



Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: LRD23A/0011

Appeal by Fiona Murray care of Paul C. Mealy Architects Limited of 11 The Courtyard, Friar's Hill, Wicklow, County Wicklow against the decision made on the 19th day of March, 2024 by South Dublin County Council to grant, subject to conditions, a permission to Cairn Homes Properties Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposal comprises the second phase (phase 2B) of a two phase development (first phase [phase 2A] under planning register reference number SD23A/0136 will comprise 48 number duplex dwellings and phase two of Taobh Chnoic public park of circa 1.74 hectares of open space, along with car parking and ancillary infrastructure) to result in an overall Phase two development of 179 number dwellings (consisting of 119 number two-storey houses and 60 number apartments/duplex apartments in five number three-storey duplex buildings, and ancillary infrastructure). The phase 2B development will consist of the construction of 131 number dwellings and open space as follows: (a) 119 number two-storey houses (10 number two-bedroom houses, 95 number three-bedroom houses, 13 number

four-bedroom houses and one number five-bedroom house; (b) 12 number apartments/duplex apartments in one number three-storey building (six number two-bedroom apartments and six number three-bedroom duplex apartments) all with terrace; (c) open space (circa 1.34 hectares in a series of open space areas), hard and soft landscaping (including public lighting and boundary treatment), communal open space for duplex apartments and apartments along with single storey bicycle/bin stores and ESB substations; (d) vehicle access from the Athgoe Road from a new signalised junction along with upgrades to footpath and pedestrian crossing (on the Athgoe Road) as well as provision of vehicular/pedestrian/cycle link to permitted 'Graydon' (application number TA06S.305343) 'Newcastle Boulevard' to the east as well as 237 number car parking spaces and 94 number bicycle spaces (four number motorcycle space) and all internal roads, cycleways, green routes and paths; (e) provision of surface water attenuation SuDs measures, connection to water supply and provision of foul drainage infrastructure as well as an underground local pumping station (in northern part of site) to Irish Water specifications and all ancillary site development/construction/landscaping works; (f) the proposal also includes upgrades (to provide surface water pipe upgrades) to the surface water network along Athgoe Road and Hazelhatch Road (for circa 1.2 kilometres), all within the townland of Newcastle South, Newcastle and along Athgoe Road and Hazelhatch Road (R405) to Ground Investigations Ireland premises, Newcastle, County Dublin.

Decision

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

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the provisions and policies of the South Dublin County Development Plan 2022-2028;
- (b) the zoning objective RES - N - New Residential Communities of the South Dublin County Development Plan 2022-2028 which seeks 'To provide for new residential communities in accordance with approved area plans';
- (c) the zoning objective OS – Open Space of the South Dublin County Development Plan 2022-2028 which seeks 'To preserve and provide for open space and recreational amenities';
- (d) the zoning objective RU of the South Dublin County Development Plan 2022-2028 which seeks 'To protect and improve rural amenity and to provide for the development of agriculture';
- (e) the 'Housing for All' plan issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage, January 2024;
- (g) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, December 2023;

- (h) the availability in the area of a wide range of social and transport infrastructure;
- (i) the pattern of existing and permitted development in the area;
- (j) the submissions received; and
- (k) the Planning Inspectors Report.

Appropriate Assessment Screening:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and 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 a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment (EIA):

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

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- (a) the nature, scale and extent of the proposed development. The site is located on lands governed by zoning objectives RES – N (relating to the provision of residential communities in accordance with area plans), OS (relating to the preservation and provision for open space and residential amenities) and RU (relating to the protection and improvement of rural amenities and to provide for the development of agriculture) in the South Dublin County Development Plan 2022-2028;
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application including the addendum report of the applicant;
- (c) the submissions from the planning authority, and the prescribed bodies in the course of the application; and
- (d) the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report (EIAR), supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Planning Inspector's report, of the information contained in the EIAR and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the EIAR and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the

vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Planning Inspector.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposed development would, subject to compliance with the conditions set out below, provide an acceptable form of residential amenity for future occupants, is compliant with the provisions and policies of the South Dublin County Development Plan 2022-2028, and 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 further plans and particulars submitted to the planning authority on the 19th day of February 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 number of residential units permitted by this grant of permission is 124 residential units in the form of 118 number houses and six number

apartments/duplexes.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:
 - (a) House number 102 shall be omitted with House number 103 revised to provide for suitable overlooking of the revised open space to the south.
 - (b) Duplex Block A to be revised to omit units number 01 to 06, that is, the six units to the southernmost section of this block.
 - (c) The area of land that remains following the omission of these units shall provide for additional attenuation in accordance with the requirements of the planning authority and for open space. No refuse bin storage areas or bicycle parking stores shall adjoin these open spaces.

Reason: In the interest of adequate surface water drainage and in the interest of residential amenity.

4. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, following consultation with the South Dublin County Council Drainage and Water Services Section where necessary, details of adequate surface water drainage/attenuation for the development. This shall include the provision of a new surface water pipe to the outfall on Hazelhatch Road or surface water drainage/attenuation infrastructure otherwise agreed with the planning authority. Adequate surface water attenuation for the site shall be in place prior to the commencement of development, including prior to the stripping of topsoil from the site. All agreed surface

water attenuation/drainage details shall be fully implemented on site prior to the occupation of any of the dwelling units hereby permitted.

Reason: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate surface water drainage provision.

5. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, following consultation with the South Dublin County Council Drainage and Water Services and Public Realm Sections where necessary, the following:
 - (a) Surface water attenuation and Sustainable Urban Drainage Systems (SuDS)
 - (i) including redesign to provide for sufficient capacity and functionality and incorporation with landscaping and green infrastructure. Additional details are required to demonstrate how the SuDS are integrated into the landscape including use of low flow channels to ensure usability of open spaces, headwalls, and biodiversity measures as described in planning authority-Guidance. This shall include widening swales along the south/south-western site boundary including the swale located to the south of Duplex Block A. The review shall address the omission of residential units as specified to the amendments condition above.
 - (b) Review if dams should be provided along swale to help attenuate surface. Show on revised drawing what increased surface water attenuation is provided.
 - (c) Increase surface water attenuation by between 20% and 46% on site. Provide additional surface water attenuation of between 1,000

cubic metres and 2,000 cubic metres for surface water flowing from lands south of development.

- (d) Details of the proposed swales including dimensions, gradients, and planting.

Reason: In the interest of public health, the proper planning and sustainable development of the area and in order to ensure adequate surface water drainage provision.

- 6. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

- 7. (a) Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a detailed phasing programme for the approved development that fully accords with the requirements of the planning authority.
- (b) Prior to the occupation of the residential units, the extension to Taobh Chnoic Park shall be completed in full and to the satisfaction of the planning authority.
- (c) Prior to the occupation of 100 number of the residential units, the creche facility permitted under An Bord Pleanála reference ABP-305343-19 shall be under construction to a stage which is to the satisfaction of the planning authority, unless plans for an alternative approved creche facility with similar capacity for the area, have been agreed, in writing, with the planning authority, prior to completion of those units.

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Reason: To provide for the orderly and sustainable development of the site and compliance with the county development plan.

8. The mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. An ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the ecologist shall be present on-site during construction works, ensuring that the identified mitigation measures are fully implemented.

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

9. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. 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.

10. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has



obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling unit and shall demonstrate that it is bat friendly.

Reason: In the interest of amenity and public safety, and to ensure the protection of bats.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.



The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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 interest of visual and residential amenity.

14. (a) The road network serving the proposed development, including turning bays, junction with the public road, footpaths and kerbs, shall be in accordance with the provisions of the Design Manual for Urban Roads and Streets (2019).

- (b) Provision shall be made for access from the subject site to the adjoining lands as per Drawing number 210026-DBFL-RD-SP-DR-C-1154 – Road Hierarchy, submitted with the application. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority.

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

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

16. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, the following:
- (a) Details of provision for the charging of electric vehicles including details of the design of, and signage for, the electric charging points (where they are not in areas to be taken in charge). 100% of car parking spaces shall be provided with electrical ducting and termination points to allow for the provision of future charging points, and 20% of car parking spaces shall be provided with

electric vehicle charging points initially.

- (b) Details of the proposed cycling/pedestrian routes through development, including layout details at a 1:200 scale of the cycleways that comply with the National Cycle Manual standards.
- (c) An Autotrack/swept path analysis for emergency vehicles around the development site.

Reason: In the interest of traffic safety and sustainable transport.

17. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, following consultation with the Public Realm Section where necessary, a fully detailed landscape plan that resolves inconsistencies, as identified by the planning authority, between the submitted drainage plan and submitted landscaping plan, accords with condition 5 of this permission, and incorporates the following:

- (a) Hard and soft landscaping, levels, sections and elevations, lighting, SuDS design, street tree provision, boundary treatments, play areas, play equipment, and existing green infrastructure assets on site. Plans shall include underground services, proposed lighting, or other features likely to impact on the delivery of the landscape plan. A Green Infrastructure Plan shall be submitted in addition to the landscape plan.
- (b) The plan will include a redesign of the south/south-western boundary to provide for a linear park link. Plans shall demonstrate the accessibility of the open space for maintenance by machinery and by people and the proper integration of SuDs features,

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biodiversity elements and play.

- (c) The plans shall incorporate amendments arising from the foregoing Amendments Condition and shall demarcate the provision of public and private open space, including with reference to House numbers 04 and 23.
- (d) Details of the landscaping over the pumping station tanks and around substation infrastructure.

The boundary treatment to the south of the site shall be a fence of not less than 1.8 metres in height. Details of this fence, along with all other boundaries, shall be included in the details submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interests of biodiversity, amenity, the provision, establishment and maintenance of a reasonable standard of landscape and the proper planning and sustainable development of the area in accordance with the policies and objectives of the county development plan.

- 18. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) 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: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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

20. Prior to commencement of development, the developer shall prepare 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), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of

the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. 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 sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) the details of site security fencing and hoardings;
 - (d) the details of on-site car parking facilities for site workers during the course of construction;
 - (e) the details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) measures to obviate queuing of construction traffic on the adjoining road network;

- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) the containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday and 0800 to 1400 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.

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Reason: In order to safeguard the residential amenities of property in the vicinity.

23. Prior to the commencement of development, the applicant/developer shall contact the Property Management Branch of the Department of Defence to ensure that any crane operations do not impact on the safety of aircraft operations, no later than 28 days before use.

Reason: In the interest of aviation safety.

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, 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 or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of

satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

25. 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 section 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.

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 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. Contribution in lieu of Community Floorspace In accordance with the submitted response to the Further Information on the 19th of February 2024 and prior to occupation of the first 50 units or as otherwise agreed in writing with the planning authority, the applicant shall pay a financial contribution of €1,080,000 (one million eighty thousand euros) unless otherwise agreed in writing with the planning authority, towards the delivery of upgrades, extensions and/or new community centres in the area. The financial contribution is in lieu of the provision of community floorspace on-site.

Reason: To provide for community floorspace in accordance with Policy COS 3 and objectives COS3 Objective 1, Objective 2 and Objective 3 of the South Dublin County Development Plan 2022-2028.

28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the

Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Mary Henchy

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 31st day of July 2024.