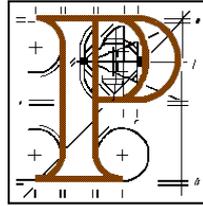


# An Bord Pleanála



## Inspector's Report

**PL06S.243745**

**DEVELOPMENT: -**

Revisions to permitted hotel development (Reg. Ref. SD06A/0659) comprising a retirement village, nursing home/care centre and other works at Ballynakelly and Rathcreedon, Newcastle, County Dublin.

### PLANNING APPLICATION

**Planning Authority:** South Dublin County Council

**Planning Authority Reg. No:** SD14A/0021

**Applicant:** Johny and Katy Janssens

**Application Type:** Permission

**Planning Authority Decision:** Split Decision – Grant permission for the nursing home/care centre and refuse permission for the retirement village.

### APPEAL

**Appellant:** Johny and Katy Janssens

**Types of Appeal:** First Party against refusal part of decision, only.

**DATE OF SITE INSPECTION:** 5th November, 2014.

**Inspector:** **Andrew Boyle**

## **1.0 THE SITE**

The site is located in a rural area just beyond the southern outskirts of the village of Newcastle in County Dublin. It is approximately 8 kilometres west of Tallaght and 17 kilometres southwest of Dublin City Centre. The site is that of an unfinished hotel development which was to be the Lamberton Hotel. It is irregular in shape, with a stated area of 13.3 hectares. It forms part of a more extensive area in the same ownership amounting to about 29.3 hectares. It slopes upwards by about 12 metres over a distance of 460 metres and by about 6 metres from west to east over a distance of about 400 metres. At the eastern extremity of the appeal site are the lower floors of the Lamberton Hotel on which construction stopped in 2008. It is now, at its highest, up to ground floor level. This is a massive structure. It is oval in plan and has a maximum diameter, measured east - west of about 170 metres and a minimum diameter, measured north - south of about 130 metres. Apart from this partly constructed hotel, the remainder of the site consists predominantly of undeveloped grassland, with an area of disturbed land immediately to the north and west of the hotel.

On its north side the site adjoins Ballynakelly Village, a recent development of two and three storey houses and apartments and also Ballynakelly Cottages, a mid-20<sup>th</sup> century development of semi-detached local authority cottages. On its remaining sides, the site adjoins agricultural lands, those to the west being the remaining lands in the applicant's ownership, which include the applicant's house, dating from the mid-1990s.

## **2.0 THE PROPOSED DEVELOPMENT**

The proposed development would consist of revisions to the permission for a 255 bedroom hotel granted under South Dublin County Council Reg. Ref. SD06A/0659 which was to consist of a building, up to six storeys in height above two basement floors.

The revisions to the permitted hotel development would comprise construction of a retirement village in the hotel grounds made up of 63 three bedroom single storey retirement homes (reduced from 69 as further information). These would range in size from 112 square metres to 164.1 square metres. There would also be a single storey medical/health centre of 146.7 square metres, a single storey community services centre of 410.4 ) square metres (reduced from two storeys and more than halved in floor area as further information), an

outdoor recreation and allotment area with an associated recreation equipment store of 245 square metres and an allotment equipment store of 22.8 square metres, a nursing home/care centre to be located within the permitted hotel building requiring a change of use of 1,653.7 square metres at ground floor level and 2,351.5 square metres at first floor level (92 hotel bedrooms) to nursing home/care centre use (60 nursing home/care centre bedrooms with associated dining, health care and administration facilities), change of use of 302 square metres at basement level from car parking to nursing home/care centre mortuary, delivery store and clinical waste store. Associated works would include the provision of a new entrance, new 6.4 square metre porch and reception area for the nursing home/care centre, a new vehicular lay-by and enclosed outdoor areas for nursing home residents. The gross floor space of the hotel, incorporating the nursing home/care centre would increase to 29,562 square metres. The proposed revised development would have 666 underground car parking spaces, 204 surface car spaces, 5 surface coach spaces, 1 surface ambulance space and 50 bicycle spaces.

The overall development would be entered off a distributor road, Newcastle Boulevard. As was the case in the permitted hotel development, a spur road would lead southwards from Newcastle Boulevard between two matching three storey apartment blocks in the Ballynakelly Village development. About 65 metres south of the entrance into the development site, a curving estate road would lead eastwards off the main access road. This estate road would serve the 63 detached three-bedroomed single-storey retirement homes. These retirement homes would generally be laid out in groups of up to nine units ranged around areas of decorative communal open space. However, 17 of the units would be arranged in line or slightly staggered, facing onto the estate road.

All of the retirement units would be from the same design suite. They would be gable ended single storey structures with pitched slated roofs and predominantly plain white plaster walls with occasional decorative panels in selected coursed random rubble limestone. Internally each retirement unit would contain the same basic range of rooms, namely two spacious double bedrooms, a large kitchen/living room, a study/carer's room/storage room and a bathroom. In the case of the larger units the bathroom would be a shared en-suite between the two main bedrooms and there would be a separate WC. The larger units would also have the addition of walk-in wardrobes. The floor areas would range from 112 square metres (types C and D), 150 square metres (type B) to 150 square metres (types A and B). In many

instances the floor area would be augmented with the addition of a sunroom of about 12.5 square metres to the rear or side of the unit.

At the south western sector of the site there would be a leisure/recreation area. This would contain two tennis courts, a petanque terrain, a putting green, allotments and a recreational equipment and site maintenance store, the last being about 320 square metres in floor area. There would also be a 28 space surface car park in this area.

The proposed change of use of part of the permitted Lamberton Hotel to a care centre would consist of the following:-

Basement level – a mortuary taking up the equivalent of about 14 permitted car parking spaces, a 28 square metre delivery store and a 9.5 square metre clinical waste store.

Ground floor level – 23 single bedrooms plus communal rooms and treatment rooms as part of care centre in place of hotel bedrooms at south eastern quadrant of oval hotel floor plan.

First floor level – 31 single bedrooms plus communal rooms and administration rooms as part of care centre, taking up permitted hotel bedrooms in approximately the south eastern and eastern third of the oval floor plan at this level.

Towards the eastern extremity of the retirement village, there would be a community centre. This would be in a single storey building, rectangular in plan, measuring 35 metres by 12 metres. It would contain such facilities as a community café/library, a spacious reception and lobby and various administrative offices. This building would have a curved roof in profiled metal cladding. Its walls would be finished, predominantly in napp plaster in two contrasting selected colours and their upper parts would have selected stained larch/cedar cladding.

A total of 140 car parking spaces would be provided to serve the proposed retirement units. These would be laid out in parallel kerbside parking, perpendicular kerbside parking and in grouped parking areas.

The planning application included an Appropriate Assessment screening report, a landscape report, a flood risk assessment report, an engineering infrastructure report, a transport and traffic impact

statement, an archaeological report, a bat survey report and a healthcare report.

### **3.0 THE PLANNING AUTHORITY DECISION**

On 25<sup>th</sup> July 2014, South Dublin County Council issued a split decision on this application. It decided to grant permission, subject to 17 conditions, for the nursing home/care centre to be located within the permitted building. It refused permission for six reasons for the 63 individual three bedroom single storey retirement homes, associated serpentine road, car parking and boundary/landscaping works, the single storey community centre and associated car park and the outdoor recreation and allotment area.

The first reason for refusal of permission related to the proposed 63 houses representing a residential largescale development in the form of long-term rental accommodation and being located in an area zoned Objective B “to protect and improve rural amenity and to provide for the development of agriculture”. These rurally zoned lands formed part of the future landbank for the sustainable growth of the Dublin Metropolitan Area. There was no compliance with the Rural Housing Strategy. The proposed development would constitute a relatively largescale residential development on rurally zoned lands, making an unsustainable use of the future landbank. The proposed development would therefore have contravened the Core Strategy of the county development plan. This core strategy seeks to control rural housing in order to allow for more compact and sustainable urban form.

Reason 2 of the planning authority’s refusal refers to non-compliance with Specific Local Objective 94, adopted as a variation to the county development plan. The reason for refusal refers to an indication at the time of adoption of the variation that it did not change the underlying zoning of the land. The zoning and relevant policies relating to the zoning would form part of the assessment of any planning application. It was considered that the proposed development would be of a form, scale and in a location considered to materially contravene the policies referred to in the public record of the meeting adopting the variation, i.e. Policy H30 on Rural Housing Policies and Local Need seeking to control urban generated rural housing and Policy H31 on the Rural Amenity and Agricultural Zone which controls those persons to whom rural housing can be permitted.

The third reason for refusal held that the proposed development would fail to comply with Policies H30 and H31.

Reason 4 of the refusal referred to the density of 14 units to the hectare, the sub-urban appearance of the bungalow housing units with their large floor plate and the clustering of the houses in the northern section of the site, thereby extending the urban edge of Newcastle. It was considered that the development of 63 houses would represent an incongruous sub-urban type development in the rural landscape and would have therefore been contrary to the proper planning and sustainable development of the area.

The fifth reason for refusal noted the provision of leisure facilities as an intrinsic part of the development. The proposed accommodation of leisure facilities on Zone B agricultural lands outside of the Specific Local Objective lands was considered to be an indication of the overdevelopment of these lands and would extend the visual impact of the development further into the rural landscape.

The final reason for refusal related to inadequate details having been submitted regarding drainage or SuDS. The applicants had not demonstrated that the proposed development would not give rise to seriously adverse surface water drainage impacts downstream of the site.

#### **4.0 RELEVANT PLANNING HISTORY**

Under the planning authority's Reg. Ref. SD06A/0659, permission was granted for the construction of a 255 bedroom hotel in a five storey over basement and sub-basement building. The total floor area would have been 28,476 square metres. It included 680 underground car parking spaces and a new roundabout on Newcastle Road (R120) in the vicinity of Newcastle Manor housing estate, all on a site of approximately 8.83 hectares.

Under Reg. Ref. SD06A/0659 – EP, permission was granted to extend the duration of the permission for the hotel development for a further five year period, terminating on 13<sup>th</sup> March, 2017.

The planning authority's planner's report refers to a permitted development on the adjoining site to the north under SD05A/0344. This was for a residential development of 743 units, a neighbourhood centre of 1,859 square metres and a crèche of 846 square metres. It

refers to the Ballynakelly residential development which is partly constructed and occupied. This permission was the subject of an appeal against a contribution condition, only, under PL06S.217096. Under Reg. Ref. SD05A/0344, permission was granted for the extension of duration of this permission until 3<sup>rd</sup> November, 2017.

## **5.0 DEVELOPMENT PLAN PROVISIONS**

The site lies within the functional area of South Dublin County Council. It is thus affected by the provisions of the South Dublin County Council Development Plan 2010-2016. Under the development plan, the site is located in an area zoned Objective B “to protect and improve Rural Amenity and to provide for the development of Agriculture”. Under the zoning objective, nursing homes are permitted in principle. Residential is open for consideration in accordance with Council policy for development in rural areas. Recreational facilities and sports clubs, retirement homes and hotels/motels are all open for consideration. On the zoning map, the site is shown to lie just below the 110 metre contour line.

The adjoining lands to the north, at Ballynakelly Village, are zoned Objective A1 “to provide for new Residential Communities in accordance with approved Area Plans”. The adjoining lands to the northeast at Ballynakelly Cottages are zoned Objective A “to protect and/or improve Residential Amenity”.

Following an introduction and core strategy, the county development plan is subdivided into four themes namely a Living Place, a Connected Place, a Busy Place and a Protected Place. These themes are followed by local zoning objectives, specific local objectives, schedules and appendices.

The core strategy, included in the first part of the development plan, has, as a fundamental aim, responding in a coherent sustainable spatial fashion to the challenges facing the county, while building on its strengths and introducing resilience to the wider effects of climate change. The core strategy aim is to promote a more consolidated and compact urban form for the county. This will entail a number of factors, amongst which are supporting existing urban areas, including redevelopment of brownfield lands and supporting continued agricultural activity in the west of the county and facilitating new activities, including market gardening. The core strategy is then considered under the four themes which follow later in the development

plan. Under the living place theme it is noted that the county has significant areas that are essentially rural in character, albeit in close proximity to the city. These include standalone villages such as Rathcoole and Newcastle. Their development will be supported insofar as consistent with their continued function and the existing zoning of their lands. With regard to the wider rural area, policies will be promoted that balance development within the rural area with the protection of rural character and in line with government guidance. Overarching this is the zoning objective for the area which is to provide for the development of agriculture and to protect and enhance the outstanding natural character of the Dublin Mountain area. Having considered the regional planning guideline's population figures in the light of residential land capacity, other opportunities for residential development and the national guidelines on housing densities, it is considered that there are sufficient zoned lands to accommodate the county's regional population share during the period of the plan.

Under Theme 1 – a Living Place, Section 1.2.35 is on Housing for Older People including Nursing Homes. Policy H20 is to support the concept of independent living for older people, to provide specific purpose built accommodation to promote the opportunity for older householders to avail of the option of “downsizing” and to facilitate the provision of nursing/care facilities for older people at appropriate locations.

Policy H21 is that accommodation for older people should be located in existing residential areas, well served by infrastructure and amenities such as footpath networks, local shops and public transport in order not to isolate residents and allow for better care in the community, independence and access. This preference and presumption towards convenient locations applies to any scheme, whether provided by communal set-ups or similar, facilities providing higher levels of care, self-contained units or a mix of these.

Policy H30 on Rural Housing Policies and Local Need Criteria, notes that it is policy that in accordance with the Sustainable Rural Housing Guidelines and in accordance with Circular SP5/08 on Rural Housing Policies and Local Need Criteria in Development Plans: Conformity with Articles 43 and 56 (Freedom of Establishment and Free Movement of Capital) of the European Community Treaty “persons who are an intrinsic part of the rural community” or “persons working full time or part time in rural areas”, as described under Section 3.2.3 of the Sustainable Rural Housing Guidelines, shall be favourably considered in relation to rural housing.

Policy H31, on the Rural Amenity and Agricultural Zone, is that within areas designated under zoning objective B, new or replacement dwellings will only be permitted on suitable sites where applicants can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) or, have close family ties with the rural community.

Section 1.3 on Social Inclusion, Community Facilities and Recreation includes sub-section 1.3.3.iii on Older People. The Housing Strategy proposes to cater for this group with continued provision of appropriate housing, including sheltered housing close to community facilities and public transport.

Theme 4 of the development plan, a Protected Place, includes Policy LHA1 on the Preservation of Landscape Character. This will be undertaken in accordance with the policies and objectives of the development plan and with the “Draft Guidelines for Landscape and Landscape Assessment” or any finalised guidelines which may be issued.

Theme 2 of the development plan, a Connected Place, includes Policy T34 setting out car parking requirements. These are included in Table 2.2.4. For houses, car parking is required at the rate of 1 to 2 spaces per house. For nursing homes the requirement is 1 space per 4 residents. For hotels (excluding function rooms and bars) the requirement is one space per bedroom. For bars, lounges, function rooms (including such uses in hotels etc.), the requirement is one space per six square metres of public space. For sports grounds, sports clubs, recreation centres and gymnasia, the requirement is to be as determined by the planning authority.

Specific Local Objective 94 of the development plan (adopted as Variation 1), on Ballynakelly, Newcastle – Retirement Village, states that it is an objective to provide for a retirement village at Ballynakelly. This would facilitate the provision of a range of purpose-built accommodation for older people and would include a mix of independent and care supported facilities in a secure and managed environment.

The retirement village would comprise of

- individual retirement homes that provide for assisted living designed to HIQA 2008 Standard,

- a nursing home (for less mobile residents of the retirement village),
- a new medical/health centre, and
- a community centre which would provide dining, recreation, hygiene and health care facilities to be shared by the residents on a communal basis.

The development of the nursing home element and communal centre for the retirement village should be undertaken in tandem with the retirement homes.

## **6.0 THE APPEAL**

This is a first party appeal against the planning authority's refusal of the retirement village element of the proposed development, only.

The appeal explains the concept behind the overall project, including its three stage occupancy. The individual retirement unit would initially be for a person aged over 55, retired from full time work and reasonably mobile and independent. Later that person might need the assistance of a health care worker. This would be Stage 2 occupancy. Finally, he/she might need full time care/nursing, either temporarily or permanently and this would be provided as Stage 3 in the nursing home/care centre subdivision of the permitted hotel. Examples of this type of facility are cited from Ireland, New Zealand and South Africa. It is claimed the proposed retirement village, as supported by Specific Local Objective 94 of the county development plan, would provide specialised residential development in independent step-down dwellings for elderly people who will benefit from communal and caretaking facilities. It would provide a relatively low density of specialised housing along the established edge of Newcastle Village. It would not be commuter driven as all the residents would be retired, nor would its residents comprise school-going children or students who would also be obliged to commute.

The appeal quotes from various national and regional planning and planning related documents in support of the proposed development. These include the National Development Plan 2007 – 2013, the National Spatial Strategy 2002 – 2020, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas,

## Quality Housing for Sustainable Communities and the Regional Planning Guidelines for the Greater Dublin Area.

The appeal quotes from the county development plan. In addition to the content quoted earlier in this report under “Development Plan Provisions”, Policy H25 on Mix of House Types and Sizes and Policy H45 on Managed Developments are also quoted. In relation to Policy H20 on Housing for Older People, including Nursing Homes, it is noted that the proposed retirement village embraces the concept of independent living and assisted living. It also provides an opportunity for older householders to avail of the option of “downsizing” and would provide nursing/care facilities for older people as the need arises.

In relation to Policy H21 on Locations for Housing for Older People, it is stated that the location of the retirement village on serviced lands between the permitted hotel (containing dedicated social, recreational and medical services for the residents) and linked by footpath to the higher density residential development at Newcastle and to the village core would allow for the proposed development to integrate into Newcastle Village’s existing community. It is submitted that the development site, for all intents and purposes comprises an infill site. It is appropriate that development should take place on this site having regard to the built-up nature of the surrounding lands. It cannot be considered to be out of scale in the context of the existing village. The Newcastle Village development permitted under SD05A/0344 comprises 743 residential units, a neighbourhood centre and a crèche.

In relation to Policy H25 and the promotion of Dwelling Mix it is held that the retirement village would effectively provide a form of sheltered housing for older people, secure and serviced, at the edge of Newcastle. It would be limited to residents aged over 55 and retired. It would provide a wider range of house types and sizes to cater for the different needs of Newcastle and South Dublin in general.

The appeal notes that nursing homes are permitted in principle under the zoning objective and that health centres, hotels/motels and retirement homes are open for consideration. The appeal notes the development plan’s differing definitions of “retirement home” and “residential”. The appeal considers these to be reasonable on the basis of their planning impacts. Retirement homes would have no commuter implications or require schools and crèches. They should however be adjacent to social infrastructure such as shops, medical centres, churches and public transport.

The development plan requires that older people should be accommodated in existing residential areas well served by infrastructure and amenities. While the proposed retirement village would be located within walking distance of the centre of Newcastle Village, a courtesy bus service would also link the retirement village with all local services such as shops, churches and facilities such as golf courses, as well as to transport lines, including Dublin Airport. The proposed individual retirement homes would have identical occupancy restrictions to a single retirement home building. The “retirement home” definition in the development plan is more appropriate to the type of development in the present instance. By the same token as both nursing homes and retirement homes are not excluded in B zoned lands under the development plan, it is submitted that its rural housing policy should not apply to the proposed retirement village, including the individual retirement units. It is submitted that the difference between the proposed development and individual houses was implicitly recognised in pre-application consultations wherein the Council planners stated that a future change of use of the serviced and managed retirement units to regular housing units would not be permitted in the future.

The appeal quotes Specific Local Objective 94 from the development plan and states that it is self-evident that the proposed retirement village would be entirely in accordance with this objective. It would, indeed, “facilitate the provision of a range of purpose-built accommodation for older people” and would “include a mix of independent and care supported facilities in a secure and managed environment”.

The appeal quotes in full from the applicants’ response to Item 1 of the planning authority’s request for further information. In this it was noted that development plan policies H29, H30 and H31 specifically related to the “Management of One-Off Housing in Rural Areas” whereas the present proposal is for a commercial retirement village. Policy H31 would not be complied with as the proposal is not a one-off house development, the applicant would not be resident, there would be no restriction on the future occupant’s former place of residence and the occupants would be unable to establish a genuine need to reside in proximity to their employment as they would be retired. It was pointed out that the proposal would not be for urban-generated housing as defined in the development plan. It was felt that Item 1 was at variance with the development plan’s unambiguous support for the retirement village as set out in Specific Local Objective 94. The planning authority

was invited to impose an appropriate planning condition relating to the use/occupancy of the retirement units.

Dealing directly with the planning authority's first reason for refusal, it is reiterated that the proposed development is specifically supported by Specific Local Objective 94 of the development plan. The individual retirement homes would be restricted to elderly/retired occupants, only, by way of lifelong occupancy agreements. This would prevent the sale or lease/rental of the units by anyone who does not comply with the retirement village occupancy agreement. The ownership of all the units would be retained in perpetuity by the operator. They could not be occupied by person who would qualify as urban generated commuters.

It is denied that the Rural Housing Strategy applies to all forms of residential development on B-zoned rural lands. If this was the case, nursing homes would be excluded. The reason for refusal is flawed in that it seeks to impose inappropriate criteria which relate to a different use class (i.e. one-off residential dwellings in rural areas) rather than to the proposed retirement village.

In relation to the "large scale" of the proposed development, it is submitted that it would be entirely in scale with surrounding development in its location at the southern edge of Newcastle. It would be at the lower end of density layouts preferred at the edge of Newcastle in the Newcastle Local Area Plan, 2012. It would be entirely proportionate to the 743 residential units which have been permitted in Newcastle Village. It would be well balanced with the 60 bedroom nursing home proposed in the originally permitted hotel building.

With reference to the proposed development forming part of a "future landbank" it is submitted that this ignores the fact that the site has been designated as the location for a retirement village.

The appeal questions the legality of quoting from the minutes of the meeting at which Specific Local Objective 94 was adopted as a variation to the county development plan. In support of the argument that this should not have been included, the appeal quotes "Planning and Development Law" by Gareth Simons (Roundhall, 2007) which, in turn, quotes the case of Ferris v. Dublin County Council, unreported Supreme Court, November 7<sup>th</sup>, 1990 which stated "...in interpreting the development plan, one is confined to the contents of the development plan per se. Accordingly, it is not normally permissible to have regard to documents outside the development plan (unless incorporated by express reference)."

In countering the substantive reason for refusal, it is again argued that the proposed development is entirely in accordance with Special Local Objective (SLO) 94. The purpose of this SLO was to facilitate a development which might not otherwise be acceptable under the terms of the relevant development objectives. The SLO qualifies the zoning objective. The planning authority appears to be seeking to exclude and invalidate a clearly stated development plan policy as adopted by the Council members as a reserved function by applying, inappropriately, Policies H30 and H31.

Responding to the planning authority's third reason for refusal, the appeal finds that this reason for refusal appears to be an amalgam of the first and second reasons for refusal. The Board is thus referred to appellants' contentions in relation to these two reasons.

In relation to the planning authority's fourth reason for refusal, the appeal notes that the site currently comprises a partly completed hotel, and a spine access road. It is claimed to form part of the urban fringe along the southern side of Newcastle. It is claimed to form a transitional zone between the high density residential areas immediately to the north together with the lower density, longer established, housing to the northeast and the open agricultural land to the south of the hotel. The "clustering of the dwellings in the northern section of the site" referred to in the reason for refusal is dictated by this being the only part of the area under Special Local Objective 94 available for development. The proposed development would extend the current pattern of development in Newcastle to the south, albeit at a lower transitional density. It would create a landscape buffer zone between the existing urban and rural uses. As can be seen from the landscape drawings and report, a densely planted landscape setting is proposed for the single storey retirement village area. The boundary planting would consist of a continuous dense native hedgerow mix with a number of tree clusters for immediate effect. The appeal considers, on balance, that the development would not prejudice the objective of the zone "to provide for the development of agriculture", as it has not been in agricultural use for some time, nor would it detract from the rural amenity of the area. This is already determined by the urban fringe mix of land uses in the area.

In relation to the planning authority's fifth reason for refusal, it is denied that the leisure and recreational facilities are an intrinsic part of the development. They are neither required nor provided for in the text of Special Location Objective 94. The only requirement is that recreational facilities should be provided within the community centre. In a submission to the Board, as part of the appeal, the community

centre has been revised to eliminate all the administrative offices and to allocate all the floor space to community activities. The residents of the retirement village would have access to the spa and leisure facilities, including a gymnasium and swimming pool in the permitted hotel building. The proposed outdoor leisure and recreational facilities are an additional seasonal facility for the residents. They are effectively a form of open space, a use generally permitted in principle on Zone B lands. The Special Local Objective lands were not proposed to include outdoor recreation and leisure, as to have located such facilities in close proximity to the individual retirement homes would have been unacceptable in terms of the calm and tranquillity which these require. Accordingly, it was not possible to respond positively to the planning authority's request to relocate the facilities centrally within the retirement units as specified in its second item of further information.

The appeal notes that an alternative option to overcome the planning authority's concern in relation to overdevelopment would have been to have imposed a condition requiring that this element of the proposed development be omitted. However, the appellant does not favour such an option, as the outdoor recreational facilities would be a considerable amenity for the residents of the proposed development.

The planning authority's sixth reason for refusal is rejected by the appellants' engineering consultants. This reason has been fully addressed in the documentation submitted at planning application stage, additional information stage and now augmented by the information included in the appeal. The appeal includes a report from the engineering consultants.

In response to the alleged lack of satisfactory details of the sizes of the impermeable areas and consequent failure to demonstrate that the proposed development would not give rise to seriously adverse surface water drainage impacts, the engineer's report queries why this was not raised at additional information stage and why it was not raised in the Water Services report on the additional information response. The impermeable areas of the two drainage catchments were clearly set out in Section 7 of the "Assessment Report on Engineering Infrastructure" lodged with the planning application. In Table 6 of this initial submission, Catchment A refers to the catchment of the hotel building and Catchment B refers to the retirement home site. Permission has been granted for the former with a general generic water supply and drainage condition and no reference to this alleged

shortcoming. It is submitted that the information originally submitted was, in fact, sufficient.

In relation to the planning authority's dissatisfaction that the proposed surface water attenuation storage facilities were of sufficient size, the engineer's report again expresses surprise that this concern was not raised at additional information stage or in the Water Services report following the submission of the additional information. The required storage volumes for both catchments are set out in Section 7.6 of the original assessment report. The requirement for Catchment A is for 439 cubic metres, whereas 1,170 cubic metres is being provided. For Catchment B the requirement is 625 cubic metres, whereas, again, 1,170 cubic metres is being provided. Again, it is noted that permission has been granted for the hotel and nursing home with only a standard type sanitary services condition.

Referring to the need to cater for the flow resulting from the removal of substantial amounts of existing land drains which was a further concern in reason 6 of the planning authority's refusal, it is noted that this was based on the Water Services report following the submission of additional information. This sought clarification of additional information on this matter and the recommended request for clarification was based, verbatim, on the earlier request for additional information. It was, in fact, responded to through the submission of an amended drawing, namely Drawing No. 13-057-P02 Rev A. The land drains to be removed are identified. These cater for the surface water run-off from agricultural lands. Following completion of the development, the lands would no longer be in agricultural use and the land drains would no longer be required. The surface water network to be installed as part of the proposed development would cater for the surface water run-off. For the purpose of clarity, an amended drawing, Drawing No. P009 Rev B, has been submitted with the appeal. This overlays the existing land drain network onto the proposed drainage plan. It shows that all of the land drainage within Catchment B is no longer required after the completion of the development.

## **7.0 RESPONSE OF THE PLANNING AUTHORITY**

The planning authority has responded to the grounds of appeal.

The planning authority considers that the appeal raises the same issues dealt with in the assessment of the initial planning application documentation and the response to the request for further information.

The planning authority upholds its decision. It reiterates that the Specific Local Objective covering the greater part of the site does not override the zoning for the lands. Where the Specific Local Objective conflicts with the zoning and the policies of the planning authority, it is entitled to assess the proposal based on compliance with the underlying zoning and policies.

The planning authority holds that six reasons for refusal remain relevant and summarises as follows:-

- “The site is part of the future landbank for the Metropolitan Area and urban generated residential development would undermine the sustainable development of that landbank.
- The proposed development would undermine the effective implementation of the planning authority’s rural housing policy which would materially contravene the zoning objective and set an undesirable precedent for similar rural development within the B zoned lands.
- The proposed development would not be compliant with Policy H30 Rural Housing Policies and Policy H31, Rural Amenity and Agricultural Zone.
- The proposed development in its appearance and layout would represent a sub-urban form of development on rurally zoned lands.
- The inability to provide for the proposed development on the lands designated for the SLO is an indicated of overdevelopment.
- Concerns remain regarding the SuDS details proposed.”

## **8.0 LETTERS TO THE PLANNING AUTHORITY**

Five letters, received by the planning authority in relation to the original planning application, have been forwarded to the Board. Two letters from local representatives, Cllrs. Tony Delany and Emer Higgins, support the retirement village.

Two local residents oppose the application on the basis that the office/community centre is excessively high and close to a garden at Ballynakelly Cottages and to a permitted house in one of the gardens under Reg. Ref. SD13B/0117. The medical centre would be a security

risk arising from its drug storage. There would be increased noise from the hotel as there would no longer be a planted berm intervening between it and Ballynakelly Cottages. The retirement village would be at an excessive density and suffer from a lack of green space. There is no need for a second nursing home in addition to that already permitted at the other end of the village.

A letter from a resident of Ballynakelly objects on the basis property devaluation, overlooking, loss of privacy, loss of sunlight and loss of outlook as his house would now face an unsightly view of the back of the medical centre/community centre.

A letter from An Taisce advises that the application should be assessed with regard to the impact on the amenity of the area, the relevant provisions of the county development plan. It is important that the development should be compatible with the Newcastle Local Area Plan and its archaeological requirements.

Following the modifications to the proposed development in response to the planning authority's request for additional information, no further letters were received by the planning authority.

## **9.0 ASSESSMENT**

The planning authority has issued a split decision in respect of this application. It has granted permission for the revised hotel and nursing home part of the development and refused permission for the retirement village, single storey community centre and associated car park and outdoor recreation and allotment area.

Little is said in the planner's report on the merits of the alterations to the permitted hotel building and the incorporation of a nursing home into a part of it. The planner's conclusion is that this part of the proposal would be a sustainable use of a section of an existing partially constructed building, would accord with the B – rural zoning of the lands and would comply with the policies and requirements of the county development plan. In my view, while the location of a hotel use and nursing home use within a single building would be unusual, there is nothing to suggest that it would be unworkable or contrary to the proper planning and sustainable development of the area. There is at least some precedent for the two types of use – hotel and hospital, albeit with greater segregation of buildings, in the Beacon complex in Sandyford, County Dublin. The nursing home use is permitted in

principle under the zoning objective and the proposed development should be satisfactory in terms of traffic safety and convenience. I consider that the planning authority was correct in deciding to grant permission for this part of the development and that its decision in this regard should be upheld.

A number of issues arise in considering the retirement village, community centre and recreation and allotment area. These issues are considered under the relevant side headings which follow.

### **Specific Local Objective 94**

Specific Local Objective (SLO) 94 was adopted as Variation 1 of the South Dublin County Council Development Plan, 2010 to 2016. Its wording is quoted in full earlier in this report under “Development Plan Provisions”. This SLO was designed to allow the granting of the greater part of the development now proposed (i.e. all but the newly added leisure/recreation area). It does not simply qualify the zoning objective, as implied in the appellants’ response to the planning authority’s request for additional information, rather it effectively annuls the zoning objective for its own purposes.

Reason 2 of the planning authority’s refusal of permission quotes from the minutes of the Council meeting which adopted Variation 1 of the development plan. The Director of Services indicated that the variation did not change the underlying zoning of the land and the zoning and the relevant policies relating to same would form part of the assessment of “any such planning application”. I share the appellants’ concerns in relation to the correctness of including an extract from the minutes of the meeting adopting Variation 1 in the planning authority’s second reason for refusal. While the underlying zoning would remain the same for the purpose of any other development, insofar as “any such planning application” may refer to the development specified in SLO 94, I have serious doubts about the validity of this statement. It would effectively render the adoption of the variation as meaningless and futile. In as far as the proposed development lies within the boundaries of the adopted variation, I consider that it fully accords with the terms of the SLO. These terms, in turn, override the zoning objective and the restrictions which emanate from it.

## **The Zoning Objective**

As noted earlier, the site lies within an area zoned Objective B, “to protect and improve rural amenity and to provide for the development of agriculture”. Section 3.2.18 of the development plan, on agriculture, notes that issues arising in the rural area of the county relate primarily to balancing the need for local, social and economic development with protecting the area against pressures for development generated by the proximity of the city. Through the zoning and development management objectives of the plan, it is the intention to protect valuable agricultural land from pressures for development. Policy EE34 is to protect agricultural or agri-business uses from unplanned and/or incompatible urban development. Of the uses which are permitted in principle under the zoning objective only extractive industry (necessarily resource related), cemeteries and traveller accommodation require substantial tracts of land. Similarly, those uses open for consideration, excluding the many uses which are acceptable only in villages to serve local needs, are economical in their land use. The whole thrust of the character of the uses which are permitted in principle and open for consideration is to maintain an openness. Similarly, Policy H31, requiring that within zoning Objective B new or replacement dwellings will only be permitted on suitable sites where applicants can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) or have close family ties with the rural community, has the effect of putting a restraint on the pressure for housing in this zone. It thereby maintains the open character of the area and prevents the creation of a scatter of housing which would ultimately lead to houses at the residential density of an unplanned ad hoc suburban area.

The planning authority’s first reason for refusal claims that the 63 dwellings proposed would represent residential largescale development in the form of long term rental accommodation. While the appeal attempts to draw a distinction between the retirement homes and conventional housing pointing to the terms of their long term letting and even suggesting that this letting could be copper fastened by imposing a condition requiring the applicant to enter into an agreement under Section 47 of the Planning and Development Act, 2000 restricting the retirement homes to the type of letting and long term occupancy proposed, the statement at the outset of reason 1 of the planning authority’s decision is nevertheless correct. In terms of land use and land coverage, the proposed development would be little different from a further extension of the suburban outskirts of the village of Newcastle. This is reflected in the planning authority’s fourth reason

for refusal where it notes that the development would be at a density of 14 units to the hectare over an area of 4.49 hectares.

I concur with the view of the planning authority, as expressed in reason 4, that the proposed development would extend the urban edge of Newcastle and would represent an incongruous suburban type development and would impact adversely on the rural landscape character as reflected in the zoning objective. While the occupants of the proposed houses would not necessarily originate from the nearby urban areas, in all likelihood they would be derived, primarily from such areas. Section 0.2.1 of the South Dublin County Council Development Plan, 2010-2016 notes that the county has significant areas that are essentially rural in character, albeit in close proximity to the city. These areas are noted to include standalone villages such as Rathcoole and Newcastle. The development plan will support development within these villages consistent with their continued function and the existing zoning of the lands concerned. The boundary of the village of Newcastle as shown in the Newcastle Local Area Plan, 2012 and the zoning objectives within this boundary are taken directly from the county development plan. Section 5.5.4 of the local area plan on the Settlement Edge notes that the previous local area plan of 2003 sought to create a settlement edge around the village in the form of residential development abutting the open countryside. The proposal now is to soften the settlement edge across remaining undeveloped pockets of land located to the north, northwest, west, south and southeast fringes of the plan lands in order to create a more appropriate transition between town and countryside. I note that this refers to development within the development boundary of the village and that there is no suggestion that such a transition should apply outside the boundary, as implied in the appeal.

The executive summary in Chapter 1 of the local area plan notes that at the time of its publication, approximately 855 homes would be constructed if all the undeveloped lands within the development boundary, including lands subject to extant permissions were to be developed in accordance with the standards contained within the local area plan. The number would increase to 1,098 if existing extant permissions were fully constructed and the remaining undeveloped lands were developed in accordance with the local area plan. Section 2.3 of the local area plan notes the substantial extent of lands that remained undeveloped, including approximately 33 hectares zoned Objective A1 for new residential communities, 8 hectares zoned Objective LC for local centre facilities and 6 hectares zoned Objective F for open space and recreational amenities.

I consider that the planning authority was fully justified in reason 4 of its refusal that the proposed development would extend the urban edge of Newcastle and that the development of 63 dwellings, each with a large floor plate, would represent an incongruous suburban type development in this rural landscape and would impact on the character of this landscape as reflected in the zoning objective.

### **The Leisure Facilities**

In its fifth reason for refusal, the planning authority considers that the need to locate the leisure facilities outside the lands covered by Specific Local Objective (SLO) 94 is an indication of overdevelopment. It considers the provision of such leisure facilities to be an intrinsic part of the development. The appellants do not agree that the leisure facilities outside the SLO lands form an intrinsic part of the development and consider that the only obligation in order to comply with the terms of the SLO are to provide some form of leisure facilities within the community centre. In my view, the external leisure facilities, if not an essential part of a retirement village, are a highly desirable component. I concur with the view of the planning authority that their existence would extend the visual impact of the development further into the rural landscape, eroding the landscape character and the zoning objective.

### **Drainage**

The planning authority's final reason for refusal claims that inadequate details regarding drainage or SuDS have been submitted and goes on to elaborate on the alleged shortcomings. It appears that the appeal responds satisfactorily to the three issues raised in the reason for refusal, namely the extent of the impermeable areas, the volumes of the attenuation areas and the removal of existing land drains. Nevertheless, there are handwritten notes by the planning authority on the report from the appellants' engineering consultants in response to its request for further information. These express various concerns including the implication of the connection of streams that would be connected unattenuated. This appears to be a reference to the open ditch to the west of the appeal site which is shown to be routed into a 600 millimetre surface water drain a short distance to the south of the development boundary of Newcastle. From a handwritten note on additional information drawing 13-057-P009 it appears that there was also concern about an unattenuated discharge from a short length of 300 millimetre land drain to the 600 millimetre surface water drain.

Overall, if the Board was otherwise disposed to grant permission, I consider that these matters would not prove unsurmountable and would be capable of being overcome by agreement with Irish Water and the planning authority. This could be required by way of a condition attached to the planning permission.

### **Material Contravention**

In three of its reasons for refusal, the planning authority claims that the proposed development would materially contravene elements of its development plan.

In reason 1 it claims that the provision of relatively large scale residential development on rurally zoned lands would be an unsustainable use of the future landbank as identified in the Regional Planning Guidelines for the Greater Dublin Area. The proposed development would therefore materially contravene the core strategy of the development plan which seeks to control rural housing in order to allow for more compact and sustainable urban form in the future. In fact, while the maintenance of a future landbank may be an implication of the Regional Planning Guidelines for the Greater Dublin Area, no such landbank is identified. The term or any similar term e.g. "land reserve", is not mentioned in the guidelines, nor is such a landbank shown in map form. The proposed development would not "therefore" materially contravene the core strategy of the development plan.

Reason 2 of the planning authority's decision claims that the proposed development of 63 dwellings would be of a form, scale and in a location considered to materially contravene the policies referred to in the public record of the meeting (i.e. the meeting adopting Specific Local Objective 94 as Variation 1 of the development plan), namely Policy H30 Rural Housing Policies and Local Need Criteria of the county development plan and Policy H31 Rural Amenity and Agricultural Zone. Later in this reason, it is stated that the proposed development would undermine the effective implementation of the planning authority's rural housing policy which would materially contravene the zoning objective. The difficulty is that as noted earlier, and contrary to the statement at the commencement of reason 2, the greater part of the proposed development (i.e. excluding the outdoor leisure facilities) would seem to be compliant with Specific Local Objective 94. With the adoption of Variation 1, it appears, at the very least, that there are now conflicting objectives in the development plan, a situation which would allow the Board, under Section 37(2)(b)(ii) of the Planning and Development Act 2000 to grant permission for this development even if it agreed that the

proposed development would constitute a material contravention of the development plan. However, it may be that in the specific case of the present development, SLO 94 effectively overrides and annuls the underlying provisions of the development plan.

Reason 3 of the planning authority's decision claims that the proposed development would materially contravene the zoning objective. This is a repetition of the second instance of material contravention quoted in the second reason for refusal. In my view, it suffers from the same weaknesses as those noted in my comments in relation to the second reason for refusal.

### **Appropriate Assessment**

An Appropriate Assessment screening report was submitted as part of the documentation included with the original lodgement of this application.

The screening report notes that wastewater from the development would be discharged via two connections to the existing foul drainage network constructed under the permission for the Lamberton Hotel. One would serve the hotel and care centre and the second would serve the community centre, retirement home units and the (originally proposed) medical centre. The surface water drainage system is designed as a sustainable urban drainage system including a flow control device and petrol interceptor. Strict separation of surface water and wastewater would be implemented within the development and the drains would be laid out to minimise the risk of inadvertent cross connection of the two systems. It is noted that the site is not subject to flooding and the report refers to the separate Flood Risk Assessment report which was submitted with the application.

Six Natura 2000 sites are noted to be within 15 kilometres of the proposed development. These are the Wicklow Mountains SAC (Site Code 002122), the Glenasmole Valley SAC (Site Code 001209), the Rye Water Valley/Carton SAC (Site Code 001398), Red Bog SAC (Site Code 000397), the Wicklow Mountains SPA (Site Code 004040) and the Poulaphouca Reservoir SPA (Site Code 004063). A source – pathway – receptor approach is taken. Pathways are interpreted as ecological or hydrological links (rivers/streams or groundwater). The report notes that the proposed development includes the necessary design measures to ensure that all waters draining from the site are treated in a sustainable manner. It notes that there are no pathways linking the proposed retirement village to any of the six Natura 2000

sites. The proposed retirement village is about 11 kilometres from the nearest SPA, Poulaphouca Reservoir. The Wicklow Mountains SPA is about 13 kilometres from the site. Given these distances, disturbance to the bird species which are a qualifying feature of these SPAs, namely the Greylag Goose and the Lesser Blackbacked Gull in the case of Poulaphouca reservoir and the Merlin and Peregrine Falcon in the case of the Wicklow Mountains, is considered extremely unlikely.

The screening report considers possible cumulative impacts with other plans and projects in the area. These are listed and include all the nearby development plans, the Eastern River Basin District Management Plan, the Water Services Investment Programme, IPPC projects, local authority discharges, surface water pollution reduction programmes and flood risk management plans. No other pathway is identified by which any of the plans and projects identified could have a significant “in combination” detrimental effect on any of the Natura 2000 sites.

A screening assessment table is included. This reviews the potential significant impacts on the six Natura 2000 sites under the headings of Direct Impacts, Indirect/Secondary Impacts, Resource Requirements (drinking water abstraction, etc), Emissions (disposal to land, water or air), Excavation Requirements, Transportation Requirements and Duration of Construction, Operation and Decommissioning. In all instances, the conclusion is “no impact on qualifying interest”.

The conclusion of the screening report is that the proposed retirement village would not have a significant effect on the Natura 2000 network and that a Stage 2 Appropriate Assessment is not required.

Overall, I consider the findings contained in the appropriate assessment screening report to be reasonable. Of the six Natura 2000 sites identified within a 15 kilometre radius of the appeal site only one, the Rye Water Valley/Carton SAC is at a lower altitude. However, the drainage pattern in the area flows away from this SAC in a northeasterly direction towards the River Liffey. There is, as noted in the report, no obvious source - pathway - receptor route between the proposed development and the European sites. Accordingly, I consider it reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site in view of the site’s conservation

objectives and an appropriate assessment and submission of a Natura Impact Statement is not therefore required.

## **10.0 CONCLUSION**

In conclusion, I consider that the greater part of the proposed development, i.e. all but the outdoor leisure facilities, accords with the terms of Specific Local Objective 94 of the South Dublin County Council Development Plan, 2010-2016. I take this view, despite the comments of the Director of Services quoted in the planning authority's second reason for refusal, a comment about which I have serious reservations insofar as it might relate to a development of the nature and extent of the present proposal. Nevertheless, the remaining content of reasons 1 to 5 of the planning authority's decision would seem to be valid. Whatever the long term rental arrangements of the individual retirement homes, they would not and could not meet the requirements of the planning authority in relation to local rural need. These requirements are designed to place a severe restriction on the number of houses which can be constructed on these agriculturally zoned lands and to maintain their open character. In my view, reasons 4 and 5 of the planning authority's decision effectively encapsulate the fundamental objection to the proposed development. It would effectively constitute a developer-led suburban type extension of the village of Newcastle where there are substantial areas remaining to be developed within the development boundary of the village. I consider that the planning authority's decision should be upheld on this basis.

## **11.0 RECOMMENDATION**

Having regard to the foregoing, I recommend that the planning authority's decision be upheld in this instance and that a split decision should be issued, granting permission for the nursing home/care centre to be located within the permitted hotel building based on the reasons and considerations marked (1) hereunder and subject to the conditions set out below and refuse permission for the 63 individual three bedroom single storey retirement homes, associated access road, car parking and boundary/landscaping works, the single storey community centre and associated car park and the outdoor recreation and allotment area and associated buildings, based on the reasons and considerations marked (2) hereunder.

## REASONS AND CONSIDERATIONS (1)

Having regard to the rural amenity and agricultural zoning objective for the area and the permitted hotel building on which construction was well advanced, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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 as amended by the further plans and particulars submitted on the 3<sup>rd</sup> day of July 2014, 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 entire site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) A plan to a scale of not less than 1:500 showing –
    - (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include *prunus* species
    - (ii) Details of screen planting which shall not include *cupressocyparis x leylandii*
    - (iii) Details of roadside/street planting
    - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
  - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation including details of phasing

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 5 years from the completion of the development 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.

3. The access road serving the proposed hotel and nursing home shall comply with the detailed standards of the planning authority.

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

4. Any lighting to be erected to serve the nursing home and environs shall be cowled or baffled in order to avoid directional lighting into nearby residences and to avoid impact on bat species.

**Reason:** In the interest of residential amenity and to minimise the impact on protected species.

5. All service cables associated with the proposed development (such as electrical, telecommunications, broadband and communal television) shall be located underground.

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

6. Water supply and 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.

7. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority a letter outlining and confirming agreement from the owner of the 300 millimetre foul water drain consenting to the carrying out of the remedial work necessary to remove the acute bend at Manhole F48, together with a commitment to a timeframe for the completion of this work.

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

8. Other than those signs which would constitute exempted development and the signage indicated on McHugh O’Cofaigh drawing numbers 494.2-PP-201 and 211, no additional advertising signs or structures shall be erected externally within the site, save with a prior grant of planning permission.

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

9. The proposed signage shall not be internally illuminated.

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

10. The medical facilities within the nursing home shall not be open to visiting members of the public.

**Reason:** To confine the medical facilities for the benefit of the private nursing home and hotel use, only, in the interest of orderly development.

11. 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) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-
- (i) An  $L_{Aeq1 \text{ hour}}$  value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
  - (ii) An  $L_{Aeq15 \text{ minutes}}$  value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

13. Site development and building works shall be carried out only between the hours of 07.00 to 20.00 Mondays to Fridays inclusive, between 09.00 to 13.00 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.

14. 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 interests of sustainable waste management.

15. 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. 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 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

16. 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 in respect of the overall hotel and nursing home/care centre development to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

## **REASONS AND CONSIDERATIONS (2)**

The proposed development would be located in an area zoned Objective B, “to protect and improve rural amenity and to provide for the development of agriculture”, under the South Dublin County Council Development Plan, 2010-2016. Under this zoning objective, Policy H31 restricts new residential development to those demonstrating a clear case of local need or origin. This zoning objective and this restriction are considered to be reasonable and to contribute to the maintenance of a landbank for the Metropolitan Area of Dublin, as defined under the Regional Planning Guidelines for the Greater Dublin Area, 2010-2022. Notwithstanding the intended use as lifetime-let retirement homes, the proposed development would represent the incursion of a suburban type development of 63 detached single storey residential units into this area and would thereby undermine its rural character and materially contravene the zoning objective. Furthermore it would effectively extend the village of Newcastle beyond its development boundary, as indicated in the development plan and the Newcastle Local Area Plan, 2012, within which there remain extensive areas of undeveloped land. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Andrew C. Boyle,**  
**Senior Planning Inspector.**

**18<sup>th</sup> November, 2014.**

**sg**