



An  
Bord  
Pleanála

## Inspector's Report PL06S.246817

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<b>Development</b>	Demolition of Derelict Football club, erection of 49No. Houses and all ancillary site development works at Aylmer Heath, Newcastle, Co. Dublin
<b>Planning Authority</b>	South Dublin Co. Co.
<b>Planning Authority Reg. Ref.</b>	SD16A/0117
<b>Applicant(s)</b>	Frank Kiernan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Appellant(s)</b>	1. Frank Kiernan 2. Karim Al Srag and Anna Skora
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/10/2016
<b>Inspector</b>	Caryn Coogan

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located within the village of Newcastle, Co. Dublin. It is between two residential estates and did originally form part of an existing residential development *Aylmer Heath*. The site was originally a football grounds and there is a derelict clubhouse on it. The site is currently overgrown and enclosed by palisade fencing. There are a number of tarmac roads through the site but these are over grown.
- 1.2 The site is in two parts:
- Part A: A small pocket inside the main entrance to Aylmer Heath just off the R120. This area is currently a green area serving the existing estate with mature trees. It is flanked on either side by two storey dwellings.
- Part B: Is the larger triangular site area to the east of Aylmer Heath.
- 1.3 The site, 1.48ha, is located off the R120, Main Street, Newcastle. The R120 links with the N7 at the Rathcoole/ Saggart junction. The west of main street is Peamount Road, which leads to Lucan.
- 1.4 There are a number of accesses to the subject site. The first is the main Aylmer Heath access off Main street, and the subject site is accessible from the estate via Aylmer Green, and Aylmer Grove, two points at opposite ends of the central public open space area within the existing estate (Phase 1). There is another access from the east at the end of a short cul de sac Aylmer Avenue. There is a traffic calming ramp on Main Street, 25metres south east of the Aylmer heath access, just before traffic lights.
- 1.5 The subject site is surrounded by residential developments except along its northern boundary. There is a burgage hedge along the northern site boundary that also dissects the subject site along its western site boundary from the existing Phase 1 Aylmer Heath development. To the west of Newcastle Primary school. There are bus stops within 100metres of Aylmer Heath. Dublin Bus and Dualway route provide interconnection with the Luas red line.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposal is on a 1.48Ha site known as Aylmer Heath and the proposal represents the completion of Aylmer Heath residential development previously permitted under Reg. Ref. SD04A/0936, which was subsequently amended under SD07A/0049. The proposals consists of the demolition of a derelict football clubhouse ( 129sq.m) the construction of 49No. two storey dwellings comprising of 26No. three bedroom dwellings, semi-detached units 5No. three bedroom detached dwellings, 2No. two bedroomed semi-detached units and 16No. three bedroomed terraced dwellings, all with roof mounted solar collector panels, new vehicular access points, internal roads and footpaths, new public open space areas, boundary treatments, 95No. carparking spaces and associated site development works.

### 3.0 PLANNING AUTHORITY DECISION

#### 3.1 DECISION

On the 2<sup>nd</sup> of June 2016 South County Dublin granted planning permission for the proposed development subject to 24No. conditions. The most relevant conditions are:

2. There are 48No. houses permitted. The house on plot No. 5 shall be removed, and a new planning application for a bungalow shall be submitted on this site.
3. The following amendments shall be carried out:
  - (a) The first floor rear elevation of proposed house type C on plot 2 shall be recessed by 2m.
  - (b) The first floor side windows to the proposed house type B3 on plot 6 shall be permanently glazed with obscure glass.
4. Landscaping and boundary treatment
7. Having regard to the phasing limits for the occupation of dwellings as identified in Phase II of the Newcastle LAP 2011 and to the recent grant of permissions in the vicinity (Planning References SD05A/0344/EP and SD15A/ 0193 ) not more than 41 dwellings shall be occupied until commencement of the development of the required 50sq.m. expansion to the existing St. Finian's Community centre.

In this regard no development shall take place until the applicant, owner or developer of the lands has lodged with the planning authority:

- (a) A legally binding undertaking to secure or cooperate in delivery of the 50sq.m. extension to St. Finians Community Centre
- (b) These lodgement requirements have been acknowledged in writing by the planning authority.

#### 3.2 TECHNICAL REPORTS

Roads Department : There is insufficient carparking to cater for the proposed development. There is 100No. spaces required.

A road between houses 44 and 33 changes in width and this is confusing, road signs are required.

Conditions are recommended.

Water Services: No Objection

EHO: No objection subject to conditions

Parks: Revisions to open space design required in order to provide a larger more useful open space area. There should be a play area provided. A revised landscaping plan is required, hornbeam and maple are not suitable street trees.

#### Planning Report (02/06/2016)

The main issues assessed were:

1) The site is zoned for residential development under the provisions of the Newcastle LAP 2011, the development is considered to be acceptable in principle.

2) The overall site area is 1.48ha, with a density of 34units per hectare. The required density for Aylmer Road part of the village expansion as stated under the Lap is 25-30dwellings/ hectare. A variation of 10% above or below the range is acceptable.

3) The overall design approach is acceptable.

4) Section 8.0 of LAP relates to phasing and to ensure community facilities are provided in tandem with residential developments. Table 8.1 deals with Phase 1 states the redevelopment of St. Finians School. There is 130sq.m. of community space required under new permissions within Ballynakelly lands.

There can be an additional 11No. houses permitted under Phase 1. The school is under construction, it is considered Phase 1 requirements are complete. Permission may be granted for Phase 2 of residential units. The proposal for 49No. units would utilise the remaining 41units in phase 1 and provide 8 units for phase 2. Therefore a pro-rata contribution would be required for the provision of 50sq.m. of community space at the existing St. Finians.

5) The overall layout is acceptable in terms of overlooking and maintaining 22metre separation distance, except for Unit 5 of the scheme which is substandard and should be omitted from the scheme. Other alterations to the overall layout are minor and can be dealt with by condition.

6) The central open space area is small. The Parks report is noted. All outstanding matters can be dealt with by condition.

7) There are 91No. spaces proposed for 49No. dwellings, 60% are off street parking. Generally the proposal is acceptable subject to the Roads department it provides a connected system of permeable streets.

8) Boundary treatment proposals are confusing, in particular the maintenance of the Burgage Hedgerows. Conditions required.

9) Social Housing condition to be applied.

10) Drainage, refuse, and Heritage issues acceptable.

11) Development Contribution applicable.

### 3.3 THIRD PARTY OBSERVATIONS

There were objections received from residents of the area. Their concerns included:

- The provision of two houses at the entrance is unacceptable, this is a green area where children play and it provides a break between the houses and the main road. On street parking at the entrance will cause congestion
- Two entrances on either side of the existing green area is unacceptable and unsafe.
- The construction works must be limited in hours to avoid disturbance and noise to residents.
- Outstanding issues relating to Phase 1
- Inadequate parking
- Taking in charge of phase 1
- Social housing, there should be no more in Phase 2
- Impact on existing crèche
- Rat run created by the development

### 4.0 PLANNING HISTORY

4.1 The planning history is inclusive of the existing residential development Aylmer Heath estate to the west.

#### *SD07A/0049*

Permission granted for alterations to previously approved planning permission (Reg. No. SD04A/0936) to include change of house type B2 (3No. in total) from a 3-bed detached dwelling to a 4-bed detached dwelling.

#### *SD04A/0936*

Permission granted for a revised site layout which will result in a reduction of the number of dwellings from 114 to 112, revisions to the number of house types resulting in 4No. one bed duplex apartments. 24No. duplex apartments, 4No. two bed duplex apartments; 4No. 2 bedroom terraced dwellings, 45No. 3bed terraced houses; 18 No. 3 bed semi-detached houses, 3No. three bed detached houses, 10No. 4 bed semi-detached houses and a crèche.

#### *Lands to West*

##### *SD15A/0193 – Cornerpark.*

Planning permission granted for demolition of 3No. dwellings and associated sheds/ garages (4) totalling c. 786sq.m. Construction of new

residential development comprising of 73 two storey houses ranging in size of 107sq.m. to 176sq.m. and a new entrance to Main Street.

## **5.0 POLICY CONTEXT**

### **5.1 Development Plan**

#### **South Dublin County Council Development Plan 2016-2022**

This development plan was made on 16<sup>th</sup> May 2016 and took effect from 12<sup>th</sup> June 2016 and hence it is the policies and objectives contained in this plan that apply to the proposed development and not that of the 2010-2016 plan.

Chapter 2 of the development plan deals with housing. Housing Policy 7 Urban Design in Residential Developments provides:

It is the policy of the Council to ensure that all new residential development within the County is of high quality design and complies with Government guidance on the design of sustainable residential development and residential streets including that prepared by the Minister under Section 28 of the Planning and Development Act 2000 (as amended).

Section 11.3.0 deals with Land uses.

#### ***Newcastle LAP 2012***

The subject site is zoned A1- *To provide for new Residential Communities in accordance with approved area plans.*

The majority of the site is located within an Area of Archaeological Interest DU020:003 Newcastle Village.

- 3.4 Development Plan Zoning of Lands
- 3.6 Residential development and density
- 5.0 The Strategy
- 6.9 Neighbourhood 7: Aylmer Road
- 8.0 Phasing

*All relevant sections of the Newcastle LAP are appended to this report.*

## **6.0 THE APPEALS**

### **6.1 Third Party Appeal Against Decision**

Karim Al Srag and Anna Skora of 15 Aylmer Drive has taken this appeal against the planning authority's decision to grant planning permission for the proposed development. The appellants do not object to the principle of the development proposal, in fact they welcome an appropriate residential development on the site in order to improve the visual amenities of the area. The current proposal does not reflect the change in planning policies since the previous planning permission was granted on the subject site. The following is a summary of the relevant issues raised in the appeal.

### **6.2 *Planning History***

Aylmer Heath has not been taken in charge by South Dublin Co. Co. There are several issues which need to be completed before the council take the estate in charge. Unsold units have been left unkempt. Boundary fences have collapsed. The play space has not been provided, the infrastructure services have not been properly constructed. The management company set up by the applicant is dysfunctional. The appellants have no faith in the applicant completing the proposed development.

### **6.3 *Planning Policy***

Since the previous planning applications were granted there has been new planning policy introduced.

- Appropriate assessment Guidelines (2009)
- Sustainable Residential development in Urban Areas (2009)
- Urban design manual (2009)
- South Dublin County Development Plans, 2010-2016, 2016-2022
- Newcastle LAP 2012
- Design Manual for Urban Roads and Streets (2013)

Despite the new policies changes the proposal remains the same ridged dense pattern of development. There has been no opportunity given to design a more sensitive development. The current proposal is aimed at fitting in as many units as possible onto the site providing minimum parking and open space.

### **6.4 *Planner's Report and Consultation Responses***

A lot of the planning conditions require further design, and further information should have been requested. The revised requirements alter the material nature of the development, and the third parties have been excluded from the process, especially regarding Irish Water's submission and the report from parks & Landscape Service Department.

## 6.5 ***Land Ownership***

It is questionable whether the applicant has the necessary legal interest to link in with the services in the existing Aylmer Heath development. The sewerage plans are on lands outside of the applicants ownership. Much of the traffic including construction traffic will be via Aylmer Heath, and there has been no legal interest in these road demonstrated by the applicant. The open space within Aylmer Heath bellows to that estate and not the developer, the applicant has no legal basis for access to or to utilise the space.

## 6.6 ***Development Description***

The public notices are misleading. The proposed development is not a completion of previously permitted developments, it is a stand alone project with no connection other than been alongside Aylmer Heath. The current proposal is trying to piggy back the Aylmer Heath development for infrastructure, roads and public open space, despite the fact there are a number of outstanding issues relating to Aylmer Heath and it has not been taken in charge. Yet the applicant distances himself from the Aylmer Heath development in terms of landownership ( blue line not indicated on submission drawings).

## 6.7 ***Inadequate Open Space***

The proposal provides 374sq. of public open space which equates to 2.5% of the site area. This is significantly below the development plan standards.

The public open space referred to in the planning report on file does not address the ownership issue or non-compliance with permission regarding a play area. The proposed development will give rise to a substandard development.

## 6.8 ***Two Houses Proposed at Entrance to the Estate***

The two dwellings proposed to the south west corner of main Street with Aylmer Drive are of particular concern. The dwellings are crammed into an open space area. The layout of the dwelling is unorthodox in that they will have no rear garden area, no privacy, dwelling no. 1 is just 2.3metres from the neighbouring dwelling to the west, and dwelling no. 2 is 1.1metres from the neighbouring dwelling to the east. There is awkward configurations, and the legibility of Aylmer Heath will be adversely affected. The previous permission for dwellings at this location should have little bearing on the current layout due to the changes in planning policies.

## 6.9 ***Conditions Precluding Third Parties***

The number of items requiring alteration is indicative of the material shortcomings regarding the proposed development. There should have been a request for further information.

## 6.10 ***Part V Provision***

The proposal is not in compliance with part V of the Acts, only three houses are to be provided to the Council.

#### 6.11 ***Insufficient Parking***

A total of 95No. spaces are proposed to serve 49No. dwellings. Each dwelling over two bedrooms should provide 2No. spaces. There are existing parking pressures within Aylmer Heath.

#### 6.12 ***Appropriate Assessment***

The planning authority considered Appropriate Assessment Screening was not required in this instance as it was carried out as part of the Newcastle LAP. The Glensamole Valley SAC is located 10Km from the subject site which is within the 15km threshold. The application should be accompanied by an AA Stage 1 Screening report.

#### 6.13 ***Failure to provide Green Link***

The LAP refers to a green link across the site near its northern boundary. The proposal does not provide this.

#### 6.14 ***Urban Design Criteria***

The assessment within the Planning report is assessed the criteria of the urban Design manual. Most of the claims made by the planning authority are refused.

#### 6.15 ***Overdevelopment***

The proposal is an overdevelopment of the site due to only 2.55 of the site area devoted to public open space, insufficient parking and no Green link provided in accordance with LAP.

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#### 6.16 **First Party Appeal Against Condition**

The appeal relates to Condition No. 7 of the permission granted. The following is the grounds of appeal against this condition.

- The applicant accepts that a certain level of public infrastructure can, and should be provided as part of the proposed development. The requirement to enter into negotiations and provide a legally binding agreement to secure and deliver the extension to a community centre is wholly unreasonable and beyond the applicants control to deliver.
- The Newcastle LAP 2012 includes a number of phasing requirements. It is agreed with the principle behind the Section 8 of the LAP, and the rationale for the cutting off point to allow up to 41No. dwellings under Phase 1 of the LAP and that only 4 units can be constructed after certain key outcomes have been met. The key outcome is 50sq.m. of a community hall floorspace at St.

Finians Community centre, and or a payment of development contribution towards the provision of community floorspace ta this location. Condition No. 7 should have included the facility to pay a contribution towards the provision of an extension to the community centre, and this was omitted in the schedule of conditions, as the Planning report had recommended this. The applicant was not made aware of such an imposition of a condition before the decision, and this matter could have been agreed in advance between the parties.

- The condition requires agreement between the parties on the property outside of the applicant's control. This could result in the last seven units been left unoccupied. The third party objections were opposed to any units remaining unoccupied as what happened to units in the first phase.
- The applicant should be afforded the opportunity of making a financial contribution towards the provision of community space.

## 6.17 RESPONSES

The **planning authority** confirms its decision and had no further comment.

## 6.18 APPLICANT'S RESPONSE TO THIRD PARTY APPEAL

### ***Background***

A previous planning application for 114No. dwellings was granted permission under SD04A/0936. A portion of the dwellings were not built, and this is the subject of the current application. Onsite works have taken place in the form of roads etc, and the board is asked to consider the current development within those parameters. Of note in compliance with Newcastle LAP is the following:

- The density is between 25-30 dwellings per hectare;
- The completion of Aylmer Heath will provide for a compact form comprising of largely terraced dwellings;
- There will be two vehicular and pedestrian openings onto Aylmer Road with Peamount Road on the northern side of Main Street, creating a green link between Aylmer Road and Newcastle Manor.
- The revised layout fully incorporates the intact hedgerow along the north west boundary

### 6.18 Response to issues raised in the appeal, includes

- a letter from AMOSS Solicitors , confirms Frank Kiernan is the owner and has sufficient legal interest in Stage 1 land

comprising of existing development. The lands owned are appropriately edged in blue on the planning application drawings

- Planning permission was granted for the full extent of the lands (Stage 1 and 2 Figure 3.1) for a total of 112No. dwellings under SD04A/0936. The full extent of the scheme was not complete, and some of the permitted dwellings were not built. The proposed development is a completion of the permitted development, it is not a standalone project.
- The proposal accords with Newcastle LAP, The numbers have been reduced from the permitted scheme. The proposal is compliant with Aylmer Neighbourhood Area (Neighbourhood 7). Each new development within the designated areas are to be consistent, coherent and connected. It is illogical to consider the current proposal in isolation of the previously permitted scheme, which directly adjoins the developed lands to the west. The existing development will be linked to the proposed Stage 2 which will result in a single coherent residential estate. The site is already partially developed with sealed roads and streets. Aylmer Green and Aylmer Grove are partially accessible to the Stage 2 lands.
- Having regard to the Newcatsle LAP, the open space provision is sufficient. There is 374sq.m. provided. The public open space adjoins the Green link (north) and will allow the proposed development integrate with Stage 1 of Aylmer Heath. The public space will accommodate a children's play area (Condition 4(f) of permission). There is an additional larger open space area in the existing Aylmer Heath (1,872sq.m.) is directly adjoins the subject site along its western site boundary. This gives a total of 2,246sq.m. Retention of existing trees and hedgerows is essential to the proposed development. Furthermore the applicant is willing to provide additional community centre space at St. Finians Community Centre.
- The two houses at the entrance are zoned for residential development and were previously permitted at this location. These small sections were never to be used for informal green areas, and just because the residents have managed this area does not imply the developer cannot rule out two previously permitted houses. The two dwellings were assessed in detail by the planning authority and deemed to be satisfactory.
- The appeal states that conditions would materially alter the proposed development but it does not state in what way. The omission of the house on plot 5 can be accommodated without affecting the remainder of the development. The carparking conditions will not materially alter the proposal. The children's play area can be accommodated within the open space area.
- The appeal does not acknowledge the existing developments contribution to the social and affordable Housing requirements. Stage 1 Part V requirement was 7 units, and the total received by

SDCC was 9No. units. There are 49no. units proposed and the requirement is 5No. units. The total allocation is 7 = 5 = 12units, and there has already been 9No. units provided, therefore 3No. units is adequate under the current scheme. These calculations have been agreed with the planning authority.

- The Council has requested preference for off-curtilage parking, therefore a mix of parking has been provided. The planning authority indicated during pre-planning discussions the parking requirement was 1.75 spaces per dwelling this would equate to 86No. spaces. The total number of proposed spaces is 95No. to serve 49No. dwelling units.
- Openfield Ecological Services to carry out Appropriate Assessment Screening for the proposed development. The site is not located within or directly adjacent to any Natura 2000 area. In relation to the Glenasmole Valley SAC it is located 9.4km to the south-east of the site. The proposal will not significantly affect the integrity of the Natura 2000 network and a full AA of the project is not required.
- The Green Link is illustrated on the landscape plan, it includes substantial landscaping, planting and vegetation, accommodating pedestrians and cyclists.
- The design of the scheme was carefully informed by Urban Design Criteria 2009.
- The proposal is not overdevelopment of the site and it is in line with the Newcastle Local Area Plan. Phase 1 is 35.2 units per Ha, Phase 2 is 33.1 units per ha, and overall it is 34.1units per Ha over 2.87Ha.

## **7.0 ASSESSMENT**

### **7.1 Introduction**

The subject site is located within a suburban area of Newcastle village Co. Dublin. The site had been part of a larger residential development permitted in 2004, but remained incomplete due to the economic downturn. The original development is called Aylmer Heath, and it includes streets such as Aylmer Drive and Aylmer Grove, with a mixture of housing types and a crèche. The subject site is located within walking distance of the primary school and other community facilities and shops. The site was originally a playing field and the ruins of a changing room are positioned along the western site boundary. The site has 3No. access points from adjoining residential developments, 2No. from Aylmer Heath and 1No. from a more mature residential estate to the south. It has a triangular configuration with housing along two of the site boundaries. The proposed development is for 49No. houses of mixed sizes and designs using the existing residential development to the west of the subject access, to access, services and public open space provision.

## 7.2 ***The Proposed Development***

The subject site is earmarked for development in the Newcastle LAP 2012. The proposed layout and scheme, is in my opinion, a rehash of a previously permitted scheme granted planning permission in 2004 as follows:

*SD04A/0936*

*Permission granted for a revised site layout which will result in a reduction of the number of dwellings from 114 to 112, revisions to the number of house types resulting in 4No. one bed duplex apartments. 24No. duplex apartments, 4No. two bed duplex apartments; 4No. 2 bedroom terraced dwellings, 45No. 3bed terraced houses; 18 No. 3 bed semi-detached houses, 3No. three bed detached houses, 10No. 4 bed semi-detached houses and a crèche.*

The above scheme was incomplete and a number of units were left vacant for a considerable number of years and now the applicant wishes to fulfil the original scheme under the current proposal.

## 7.3 ***Principle of the Development***

Since the original development was permitted by South Dublin Co. Co. in 2004, there has been a new County Development Plan adopted and is operational since the 12<sup>th</sup> of June 2016. Newcastle is designated in the Settlement Strategy of the new county development plan as a ***Small Town***. A new local area plan for Newcastle was adopted in 2012. The lands are zoned within the current Newcastle LAP 2012 for residential use. Of note in the LAP is the following objective:

*AR5 : In order to ensure compliance with the Settlement Strategy of this Local Area Plan, the development of the Aylmer Road Neighbourhood shall largely comprise of terraced housing with some opportunities for detached and semi-detached dwellings.*

The lands are zoned for residential development and will ensure the compact and consolidated development of the village especially between existing residential developments as opposed to a greenfield site. Figure 6.1 of the LAP includes an indicative village expansion for Newcastle, and the proposed layout is almost identical to the indicative layout. I have examined the provisions of **Section 6.9 Neighbourhood 7 : Aylmer Road** in the local area plan, and fundamentally the proposed development complies with the requirements, which are discussed in greater detail in the report.

The principle of the proposed development is acceptable at this location, and the proposal will be providing much needed housing in the Greater Dublin Area in line with the recent publication *Rebuilding Ireland- An Action Plan for Housing and Homelessness*.

## 7.4 Compliance with the provisions of the Newcastle LAP 2012

As stated there is a specific section in the LAP devoted to the Aylmer Road Neighbourhood i.e section 6.9. I wish to examine how the proposal complies to the relevant sections in the framework documents as these issues form the bulk of the appeal.

### 6.9.1 Green Infrastructure

The burgage hedgerow along the north eastern site boundary is to be retained. There are 18No. dwellings backing onto the hedge. Therefore it must be clear how the hedge will be maintained in its entirety because of the 18No. plots been sold separately. **(Objective AR1)** The applicant maintains the retention of the hedgerow adds to the natural, spacious theme throughout the proposed residential scheme. I do not agree with the applicant in relation to this theory, as the hedgerow is to the rear of dwellings and will not be visible from within the scheme, and in my opinion, the overall layout is cramped, not spacious. Another section of the burgage hedge will be retained along the western site boundary which will enhance the layout of the estate, however, there are sections of the hedging effectively landlocked by the layout as it is sandwiched between plots. There has been very little consideration given to this objective in the overall design of the scheme. The same objective states *the revised layout shall also include an access street and a pocket park that opens up onto Alymer Road*. There is only 374sq.m. of public open space been provided under the current proposal. Condition no. 4(f) of the permission requires a children's play area to be provided within this area. In my opinion, the proposed public open space area is inadequate to serve 49No. dwellings and it is surrounded on all sides by road which is not a safe playing environment for children. There is a larger open space area within Phase 1 of Aylmer Heath. The applicant maintains the total area of public open space to serve all 98No. dwellings is 2,246sq.m. I revert to the Parks and Landscape Service Department report of the 24<sup>th</sup> of May 2016. It recommends major revisions to the proposed scheme, in the form of a larger central open space area to serve both phases. There is no formal play area proposed, although the applicant maintains it will be placed within the small area of Phase 2. The department had requested a full revised site layout to comply with Objective AR1 of the LAP in terms of the existing hedgerows, space design and a play area. These requirements were not provided and the objective has not been complied with. In my opinion, in order to comply with the provisions of the LAP, a redesign of these issues is required.

### 6.9.2 Accessibility and Movement

There are two stated objectives:

**AR 2** :To provide two vehicular access points onto Aylmer Road as part of the east-west through route that connects the neighbourhoods on the northern side of Main Street and Aylmer Road with Peamount Road;

**AR3** : The completion of Aylmer Heath shall only be permitted after the removal of the unauthorised barrier between Aylmer Heath and Castlelyon, and after the opening of east-west street between the two estate.

The so called Green Link, is the proposed estate road, or as stated an existing estate road which is to the north of the proposed development. The proposed link is a cul-de-sac estate road. Again, I do not believe this was a material consideration in the overall design of the proposed development.

#### *6.9.3 Land Use and Density*

Objective AR4 states, further development of Aylmer Neighbourhood shall provide for residential uses only with a maximum density of circa 30 dwellings per hectare. The planning authority maintains Table 5.4 of the LAP allows for a 10% variation above or below the density range, therefore it accepted the proposed density of 34units per hectare. National guidance and recent publications are calling for higher densities on serviced brownfield sites of up to 50No. units per hectare. Given the small settlement location, and existing pattern of development in the area, along with the planning history, I consider the proposed density to be adequate and acceptable at this location.

#### *6.9.4 Built Form*

The objectives **AR5 and AR6** require residential development comprising of terraced housing with some opportunities for detached and semi-detached units, and coherent development to the rear of existing properties. The proposed development does achieve these objectives, however the majority of units are semi-detached dwellings.

Overall, I consider the main design stimulus for the proposed scheme came from the existing roads within the subject site and the original layout permitted in 2004. I do not believe the neighbourhood specific objectives outlined in the Newcastle LAP 2012 had a significant bearing on the overall design and layout of the scheme, even though the applicant has attempted in detail to state otherwise in the appeal submission. The proposed development mirrors the original proposal permitted on the site over twelve years ago. In saying that having examined Phase 1 of Aylmer Heath, the existing residential estate, the development is compact, attractive and safe. I would have preferred a similar courtyard layout in Phase 2 to reflect new planning policies introduced since the previous decision.

### **7.5 Legal Matters**

The applicant, Mr. Frank Kiernan has demonstrated sufficient legal interest in the subject site and the adjoining estate to the west Aylmer Heath. Phase 1 was not taken in charge by South Dublin Co. Co. The management company was dysfunctional because the agency resigned their commitments as it could not collect sufficient service charges from the residents to deal with certain requirements. Matters of non-compliance of conditions are a matter for the planning authority.

I do not consider the proposed development to be a standalone project and the inclusion of previous planning registration numbers links both phases legally. Both phases are physically link through shared access roads, open spaces and infrastructure.

### **7.8 *Two houses At the Existing Entrance***

On sites 1c and 2c there are detached two storey dwellings proposed at the entrance to Aylmer Heath. They are both three bedroom units with side garden areas as opposed to a front and rear garden area. These units were permitted under the previous scheme but were not developed. The residents within the estate, planted a number of silver birch and maintained the area as a green area entering the estate. The proposed dwellings at the entrance to Aylmer Heath are set back 10metres from the edge of the public footpath, however they are less than 2metres form the rear site boundary. There are existing dwellings to the rear of both sites and the proposed two storey dwellings will be very close to their boundaries resulting in oppressive overlooking and overshadowing which will effectively injure the residential amenities of both existing dwellings flanking the existing entrance to Aylmer Heath. There are substantial semidetached dwellings on either side, and it is clear from the proposed proportions and proposed building footprint, the proposed development will have a detrimental impact on the two adjoining dwellings. The proposed building envelop which is a two storey units is within 5metres of existing dwelling and due to the orientation could impede light into existing windows and result in direct overlooking of private rear garden areas. In my opinion, either the dwellings should be excluded from the scheme or significantly reduced in scale to have regard to the existing dwellings to the east and west of the Aylmer Heath estate. It is my opinion, the units should be single storey or confined to within the building line of the gable elevation of the adjoining dwellings if separation distance allow for such designs, especially regarding light into the rear of each dwelling. This would imply the units would need to be reduced to single storey units. I agree with the planning authority's condition that the unit on site No. 5 should also be reduced to single storey for similar concerns to 1 and 2.

### **7.9 *Traffic***

The subject site is located off the R120 Main Street in Newcastle village. The R120 regional road provides access to the N7 at the Rathcoole junction and to Saggart. The wet of the R120 provides access onto Peamount Road and further on towards Lucan. There are 49No. residential units proposed with 95No parking spaces, open space and landscaping. The development has two access points:

- (a) The existing Aylmer Drive entrance to the Alymer Heath development on the R120 Main Street;
- (b) from Alymer Avenue an existing short residential cul de sac, which links into the R120 from within the estate.

Both accesses have adequate sightlines and serve existing residential developments. The addition of 49No. new dwellings will not create a negative or congested impact onto the R120 as demonstrated by the accompanying report prepared by *Stephen Reid Consulting*. The linkages to the wider areas throughout the existing and proposed scheme are in line with the DMURS requirements. I do not believe it will lead to a rat run as stated by the appellants because there is no advantage to road users to go through Aylmer Heath as a short cut or to avoid congestion, because these issues do not arise.

The proposed of 95No. spaces to cater for 49No. dwellings is adequate, in fact that level of carparking provision encourages solely car dependent residents when in fact there is a bus service along the R120 adjacent to the entrance to Aylmer Heath. The proposed parking provision is in line with development plan requirements. In addition, the planning authority requested communal parking areas as opposed to all incurtilage parking. There is a requirement, particularly having regard to the current housing crisis and the recently published 'Action Plan for Housing' in which one of the five key pillars is to build more homes to provide additional housing at appropriate densities. Brownfield sites (such as the current appeal site) are deemed to be suitable for increased densities, and group parking enables such densities to be provided.

#### **7.10 Part V**

The applicant and the local authority have had pre-planning negotiations in relation to the allocation of units and the proposed provision has regard to the number of units provided under Phase 1 which was 7No. units, and under the current proposal it is intended to provide 3No. units. These issues are a matter for the local authority, however the applicant is fully aware and intends complying with his requirements under Part V of the Planning and Development Act 2000 as amended.

#### **7.11 Appropriate Assessment**

Having regard to the previous permission on the appeal site for a similar development which was partially commenced, and the limited nature and scale of the proposed development, the surrounding built environment and the nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

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#### **7.12 First Party Appeal Against Condition**

The appeal relates to Condition No. 7 of the permission granted. The applicant accepts that a certain level of public infrastructure can, and should be provided as part of the proposed development. The requirement to enter into negotiations and provide a legally binding agreement to secure and deliver the extension to a community centre is wholly unreasonable and beyond the applicants control to deliver. I found

St. Finian's Community centre in the village in Newcastle. It is positioned further west along the R120. It is totally detached from the Alymer Neighbourhood Area.

The Newcastle LAP 2012 includes a number of phasing requirements. The applicant agrees with the principle behind the Section 8 of the LAP (appended to this report), and the rationale for the cutting off point to allow up to 41No. dwellings under Phase 1 of the LAP and that only 4 units can be constructed after certain key outcomes have been met. The key outcome is 50sq.m. of a community hall floorspace at St. Finians Community centre, and or a payment of development contribution towards the provision of community floorspace at this location. In my opinion, Condition No. 7 should have included the facility to pay a contribution towards the provision of an extension to the community centre. The condition requires agreement between the parties on the property outside of the applicant's control, this could result in the last seven units been left unoccupied. I consider it is a reasonable compromise to enable the applicant to make a financial contribution towards the extension of St. Finian's Community centre as opposed to physically building a 50sq.m. extension to the structure. I recommend Condition No. 7 be amended accordingly.

## **8.0 RECOMMENDATION**

Overall the proposal is acceptable in principle, and I agree with the planning authority's assessment and decision in this instance. There are a number of outstanding concerns regarding the design of a number of dwellings, the public open space layout, children's play area and landscaping that can be dealt by condition should the Board decide to grant permission for the development. I recommend the decision of the planning authority to grant planning permission for the proposed development be upheld by the Board.

## **REASONS AND CONSIDERATIONS**

Having regard to the land use zoning objective for the area in the Newcastle Local Area Plan 2012 and to the provisions, to the planning history of the site, to the pattern of existing residential development in the area and to the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of 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 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) Units 1(c), 2(c) and 5 shall be revised to include a reduced scale unit on each plot that will not adversely impact on the residential amenities of the existing contiguous dwellings to Aylmer Heath in terms of overshadowing or direct overlooking of private rear garden areas. This will involve reducing the overall height of each unit to single storey only.
  - (b) A revised layout shall be submitted incorporating the proposed public open adjoining onto the existing open space area of Aylmer Heath, to create one large central open space area for both the existing and proposed housing within Aylmer Heath and the burgage hedgerow shall be retained and accessible through the central axis of the entire development.
  - (c) The children's play area shall be located on the enlarged open space area and design and constructed on natural play principles.

Reason: In the interest of residential amenity.

3. The areas of public open space shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority. This work and the children's play area shall be completed before any of the dwellings are made available for occupation.

**Reason:** To ensure the satisfactory development of public open space areas and their continued use for this purpose.

4. (a) Details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All pitched roofs shall be dark-grey or blue-black in colour with ridge tiles in the same colour as the roofs.

(b) The boundary treatment between individual back gardens of dwellings shall be of substantial and durable construction and shall be two metres in height. Walls, if constructed of plain concrete blockwork, shall be capped and rendered on both sides.

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

5. 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.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

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

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

8. Parking for the proposed development shall be provided in accordance with a detailed parking layout which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All car parking spaces shall have minimum dimensions of 2.5 by 5 metres.

**Reason:** In the interest of orderly development

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

**Reason:** In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overhead cables that bound or cross the site shall be undergrounded as part of the site development works, at the developer's expense.

**Reason:** In the interests of visual and residential amenity.

11. Prior to commencement of development, proposals for an estate/street name, house and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of orderly development.

12. During the construction phase, the developer shall provide details to the planning authority for written agreement of the proposed on-site parking and site compound arrangements. No overspill car parking shall be permitted onto the adjoining local road network at Aylmer Avenue.

**Reason:** In the interests of residential amenity and traffic safety.

13. Site development and building works shall be carried out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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. 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 on-going operation of these facilities shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Thereafter the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and in particular recyclable materials in the interest of protecting the environment.

15. 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 noise management measures and traffic management measures.

**Reason:** In the interests of public safety and residential amenity.

16. 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 interest of sustainable waste management.

17. Standard public lighting condition for housing estates.
18. 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 social and affordable housing in accordance with the requirements of section 96 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 97(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 for the area.

19. Prior to the commencement of the development the applicant shall liaise with and agree in writing the following :
- a) A fully revised Landscaping Plan to include the enlarged public open space area, street planting in tandem with the onstreet parking areas, removal of evergreen trees and shrubs from existing

hedgerows and replacement with indigenous species, signage for the Green Link, children's play area, all hard and soft landscaping to be in accordance with the requirements of the Parks and Landscape Services of the local authority.

b) All landscaping shall be carried out and completed in the first planting season following completion of the proposed development.

Reason: In the interests of residential and visual amenity.

20. Having regard to the phasing limits for the occupation as identified in Phase 2 of the Newcastle Local Area Plan 2012, the developer shall pay to the planning authority a financial contribution in respect of the enhancement and extension of St. Finian's Community Centre 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 Newcastle LAP 2012.

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 payment terms 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 in accordance with the Newcastle Local Area Plan.

Reason: To comply with the phasing requirements of Newcastle Local Area Plan 2012. The rationale for such phasing requirements is to ensure community space is provided to serve new housing development and the existing population needs of Newcastle.

21. 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.

22. 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 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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**Caryn Coogan**

**Planning Inspector**

**25/10/2016**