17), i.e. minor alterations to the road alignment and house type elevations.

Location: Baile Bhuin, Oldtown, Dublin

Application Type: Request for Declaration Under Section 5

Dear Sir/ Madam

With reference to your request for a **DECLARATION** under Section 5 (1) received on 14-Mar-2025 in connection with the above, I wish to inform you that the above proposal **IS NOT Exempted Development** under Section 5(1) of the Planning and Development Act 2000 for the following reason(s):

1. The planning authority considers both elements of the applicant's question DO NOT constitute Exempted Development as they contravene condition(s) attached to a permission under the Planning and Development Act, 2000 (as amended) and the changes to the permitted house types materially affect the external appearance of the entire housing development so as to render the appearance inconsistent with the character of the housing development permitted.

NOTE: Where a declaration is issued under section 5 (1) any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such a fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Signed on behalf of Fingal County Council.


for **Senior Executive Officer** 08-Apr-2025

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.
2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.
3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).
4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.
5. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.
6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type

Planning Acts

(a) Appeals against decisions of Planning Authorities

Appeal

(i) 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 in EIS or NIS involved
(iii) 1 st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1 st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act)	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at (01) 8588 100.