

An
Bord
Pleanála

Board Direction
BD-018697-25
ABP-320886-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/01/2025.

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

Reasons and Considerations

In coming to its decision, the Board had regard to, and as relevant been consistent with, the following:

- (a) Policies and objectives set out in the National Planning Framework 2040 and the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.
- (b) Policies and objectives set out in the Fingal Development Plan 2023-2029, including the location of the site on lands subject to Zoning Objective 'TC' Town and District Centre' and the permitted uses therein.
- (c) Fingal County Council Development Contribution Scheme 2021-2025, and the Supplementary Development Contribution Scheme in respect of the Clonsilla to Dunboyne (Pace) Railway Line.
- (d) Housing for All, A New Housing Plan for Ireland, 2021.
- (e) Climate Action Plan, 2024.
- (f) National Biodiversity Plan 2023-2030.

- (g) Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- (h) Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- (i) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- (j) Design Manual for Urban Roads and Streets, 2019.
- (k) Childcare Facilities, Guidelines for Planning Authorities, 2001.
- (l) Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- (m) Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- (n) Development Management, Guidelines for Planning Authorities, 2007.
- (o) The nature, scale, and design of the proposed development.
- (p) The availability in the area of a range of social, community, and transport infrastructure.
- (q) The pattern of existing and permitted development in the area.
- (r) The planning history at the site and within the area.
- (s) The reports of the planning authority.
- (t) The submissions received by the planning authority from observers and prescribed bodies.
- (u) The grounds of appeal and observations.
- (v) The responses to the grounds of appeal by the planning authority and the applicant.
- (w) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise (Stage 1) in relation to the potential effects of the proposed development on designated European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites, and the absence of any direct hydrological connections, submissions and observations on file, the information and reports submitted as part of the application and appeal, and the Planning Inspector's report. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that an Appropriate Assessment (Stage 2) and the preparation of a Natura Impact Statement would not, therefore, be required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the proposed development on the environment.

Having had regard to:

- (a) the nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on zoned lands (Zoning Objective 'TC' Town and District Centre), and other relevant policies and objectives in the Fingal Development Plan 2023-2029, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) the infill nature of the site (greenfield/ brownfield) and its location in urban neighbourhood area, which is served by public services and infrastructure,

- (d) the pattern of existing and permitted development in the area,
- (e) the planning history at the site and within the area,
- (f) the location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (g) the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003),
- (h) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended,
- (i) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive,
- (j) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Environmental Management Plan, Ecological Impact Assessment, Landscape Visual Impact Assessment, Arboricultural Report, Site Specific Flood Risk Assessment, Archaeological Impact Assessment, Noise Impact Assessment, Wind Microclimate Modelling Report, and Mobility Management Plan.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable 'TC' Town and District Centre zoning objectives and other policies and objectives of the Fingal Development Plan 2023-2029, would appropriately intensify the residential use at the site, would constitute an acceptable mix and quantum of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the planning authority on the 11th July 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. The proposed hammerhead to link with Orchard Avenue shall be omitted and the area set aside for that purpose shall be reallocated for open space.

Revised boundary details between the development site and Orchard Avenue

shall incorporate a 1.8 metre high mild steel fence with native hedgerow planted alongside. Prior to commencement of development, revised plans and particulars indicating same, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of pedestrian and traffic safety.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the outline Construction Environmental Management Plan, Ecological Impact Assessment, Landscape Visual Impact Assessment, Arboricultural Report, Site Specific Flood Risk Assessment, Noise Impact Assessment, Wind Microclimate Modelling Report, and Mobility Management Plan, submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment, public health, and clarity.

4. All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Impact Assessment included in application documents shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

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

5. Prior to the commencement of development, a final Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the planning authority for written agreement. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP

shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

6. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

6. 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 place names for new residential areas.

7. (a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted

with the application, unless otherwise agreed in writing with the planning authority.

- (b) Details of security shuttering, external lighting, and signage for the café and childcare facility shall be agreed in writing with the planning authority prior to commencement of development.
- (c) Details of a maintenance strategy for all external finishes within the proposed development shall be submitted for the written agreement of the planning authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

- 8. 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 within a finalised agreed Landscape Masterplan and Planting Schedule. 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.

- 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. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 on Mondays to Fridays 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.

12. The development shall be implemented subject to the following:
 - (a) The development of the site shall be undertaken in a phased manner in accordance with Proposed Site Phasing Plan Drawing number CLO-ALT-00-00-DR-A-226, subject to Condition 12 (b) and (c) below, unless otherwise agreed in writing with the planning authority.
 - (b) Development works indicated in Phase 4 shall be incorporated into Phase 1. Construction of Phase 2 shall not be commenced until such time as the childcare facility (included in Phase 1) is constructed, available for use and/ or operational, to the satisfaction of the planning authority.
 - (c) The occupation of residential units within each phase shall be restricted until the public and/ or communal open spaces to serve that phase has/ have been developed, landscaped, and made available for use, to the satisfaction of the planning authority.

Reason: In the interest of orderly development and to ensure the timely provision of amenities and infrastructure for future residents.

13. 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.

14. The following requirements shall be complied with:
 - (a) A revised drawing shall be submitted detailing the 4.5 metres set-back from the road edge on the Clonsilla Road as a reservation area for future pedestrian and cycle provision and this area shall be kept free from development that could prejudice the future provision of infrastructure. The land shall be ceded to the planning authority.
 - (b) One number minimum commercial EV parking space shall be provided. The design shall ensure that the provision of EV charging stations do not obstruct the footpath and maintain suitable width for pedestrians and consider universal access. Publicly accessible EV parking spaces shall be clearly marked and be capable of communicating usage data with the National Charge Point Management System.
 - (c) The design of the Cycle Street shall be agreed in writing with the planning authority prior to construction.
 - (d) The exact location of the zebra crossing on Porterstown Road shall be determined by the planning authority, which shall be provided by the planning authority at the expense of the Developer.
 - (e) A final Taking In Charge drawing shall be submitted to and agreed in writing with the planning authority prior to commencement of development. All areas intended for taking in charge shall be constructed and maintained to the Council's standard for taking in charge, including any roads, footpaths, verges, public lighting, open space, sewers, watermains or drains, forming part of the development. In addition, all works required to the public footpath and road as part of the proposed

- development shall be constructed to the planning authority's standards for taking in charge.
- (f) The development's Management Company shall provide a Residential Travel Plan to residents and shall appoint a Travel Plan Coordinator including the monitoring and surveys in relation to travel patterns to promote sustainable travel and limit private car use. Following the implementation of the development's Travel Plan the Car Club/ Car sharing spaces shall be expanded in line with demand and monitoring through the Residential Travel Plan.
 - (g) The detail and security arrangement, and management arrangements for the proposed bicycle parking provision, including that of the bicycle lockers, shall be agreed in writing with the planning authority prior to commencement of development.
 - (h) The design of the turning head and nature walk route located in the southern green space and the repositioning of the bins stores at this location shall be agreed with the planning authority prior to construction.
 - (i) The development's Management Company shall ensure that the cycle parking areas are subject of a funded maintenance regime that ensures that facilities are kept clean, free of graffiti, well-lit and the parking equipment is properly maintained.
 - (j) No objects, structures or landscaping shall be placed or installed within the visibility triangle at the vehicular entrance onto the public road, exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
 - (k) Road Safety Audits shall be carried out as part of the proposed development at the relevant stages as outlined in the current edition of Transportation Infrastructure Ireland guidelines GE-STY- 1027.
 - (l) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary, at the developer's own expense and according to the requirements of the planning authority.

- (m) All stormwater shall be disposed of into soakpits or drains within the site and shall not discharge onto the public road.
- (n) A detailed Construction Traffic Management Plan shall be submitted for the approval of the planning authority prior to construction.

Reason: In the interests of traffic, pedestrian and cyclist safety, and sustainable transport.

15. The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of traffic, pedestrian and cyclist safety.

16. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/ points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/ stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/ points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

17. (a) The management and maintenance of the 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 so taken in charge.
- (b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/ bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.
- (c) 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: In the interests of orderly development and to provide for the satisfactory future maintenance of this development.

18. (a) The areas of communal and public open space in the development shall be levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the landscaping plans and particulars as submitted with the application unless otherwise agreed with the planning authority.
- (b) Final design, finishes, methods of construction and/ or installation of footpaths, cycle paths, seating, crossing points over ditches/ drains/ SuDS features, and equipment in play areas shall be submitted to the planning authority for its written agreement.
- (c) The landscaping work shall be undertaken in accordance with the phasing requirements stipulated in Condition 12 and shall be completed before the applicable residential units are made available for occupation, unless otherwise agreed with the planning authority.

- (d) The landscaping and planting schedule shall be managed and maintained in accordance with a Landscape Management and Maintenance Plan to be submitted and agreed in writing with the planning authority. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.
- (e) The areas of communal and public open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.

Reason: In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the open space areas and their continued use for this purpose.

19. The following requirements shall be complied with:

- (a) The developer shall engage the services of a qualified arborist as an arboricultural consultant for the entire period of works.
- (b) The arboricultural consultant shall ensure the implementation of all recommendations in respect of tree removal, retention, protection, pruning, and other measures included in the Arboricultural Report, tree plans and particulars.
- (c) Any tree felling, surgery and remedial works shall be undertaken in accordance with applicable BS standards or equivalent standards, supervised by and to the satisfaction of the arboricultural consultant.
- (d) The developer shall facilitate the work of the arboricultural consultant in implementing the measures in the Arboricultural Report and bear the costs of same.

Reason: In the interests of arboricultural and environmental protection.

20. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the planning authority. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the planning authority prior to the commencement of works on site.

Reason: To comply with Objective DMS0194 of the Fingal Development Plan 2023-2029.

21. (a) No additional development shall take place above roof parapet level of the apartment and/ or duplex blocks including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.
- (b) Roof areas of the apartment blocks shall be accessed for maintenance purposes only and shall not be used for any amenity or recreational purpose.

Reason: To protect the visual amenities of the area and residential amenities of property in the vicinity.

22. (a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.

- (b) The OWMP shall provide for screened communal bin stores for the duplex and apartment blocks, café and childcare facility, the locations and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

23. 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 sections 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 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 of the area.

24. (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, 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.

- (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 unit or duplex 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.

- 25. 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 acceptable to the planning authority to secure the tree removal, retention, protection, pruning, and other measures included in the Arboricultural Report as required by Condition 19 above, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory implementation of said measures. This security shall remain in place until the requirements of Condition 19 above are completed to the satisfaction of the planning authority and for a further period of 10 years

following completion of said landscaping works, or as otherwise agreed by the planning authority. In default of agreement on same, the matter(s) shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory implementation of the requirements of Condition 19 in relation to tree preservation, protection, and replanting measures.

26. 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 local authority and/ or management company 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.

27. 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 financial contribution shall be based solely on the applicable residential and commercial floorspace figures related to the permitted development. The residential element of the contribution shall be calculated on the basis of a floor area of 16,410 square metres. This accounts for exemptions for ancillary accommodation and demolition of existing

floorspace on site. Future exemption upon agreement on Part V, will be accounted for separately by a reduction in the applicable residential floorspace and subsequent contribution payable. 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.

28. The developer shall pay a financial contribution of EURO 50,000 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 a signalised zebra crossing on the Porterstown Road 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.

29. The developer shall pay to the planning authority a financial contribution in respect of the Clonsilla to Dunboyne (Pace) Railway Line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.


Note: the Board noted the recommendation of the Inspector at page 59 of her report, to the effect that the applicant should pay a financial contribution in lieu of non-provision of class 1 public open space. However, the Board determined, having regard to the specific facts of the case and noting that the application of a contribution in lieu is a discretion, that given the nature, scale and form of the development, including the extent and quality of open space provided therein, and the provision of a contribution under Section 48, which contains monies to be provided towards community and park facilities and amenities, that, that an in lieu contribution would not be warranted in this instance. On this point, the Board considered that the open space provided as part of the proposed development is in excess of 12% (14.7%) of the overall site area and is of a form that is usable and appropriate for the proposed scheme. The Board noted and agreed with the

commentary of the Inspector at page 58 of her report that the landscaping strategy proposed will result a high-quality well-designed scheme. In reaching this determination, the Board 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, wherein it is stated that for the purposes of calculating open space provision. The Board also considered broadly the issue of public open space quantum within residential development as articulated in the 2024 Guidelines.

The Board also noted the comment of the inspector at page 59 of her report that a recommendation in relation to in lieu open space contribution, would not necessitate a specific condition, as any such contribution would come within the scope of the standard section 48 development contribution. For the avoidance of doubt, the above listed Section 48 condition (condition 27) is based solely on the applicable residential and commercial floorspace figures related to the permitted development. No in lieu open space contribution is provided for in the Board's decision.

In relation to the proposed condition relating to the above listed Section 48(2)(c) (condition 28), the Board considered the totality of the documentation on file, including the submission of the first party and the Planning Authority. The Board decided on a judgment of the evidence presented, that the figure of EURO 50,000 set out by the planning authority was appropriate and applicable to this specific condition.

Board Member



Chris McGarry

Date: 20/01/2025