



An  
Bord  
Pleanála

## Inspector's Report ABP-303665-19

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<b>Development</b>	156-suite aparthotel.
<b>Location</b>	Rathcreedan, Rathcoole, Co. Dublin.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0401
<b>Applicant(s)</b>	Nocsy Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Nocsy Ltd.
<b>Observer(s)</b>	Sean & Geraldine Fitzgibbon and Others
<b>Date of Site Inspection</b>	26 <sup>th</sup> April 2019
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 1.8426ha, is located on the eastern edge of the village of Newcastle in Co. Dublin – notwithstanding that the address is Rathcoole. It currently forms part of a larger grassed field – stretching away to the southeast and south. The field is surrounded by stud-rail fencing. The site slopes very gently downhill from south to north (a difference of approximately 5m), and affords fine views of Saggart Hill to the south. It was dry under foot on the date of site inspection.
- 1.2. There is agricultural access to the site (not in use at present) from the R120 Regional Road, linking Newcastle village to the west with Rathcoole and the M7 Motorway to the southeast. This busy road has been realigned in the recent past. The 50kph speed restriction applies in this area. There is a 2m wide public footpath on the site side of the road – linking it with Newcastle to the west and Rathcoole to the southeast. Public lighting is in place. Sight distance at the proposed access is good in either direction. The road is served by Dublin Bus (Route 68). The recently-constructed Aerodrome and Greenogue Business Parks are located a short distance along the R120, to the east – in the direction of Rathcoole and the N7.
- 1.3. To the north, the site abuts the road – the boundary with which is a fair-quality hedgerow (recently planted) with some young standard trees. There is agricultural land on the opposite side of the road. To the east, the site abuts a cemetery (carved out of the same larger field as the appeal site) – the boundary with which is a 1.8m high concrete post & chainlink mesh fence, with a line of mature coniferous trees planted on the cemetery side of the boundary. To the south the site abuts the remainder of the field – the boundary with which is undefined. To the west, the site abuts the garden curtilages of a cul-de-sac development of older, single-storey, semi-detached, Council houses (Ballynakelly Cottages) – the boundary with which is a mixture of hedgerow (with some mature trees) and fencing. There is a ditch on this boundary – into which garden waste, tyres and household waste has been tipped. There is standing water within this ditch, to the southwest of the site. The ditch would not appear to be connected to any watercourse. Additional houses (some dormer bungalows) have been constructed within some of the generous gardens attached to the Cottages.

## 2.0 Proposed Development

2.1. Permission sought on 9<sup>th</sup> November 2018, for development of a 156-suite (167-bedroom) aparthotel of 18,426m<sup>2</sup>, in a block of two, three and four storeys – with the following features of note-

- 74 no. studio apartments; 71 no. one-bedroom apartments; 11 no. two-bedroom apartments.
- Ancillary shared accommodation – such as kitchen, lounge/foyer area, meeting/TV-room, laundry and gym (open to the public also).
- Staff/administration space and refuse/boiler and plant areas.
- New vehicular entrance at western end of road frontage.
- 137 surface-level car-parking spaces.
- Open space area in southeastern corner of the site.
- 62 bicycle-parking spaces at northern end of site.
- 64 storage lockers located in L-shaped, single-storey building on the southern boundary (240m<sup>2</sup>).
- Retaining wall up to 2.8m in height along boundary with cemetery.
- Electricity substation building.
- Metered connection to 150mm diameter public watermains in R120.
- Connection to public foul sewer in R120.
- Connection to public surface water sewer in R120 – to include underground attenuation tanks and throttled discharge.

2.2. The application is accompanied by the following documentation of note-

- Letter of consent from the site owner to the making of the application – dated 7<sup>th</sup> November 2018.
- Screening Report for Appropriate Assessment – dated November 2018.
- Architectural Design Statement – dated November 2018.
- Flood Risk Assessment – dated November 2018.

- Traffic Impact Assessment – dated 8<sup>th</sup> November 2018.
- Traffic counts – from April 2018.
- Drainage Design Report – dated October 2018.
- Landscape Design Statement – dated November 2018.
- A3 booklet of photomontages.

### 3.0 Planning Authority Decision

By Order dated 14<sup>th</sup> January 2019, South Dublin County Council issued a Notification of decision to refuse planning permission for 10 reasons, which can be summarised as follows-

1. Material contravention of 'RU' zoning of the County Development Plan.
2. Unsustainable expansion of Newcastle on a peripheral site, which would undermine the policies and objectives of the Newcastle Local Area Plan.
3. Design, scale and bulk would be out of character with nearby Ballynakelly Cottages.
4. Aparthotel represents a form of accommodation more akin to 'Build-to-Rent' or 'Shared Accommodation', which would undermine the Council's policy to focus housing into existing settlements.
5. Development would not comply with the 'Sustainable Urban Housing: Design Standards for New Apartments' 2018, or to residential policies of the County Development Plan – in that the design represents a substandard form of development.
6. Urban expansion and ribbon development would detract from the landscape character of the area and would materially contravene Policy (HCL7) to preserve and enhance the character of the County's landscapes.
7. Development would not enhance or strengthen the Green Infrastructure of the county. The development would fragment or prejudice the Green Infrastructure Network.
8. Undesirable precedent for other similar-type developments.

9. Application was not accompanied by swept-path analysis for larger vehicles.

10. Application did not include the following-

- a) Ecological assessment.
- b) Bat survey.
- c) Lighting plan.
- d) Arborist report.
- e) Landscape plan.

## **4.0 Planning History**

There is no mention made of any recent relevant planning history pertaining to this site, in the documentation submitted with this appeal.

## **5.0 Policy and Context**

### **5.1. County Development Plan**

- 5.1.1. The relevant document is the South Dublin County Development Plan 2016-2022. The site is zoned 'Objective RU' – 'To protect and improve rural amenity and to provide for the development of agriculture'. Within this zoning 'Hotel' use is 'Open for Consideration'. 'Residential' use is also 'Open for Consideration' – in accordance with Council policy for residential development in rural areas.
- 5.1.2. Schedule 5 of the Plan defines 'Aparthotel' as – "A building or part thereof, containing a minimum of 8 self-serviced short term accommodation units that share a reception area and which is professionally managed in the same manner as a hotel, where accommodation is provided in the form of apartments or suites within a fully serviced building". 'Hotel' is defined as – "A building or part thereof where sleeping accommodation, meal services and other refreshments are available to residents and non-residents. Function rooms may also be incorporated as part of the use. A hotel includes an aparthotel which is defined separately in this schedule".
- 5.1.3. In relation to 'Open for Consideration' development – section 11.1.1 of the Plan states- "Land uses that are listed as 'open for consideration' in the land use zoning

tables may be acceptable to the Planning Authority subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan. Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan”.

- 5.1.4. The site is located within the ‘Newcastle Lowlands’ Landscape Character Area – as defined in a study undertaken in 2015. It is an area with a medium to high landscape value and medium sensitivity; and a landscape capacity which is low. The Newcastle Lowlands function as an important agricultural resource but vulnerable to urbanising pressures. Urban expansion and ribbon development has the potential to negatively impact on both the landscape value and sensitivity of this area. Policy HCL Policy 7 states- “It is the policy of the Council to preserve and enhance the character of the County’s landscapes particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development”.
- 5.1.5. Table 11.23 indicates maximum parking rates for non-residential development. Within Zone 1, the maximum rate is 1 parking space per bedroom. Within Zone 2, the maximum parking rates is 0.5 spaces per bedroom. The appeal site is located within Zone 1 (as defined by section 11.4.2 of the Plan).
- 5.1.6. The cemetery to the east, is zoned ‘Objective OS’ – ‘To preserve and provide for open space and recreational amenities’, with a Specific Objective ‘To protect and/or provide for a Burial Ground’.

## 5.2. Local Area Plan

The Newcastle Local Area Plan (December 2012), indicates that the site is located immediately outside the LAP boundary. Ballynakelly Cottages to the west of the appeal site are within the LAP boundary. Lands on the opposite side of the R120 are similarly outside the LAP boundary. The lifetime of the LAP has been extended to 2022.

### 5.3. Natural Heritage Designations

The site is neither within nor immediately abutting any natural heritage designation.

The closest such are-

- Glenasmole Valley SAC (Site code 001209) – some 8.5km to the southeast.
- Rye Water Valley/Cartron SAC (Site code 001398) – some 7.5km to the north.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal from Thornton O'Connor Town Planning, agent on behalf of the applicant, Nocsy Ltd, received by An Bord Pleanála on 11<sup>th</sup> February 2019, can be summarised in bullet point format as follows-

- The accommodation will be for contract and part-time workers in nearby industrial estates. There is a lack of accommodation for such workers in the vicinity, as is evidenced by correspondence submitted to Greenogue Management from a local business.
- Maximum stay in the aparthotel will be two months.
- Workers could easily walk or cycle to work.
- Facilities such as cooking, and laundry will be provided for occupants. A gym and meeting area will provide recreation from occupants.
- Pre-planning meetings were held with SDCC – and the applicant was given to understand that the proposed use would not be problematical. The refusal of permission does relate to the use.
- Hotel (including aparthotel) use is 'Open for Consideration' on lands zoned 'RU'. Schedule 5 of the Plan clarifies that 'a hotel includes an Aparthotel'. The proposed use does not contravene the zoning objective for these lands.
- The site is sandwiched between two parcels of lands which are zoned.
- In the past SDCC granted permission for an hotel on lands zoned 'to protect and improve rural amenity and to provide for the development of agriculture'.

The Board has, in the past, granted permission for nursing home and retirement home use on lands so zoned in the vicinity of the current appeal site. SDCC has been inconsistent in relation to recommendations on rural lands in the vicinity.

- The current Newcastle LAP was adopted in December 2012. The plan will now expire on 9<sup>th</sup> December 2022. The Report of the Chief Executive in October 2017 stated that- “The achievement of the objectives of the LAP had not progressed significantly to date and cannot be said to have been substantially secured”. The continued lack of commercial development in the town may, in part, be linked to the lack of suitable sites for such uses within a relatively small urban agglomeration. Commercial activities are focused on the Main Street – sites which are not of sufficient scale to facilitate such development. The development of the subject lands may act as a catalyst for development that will assist in commercial opportunities at the Main Street being realised. The appeal site represents a logical extension to Newcastle – located on a key arterial street. The development will not represent haphazard or piecemeal development. The site connects the town with the cemetery, and will not involve any leap-frogging in the development of lands.
- The development will not have a detrimental impact on Ballynakelly Cottages. The four-storey element of the block is confined to the cemetery boundary – stepping down to two storeys on the Ballynakelly Cottages side. The building has been set back substantially from the R120. Mature trees on the cemetery boundary largely screen the block from view when approaching from the east. Screen planting is proposed on the western boundary. The building is set back approximately 25m from the closest house in Ballynakelly Cottages.
- Balconies and terraces will assist in animating and enlivening elevations of the building. However, if the Board considers that the upper level private amenity space is deemed invasive, the applicant is willing to accept a condition to submit revised drawings, through compliance submissions, that either provide additional strategically-placed privacy screens to the balconies/terraces or remove these private outdoor spaces in their entirety.



- An aparthotel is not strictly a residential use. Schedule 5 of the Development Plan defines both 'Hotel' and 'Aparthotel'. An aparthotel is a type of hotel and is not a residential use. Aparthotels commonly cater for business tourism and do not solely provide for leisure and recreational tourists. Aparthotels are primarily used by business customers. 'Build-to-rent' and 'Shared accommodation' are entirely different types of use. They cannot address the needs of short-term accommodation for transient workers.
- Workers may be regionally based, and wish to stay in Dublin for just a few nights per week. Workers may also travel from abroad to work in Dublin.
- Aparthotels are not subject to the 'Sustainable Urban Housing: Design Standards for New Apartments' 2018, or to the policies, objectives and standards of the Development Plan for residential developments. The Board has previously granted permission for aparthotels in Dublin – and none were designed in accordance with the 2018 Guidelines.
- The planning application recognises the sensitivity of the landscape. The application included a Landscape Design Statement. The concerns of the Parks Department of SDCC were addressed in the application drawings and documentation. It is proposed to remove the roadside boundary hedgerow and trees to allow for the creation of a pedestrian arrival area. This area will be landscaped. No hedgerow on the western boundary will be removed. Additional screen planting will be undertaken on this boundary. The three open space areas will be landscaped. Pedestrian routes are provided all around the building.
- The underground surface water storage tanks proposed are often deemed acceptable to SDCC – notwithstanding that they limit the ability to plant trees within these areas. The existing watercourse to the west of the site will not be altered. The tanks could be re-arranged to allow for pocket planting of trees.
- The development will not set an undesirable precedent. The case specifics at this site are unique, and have individual merits.
- Swept path analysis for a fire tender is now included by way of revised drg. no. D1 Rev. PL2.

- Due to seasonal constraints, a bat survey was not carried out. A winter survey for bat roost potential has been carried out. Trees along the eastern and western boundaries have bat roost potential. It is not intended to remove any of these trees. The northern hedgerow offers negligible bat roost potential. The open field, within which the site is located, is of low biodiversity value.
- Additional information such as a lighting plan and a full ecological assessment could have been sought from the applicant, if the PA deemed that they were necessary. The applicant is happy to accept a condition to submit any additional required documents to the PA for review and agreement – prior to the commencement of development.

6.1.2. The response is accompanied by a 'Winter Survey for Bat Roost Potential' – dated 23<sup>rd</sup> January 2019.

## 6.2. **Planning Authority Response**

The response of SDCC, received by An Bord Pleanála on 7<sup>th</sup> March 2019, indicated that the PA had no further comment to make.

## 6.3. **Observations**

There is one observation from James McInerney, Planning Consultant, agent on behalf of-

1. Sean & Geraldine Fitzgibbon of Gortmuilean, Ballynakelly;
2. Frank Kerins, The Old Glebe House, Main Street, Newcastle;
3. Anita & Ronan Maher, 8 Ballynakelly Cottages;

received by An Bord Pleanála on 8<sup>th</sup> March 2019, which can be summarised in bullet point format as follows-

- Sean & Geraldine Fitzgibbon occupy a dormer bungalow which is one of three dwellings on their landholding, and which immediately abuts the appeal site to the west. There is a separation distance of 56.5m from the apartment. The second dormer bungalow on their site has a separation distance of 25m. The semi-detached cottage on their site has a separation distance of 38m. The

aparthotel is 14m from the common boundary. The aparthotel will be injurious to their visual amenity and will block views of the foothills of the Dublin/Wicklow Mountains and of the cemetery.

- The aparthotel is not conducive to the historical character of the village of Newcastle.
- The development will overlook the rear garden of Anita & Ronan Maher.
- Newcastle has undergone considerable change in recent years – transformed from a rural village to growing town – with little public transport or shops. The topography of the village is relatively flat. The agricultural land is the most productive within the county. The surrounding countryside is under strong urban influence.
- The aparthotel use is ‘Open for Consideration’ within the zoning provision of the County Development Plan.
- The owner of the appeal site developed Greenogue Business Park. Hotel use is ‘Permitted in Principle’ within Greenogue Business Park zoning – and the hotel should have been developed there.
- In the application to the PA, it was clearly indicated that the use was for residential purposes. The appeal now seeks to include tourism use.
- The site is outside the boundary of the Newcastle LAP. Inappropriate development around the fringes of the LAP boundary should be restricted.
- The cases which the applicant refers to as setting a precedent for this type of development, are not directly comparable, and have their own specific considerations – particularly in relation to the time applications were made and to the relevant plans and guidelines in force.
- This site is a buffer zone between Newcastle and Aerodrome Business Park.
- The reason for the lack of commercial development in Newcastle is the most recent recession. Residential development is slowly under way. Commercial development is properly located along Main Street.
- The height and mass of the aparthotel would appear incongruous; and is not in keeping with the height of buildings in Newcastle. The building would be

1.2m above the level of houses along the R120 within Ballynakelly Cottages. It will be necessary to excavate up to 2.8m into the site on the cemetery boundary. Such changes will have an undesirable impact on landscape character.

- The Newcastle LAP seeks to restrict development on the settlement edge to low-density detached and semi-detached housing (20 dwellings per ha.).
- External finishes on the building would not be in keeping with the older character of Newcastle.
- The grant of permission would set an undesirable precedent.
- The development will restrict the ability of residents of Ballynakelly Cottages to construct houses within generous rear gardens.
- The footprint of the building would be more appropriate to an urban area.
- Windows, balconies and terraces will overlook single-storey housing in Ballynakelly Cottages. The provision of screening to balconies, as suggested in the appeal, will affect the visual appearance of the structure in a negative way. Removal of balconies or terraces will not remove overlooking from windows on the western façade of the building.
- There is concern that the boiler room, bin storage and service yards will not be properly screened.
- Light and noise pollution (including traffic) will interfere with sleep patterns of residents in Ballynakelly Cottages.
- A buffer zone should be provided between this development and the residents of Ballynakelly Cottages.
- The use of this building is residential. Tourism was not mentioned in the original application. Build-to-rent housing units could provide for the needs of the proposed clients of the aparthotel.
- The primary purpose of an aparthotel is to provide for tourism – be it business or leisure. Workers travelling from other parts of the country could not be considered tourists. The Board must address the question of the type of accommodation being provided. Most employees are on contracts of longer

than two months. One email from a tenant of Greenogue Business Park does to add up to conclusive evidence in relation to the need for this type of accommodation at this location. The Board has recently granted permission for a 69-bedroom aparthotel at the Glebe House in Rathcoole. If developed, this will meet the needs of the clients of the proposed development at Newcastle. The applicant has failed to draw attention to this recent permission from the Board (ABP-300068-17).

- Dublin City Council has design guidelines for aparthotels (Appendix 16 of the Development Plan) – which is not reliant on the ‘Sustainable Urban Housing: Design Standards for New Apartments’ 2018. Permissions granted, by the Board on appeal, require compliance with the polices of the Development Plan, in relation to aparthotels.
- The development is not rural-generated; and fragments the agricultural habitat of the Newcastle Lowlands Landscape Character Area. Cut & fill will have an impact on the landscape character. The landscaping area along the boundary with Ballynakelly Cottages is not sufficiently wide to provide adequate landscape screening for so large a building. Overhead electricity cables require that this hedgerow boundary is cut twice per year. Landscape proposals put forward for this boundary will not be acceptable to ESB Networks. The PA has refused 95% of applications for one-off housing in rural areas – relying on HCL Objective 7 – as quoted in the instant application.
- The Newcastle Buried Channel is a site of Geological Interest within the townland of Ballynakelly. The applicant has not indicated whether the development would affect this geological feature.
- There are geothermal reserves beneath the lands of Greenogue – demonstrated by the owner of the site in 2016 (to the rear of the cemetery).
- Local people are concerned in relation to surface water flooding on the R120 during heavy rainfall.
- There is no guarantee that workers in local estates only will be housed in this aparthotel. It is likely that workers from other areas of the city may be housed here. This permission would set a precedent for other similar-type

developments on similarly-zoned lands. This development will constitute urban sprawl.

- There is insufficient on-site parking. The Rathcoole Interchange on the N7 is frequently congested – with public transport also brought to a halt.
- An additional junction on the R120 would further slow traffic on this road. Recent new developments in the town and at Greenogue and Aerodrome Business Parks use roundabout access points.
- Bus route 68 is only once per hour – and takes 90 minutes to reach Dublin City centre. This has led to a reliance on the private car for transport in the area.
- It is standard practice, that all application for development on lands zoned 'RU', are accompanied by an Ecological Assessment.
- Transient employees will not be resident long enough to make any significant contribution to community life in Newcastle.
- The site should be retained in agricultural use; so as to provide a buffer between Newcastle and the business parks to the east. Residents have no objection to the expansion of the village/town within the development boundaries of the LAP.
- Employers in the business parks have the option, if required, of renting or buying houses in nearby towns and villages for their employees.

## 7.0 **Assessment**

The principal issues of this appeal relate to zoning, design, landscape, drainage, visual impact, residential amenity and precedent.

### 7.1. **Development Plan**

- 7.1.1. The site is located immediately outside of the Newcastle Local Area Plan development boundary. This LAP was adopted in December 2012; and has been extended to December 2022. The appellant puts forward a considerable argument in relation to the failure to achieve the policies and objectives of the LAP during its

lifetime – backing up this assertion with comment from the Chief Executive of SDCC in 2017, to the effect that “The achievement of the objectives of the LAP had not progressed significantly to date and cannot be said to have been substantially secured”. These are issues to which the elected representatives and staff of SDCC would be more attuned. An Bord Pleanála is not in a position to know whether the policies and objectives of an LAP have been met or partly met, and more importantly, the reasons which might exist for not meeting some or all of the policy objectives. The planning authority would also be in a position to know what plans exist for potential future development within the town. The arguments put to the Board, are ones which should, more properly, be put to the elected representatives of SDCC – the councillors charged with making the development plan and local area plans for the county. It is open to developers or land owners to approach elected representatives to vary or amend a county development plan or a local area plan. There is no indication of any proposal to vary or amend the Newcastle LAP or the County Development Plan, to facilitate this development. The site is located outside the development boundary of the Newcastle LAP, and so the policies of the South Dublin County Council Development Plan 2016-2022, are the ones which apply.

7.1.2. The site is zoned ‘RU’ – ‘To protect and improve rural amenity and to provide for the development of agriculture’. Within this zoning, ‘Residential’ use is ‘Open for Consideration’ – in accordance with Council policy for residential development in rural areas. The applicant has argued that the use proposed is not a ‘Residential’ use – as defined for the purposes of rural housing, and I would be inclined to agree with this contention. The rural housing policies of the PA relate largely to one-off houses within the rural area. The proposed development is of a different type – even if the ultimate use is a form of residential use. I would consider that the use is more in the nature of a commercial use – an hotel/aparthotel. I would consider, therefore, that the policies of the County Development Plan in relation to housing in rural areas are not a relevant consideration in this appeal.

7.1.3. Schedule 5 of the County Development Plan defines ‘Aparthotel’ as – “A building or part thereof, containing a minimum of 8 self-serviced short term accommodation units that share a reception area and which is professionally managed in the same manner as a hotel, where accommodation is provided in the form of apartments or suites within a fully serviced building”. ‘Hotel’ is defined as – “A building or part

thereof where sleeping accommodation, meal services and other refreshments are available to residents and non-residents. Function rooms may also be incorporated as part of the use. A hotel includes an aparthotel which is defined separately in this schedule". The proposed development would come within the definition terms of 'Aparthotel'. An 'Aparthotel' is deemed to be an 'Hotel'. An 'Hotel' is a use which is 'Open for Consideration' within lands zoned 'RU'.

- 7.1.4. In relation to 'Open for Consideration' development – section 11.1.1 of the Plan states- "Land uses that are listed as 'open for consideration' in the land use zoning tables may be acceptable to the Planning Authority subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan. Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan". As is stated, land uses "may be acceptable". Such uses must be assessed against the principles of proper planning and sustainable development. I consider that the unplanned expansion of the town of Newcastle, outside the LAP development boundary, would not constitute proper planning and sustainable development; as the expansion does not allow for the planning of sewers, watermains, roads/footpaths/cycle paths, open space, community facilities, public transport and connectivity with the town and the wider hinterland. I note that it will be necessary to extend the public foul sewer in the R120 to serve this development. It is not clear if this extension will be capable of providing for development on the opposite side of the R120, or further to the east, in the event that the development boundary of the town is extended in the future. The proposal represents an unplanned and haphazard form of development, which would be contrary to the proper planning and sustainable development of the area; and permission should be refused for this reason. The provision of accommodation for persons in no way connected with the rural area; and the provision of very limited community facilities (a small gym) would not improve rural amenity. The development would not, therefore, protect and improve rural amenity and would not provide for the development of agriculture – as stated in the zoning objective for the area.



## 7.2. Design & Layout

- 7.2.1. The layout of the building on the site is acceptable. It has been set back from the R120 and from adjoining boundaries. The building has been set back only 10m (at narrowest) from the cemetery boundary. Existing mature trees on the cemetery side of the common boundary largely hide the four-storey block, when viewed from the east, and provide a backdrop to the block when viewed from the west. However, if these trees ever had to be removed or lopped, then the proposed building would be particularly visible in the landscape, and from the cemetery in particular. The intervening space between the building and the cemetery boundary (which is largely 14m in width) would leave limited room for landscape planting – as it is required for fire tender access. The four-storey building is 13.6m in height. The site will be excavated by up to 2.8m at the cemetery boundary (to the rear). Balconies and terraces on this elevation will soften the appearance of the block; in the event that the evergreen trees on the cemetery site should be removed. The building steps down to two-storeys on the western side. The building is 14m from the boundary at the narrowest point. Set-back from houses within Ballynakelly Cottages is even greater. The position of the building on the site is acceptable in terms of residential amenity. It is open to the occupants of houses within Ballynakelly Cottages to undertake landscape planting, if there is a concern in relation to over-looking and loss of privacy. I note the comment of the Observer in relation to lopping of the boundary hedgerow by ESB Networks; however, photographs submitted show that there are still sections of this hedgerow which do provide screening for gardens of houses within Ballynakelly Cottages, and the applicant has further plans for landscaping on this boundary. I would consider that the somewhat vague proposals put forward by the applicant, by way of 1<sup>st</sup> Party appeal; to limit the potential for overlooking from windows, balconies and terraces, would not be necessary in order to safeguard the amenities of residents of Ballynakelly Cottages.
- 7.2.2. The PA was concerned in relation to potential anti-social behaviour at the storage units at the rear of the site. This is a matter for site security, and I would not share the concern expressed. The location of the stand-alone ESB substation is acceptable. The layout of the principal area of private open space to the rear of the site is acceptable, and will provide a private area for occupants of the scheme. There is a corridor linking this area with the reception area of aparthotel.

- 7.2.3. The aparthotel contains a Gym (178m<sup>2</sup>), Meeting/TV room (79m<sup>2</sup>), Lounge area (118m<sup>2</sup>), Communal kitchen, laundry and large foyer area. Some of these facilities will be open to non-residents – although it is not indicated which and for what hours. The gym use could result in additional traffic trips to the aparthotel. These facilities are quite limited.
- 7.2.4. There are 74 no. studio apartments, 71 no. one-bedroom apartments and 11 no. two-bedroom apartments. The mix of unit sizes is acceptable in terms of the market for the proposed aparthotel. Each apartment unit is provided with a balcony or terrace. There are three lifts to serve upper floors. I am satisfied that the design guidelines for ‘Sustainable Urban Housing: Design Standards for new Apartments’ 2018, do not apply to an aparthotel use such as this one. External finishes proposed include brick, plaster and metal cladding. These finishes would be acceptable, subject to submission of samples for the written agreement of the PA.
- 7.2.5. Permission was refused by SDCC, referring to the impact on the landscape. I note that the Aerodrome and Greenogue Business Parks are located within the same Newcastle Lowlands Landscape Character Area. Many of the buildings within these business parks would be four-storey-equivalent height and equally large. I would not, therefore, consider that the development would materially contravene HCL Policy 7 in relation to disproportionate impact on the Landscape Character Area.
- 7.2.6. The Parks & Landscape Services/Public Realm Department of SDCC considered that the landscape plans submitted with the application were inadequate. I would be satisfied that the Landscape Design Statement and landscape drawings submitted with the application were sufficiently detailed. Drawing No. 2018s1266-002 Rev: 0 indicates the trees/hedges to be planted – particularly on the western boundary. Hedge planting is proposed for the eastern cemetery boundary – although such would have to be outside of the crown spread of the mature line of cypress trees which overhang the site from the cemetery. The forecourt area between the building and the R120 is to be landscaped. Landscaping proposals for the two car-parking areas have also been indicated. The private open space area to the rear of the block has provision made for landscaping – with trees on the southeast corner to screen the area from view from the remainder of the field to the south and east.

### 7.3. Access & Parking

- 7.3.1. There is agricultural access to this site from the R120 – although it is presently disused. It is proposed to create a priority junction access to the site, at a point where there is broken centre-line in the R120. The 50kph speed restriction applies in this area. There is a 2m wide footpath running along the entire road frontage of the site. Public lighting is in place. Sight distance is good in either direction at the proposed access point. I would be satisfied that the proposed access would not constitute a traffic hazard. The Observer points out that most access points in the area are from roundabouts. Whilst this may be the case for large developments, it would not be possible to have a roundabout access for every development. However, this does point up a concern in relation to piecemeal development of lands outside the development boundary of a village/town like Newcastle; in that no provision is made for future road layouts – in particular dealing with access to back-lands. If the zoning of the town is to be expanded in the future, a grant of permission for ribbon development along approach roads could prejudice future access road layouts for development lands. The proposed development would, therefore, be premature. I note that drawings indicate a 2m reserve for a future cycle path along the internal access road. But there is no way of knowing if such would be adequate, or even available, to cater for future cycle path networks – should the lands to the south be rezoned at some stage in the future.
- 7.3.2. The application is accompanied by a Traffic Impact Assessment – dated 8<sup>th</sup> November 2018. The baseline traffic flows (carried out on Wednesday 18<sup>th</sup> April 2018), indicate that there is capacity on the R120 for traffic entering and leaving this site – and that a signalised junction will not be required – even at peak times. The Observer points out that the N7 Rathcoole Interchange is often choked by traffic. Whilst this may be the case, this is not a good reason to refuse planning permission, as this is not the sole access to the site. There are considerable lands within the Newcastle LAP boundary which, if developed, could contribute to traffic congestion at the N7 Rathcoole Interchange. I note that there is a Dublin Bus route serving this site, which could be used by occupants of the aparthotel, notwithstanding the claim of the Observer that the bus service is infrequent and takes 90 minutes to reach the city centre. The applicant claims that occupants will likely be working in one of the nearby Business Parks. However, the Observer correctly points out that there is no

guarantee that this would be the case – and occupants could be travelling to any part of the city or surrounding area.

- 7.3.3. Concerns of the Roads Department of SDCC in relation to fire tender access through the site, were addressed by way of revised drawing submitted with the 1<sup>st</sup> Party appeal – showing the fire tender route and turning areas.
- 7.3.4. It is proposed to provide 137 surface-level car-parking spaces. The Development Plan provides for a maximum standard of 1 space per bedroom. The development provides for 167 bedrooms. If the aparthotel is to be used by regional workers in the main, it is likely that they will travel to the site by car – regard being had to the poor public transport connections to the site. A shortfall in parking, could lead to parking on internal access roads, but would be unlikely to spill out onto the R120. I note that the Roads Department of SDCC was satisfied with the quantum of parking proposed. Surface level parking is not an attractive feature within a rural area – particularly in the instance of a large new-build structure, where no attempt has been made to provide for basement parking.
- 7.3.5. It is proposed to provide 46 bicycle-parking spaces at the northern end of the site. It is located too close to the public road, and would not be a secure location for storage of bicycles – particularly overnight storage. A locked bicycle shed should be provided – particularly where occupants might be staying for up to two months at a time, and where it is desirable to encourage cycling in place of driving. A safe bicycle storage area should be provided, either within the building or to the rear. Short-term bicycle parking spaces should be provided close to the entrance for visitors to the communal facilities on the site. I note that 64 no. storage lockers are to be provided within a dedicated building to the back of the site. Such lockers could be used for storage of bicycles, but need not necessarily be so used. If workers are using this aparthotel on a regular basis, then there might be a demand for long-term storage of bicycles, even when occupants were not in residence.

## 7.4. **Water**

### 7.4.1. Water Supply

The proposed development will take water supply from a 150mm diameter main within the R120. The supply will be metered. Irish Water had no objection to this

arrangement. A condition should be attached to any grant of permission to issue from the Board, relating to agreement with IW in relation to the connection.

#### 7.4.2. Foul Effluent

It is proposed to connect the development to an existing public foul sewer in the R120 – the diameter of which is not specified. This will necessitate the laying of a short section of 225mm diameter foul sewer to connect with the existing sewer which appears to terminate approximately 25m to the west. Rathcoole Community Council residents objected to SDCC, on the basis that the foul pumping station serving the town was inadequate. It is not clear if this same pumping station also served Newcastle. Irish Water had no objection to the proposed arrangements.

#### 7.4.3. Surface Water

The surface water generated on this site is to be attenuated in two underground storage tanks of 80m<sup>3</sup> and 711m<sup>3</sup> respectively. Each tank will have base infiltration. Outfall is to be throttled by 'Hydrobrake' mechanism to 3.84 l/s. The inflows will be fitted with separate hydrocarbon and grit interceptors. Outfall will be via a new 225mm diameter pipe, to connect to an existing surface water sewer (diameter unspecified) within the R120. The Water Services Department of SDCC found the proposal acceptable, subject to the capacity of the 80m<sup>3</sup> attenuation tank being increased by 50%.

#### 7.4.4. Flooding

The application is accompanied by a Flood Risk Assessment – dated November 2018. The site is gently sloping from south to north – towards the R120. There is an open ditch on the western boundary with Ballynakelly Cottages. There was standing water in this ditch (immediately to the southwest of the site) on the date of site inspection by this Inspector. A considerable amount of waste and rubbish has been discharged into this ditch – and it is not possible to tell whether it still functions as such, and what connectivity there is to any other culverted drains in the area. The Flood Risk Assessment states that the ditch is not connected to any watercourse; but discharges into the existing stormwater network. OPW Floodmaps for the area do not indicate any incidents of flooding at the site. The Observer notes that residents of the area express concern in relation to flooding on the R120. There is no identified historic or predicted pluvial, groundwater or fluvial flooding affecting the

site. Notwithstanding this, the underground attenuation tanks will provide attenuation for 1-in-100-year storm events.

## 7.5. Other Issues

### 7.5.1. Development Contribution

As planning permission was refused, there is no record of requirement for a development contribution from SDCC. If the Board is minded to grant permission for this development, a condition should be attached, requiring payment of a development contribution in accordance with the Development Contribution Scheme in force for the county. The site is located at some remove from the Red LUAS line.

### 7.5.2. Archaeology

There is no indication of any recorded monument in the immediate vicinity of the site. The application was not accompanied by any archaeological report. Having regard to the extent of the site (1.8ha), on the fringe of an historic village; archaeological monitoring should be undertaken of any ground disturbance during the construction phase – particularly where extensive excavation is proposed adjacent to the cemetery boundary. This could be done by way of condition attached to any grant of permission to issue from the Board.

### 7.5.3. Ecology

The tenth reason for refusal related to the absence of an Ecological Report or Bat Survey to accompany the application. The appellant points out that the PA could have required such, by way of additional information. However, having regard to the fact that there were so many reasons for refusal, it was likely that the PA was not minded to put the applicant to such additional expense, where permission was to be refused. The 1<sup>st</sup> Party appeal was accompanied by a short Bat Roost Potential Report, which concluded that the site had moderate-to-high potential for bat roost, and that hedgerows were used for commuting and foraging bats. The 1<sup>st</sup> Party appeal points out that there is no proposed change to the tree-line on the cemetery boundary or the hedgerow on the boundary with Ballynakelly Cottages. The roadside boundary hedgerow (with trees), is of recent planting, and would be of little use to roosting bats. It is proposed to remove this feature. I would see no difficulty with the proposed development in relation to impact on bats.

The site forms part of a larger grassed field. This field has been used for tillage in the past. This improved agricultural land is of limited biodiversity value. Only the roadside boundary hedgerow is to be removed – and this is of recent planting. The site will be landscaped, which will help to increase biodiversity. It would be possible to attach a condition to any grant of permission requiring submission of a detailed landscaping plan for the written agreement of the PA – which would provide for improvement to biodiversity.

#### 7.5.4. Appropriate Assessment

The application was accompanied by a ‘Screening Report for Appropriate Assessment’ – dated November 2018. The site is located neither within nor immediately abutting any European site. The closest such are Glenasmole Valley SAC – some 8.5km to the southeast; and Rye Water Valley/Cartron SAC – some 7.5km to the north. Both sites are located within different drainage catchments. The site is located within the Griffeen River catchment – which ultimately discharges to the Liffey River. The site is not in hydrological connectivity with any European site – other than through the sewer networks to Dublin Bay. Having regard to limited nature of the proposed development, and to the fact that it will be connected to the public sewer network, 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 an European site.

#### 7.5.5. Geological Heritage

It is the contention of the Observer that the development may impact on a geological site – the ‘Newcastle Buried Channel’ within the townland of Ballynakelly. The Observer has not provided any map or details of this geological feature. The reports of SDCC make no reference to this feature. It was not quoted as a reason for refusal of planning permission. I note that the site is located within the townland of Rathcreedan: the western boundary with Ballynakelly Cottages, and the northern boundary with the R120, forming the boundary with Ballynakelly townland. Table 9.6 of the Development Plan lists sites of geological interest within the county. The townland of Rathcreedan is not included in the list of townlands affected by the feature – ‘A deep buried channel in the Carboniferous Limestone bedrock, representing the site of a former Vauclosian Spring type cave (a large resurgence of

groundwater from a cave)’. Development Plan Map no. 7 indicates that this geological feature is located some considerable way to the west and northwest of the appeal site. I would be satisfied that the proposed development would not have any impact on this geological feature and *vice versa*.

#### 7.5.6. Environmental Impact Assessment

The area of the site is 1.8426ha. It is located on the fringe of the town of Newcastle – within an agricultural area. The 20ha. threshold for infrastructure projects would apply in this area – by reference to Class 10.(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended). Having regard to the nature and scale of the proposed development (less than one tenth of the threshold value set down in the Regulations) and the nature of the receiving environment (improved agricultural land), there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

#### 7.5.7. Baldonnell Aerodrome

Section 7.8.1 of the Plan deals with Baldonnell Aerodrome. The site is located outside of the Department of Defence Inner Zone, and is outside of the Inner Approach Areas to the runways. The site is located outside of the ‘Noise Significant Boundary’ associated with the aerodrome. A report on file from the Department of Defence, expressed concern in relation to construction crane height and landscaping. The erection of construction cranes is not a planning consideration – but something which should be agreed with the Department of Defence before commencement of construction. Landscaping on site will not impact on aircraft safety – regard being had to the height of cypress trees on the adjacent cemetery site. The proposed development would not have any impact on aircraft safety at Baldonnell Aerodrome.

#### 7.5.8. Electricity Cables

It is the contention of the Observer that overhead electricity cables which run along the western boundary of the site with Ballynakelly Cottages, would prevent the implementation of landscaping proposals on this boundary of the site. It is claimed that ESB Networks cuts the boundary hedgerow at this location twice per year, so



that the cables are not impacted by vegetation growth. The exact line of the cables has not been indicated: they are not high voltage cables. It would be possible to relocate the cables over-ground or underground, if necessary. This is an issue which would be best addressed during the consideration of the application at local authority level.

#### 7.5.9. Contribution to Community Life

The Observer makes the comment that short-term residents of an aparthotel such as this, would be unlikely to make any contribution to the community life of Newcastle. This is likely the case. However, the same could be said for many forms of development – including a regular hotel or hostel.

#### 7.5.10. Geothermal Reserves

The issue of geothermal reserves beneath lands at Greenogue, has been raised by the Observer to the appeal. However, there no contention that the proposed development would in any way hinder or damage the exploitation of such reserves. Development Plan maps do not indicate any constraints in this area relating to such reserves.

#### 7.5.11. Precedent

The applicant and the Observer have made a number of references to precedent cases in the vicinity; but also in the wider Dublin City area – precedent being quoted both in favour of and against the proposed development. As the development is site-specific, I have not had regard to the cases quoted, in my assessment of this appeal; on the basis that each case must be considered on its merits. There is no planning history relating to this site. I note that reason for refusal no. 8, refers to setting an undesirable precedent by granting permission for this development. I would see no difficulty with such, on the basis of a general principle – in this instance development immediately outside the boundary of an LAP, on lands which are zoned to protect and improve rural amenity and to provide for the development of agriculture.

#### 7.5.12. Public Lighting

The tenth reason for refusal referred to the absence of a public lighting layout. The site will remain private; and will not be taken-in-charge by the LA. Public lighting within car-parking areas could impact on the amenities of residents within

Ballynakelly Cottages, if not correctly positioned. I note that there is already public lighting on the R120. This is not a remote rural area. It would be possible to attach a condition to any grant of permission, requiring the applicant to submit a public lighting layout for the written agreement of the PA, prior to commencement of any development on the site.

#### 7.5.13. Waste Management

Having regard to the extensive cut which will be required at this site, it would be prudent to attach a condition relating to waste management during the construction phase, to any grant of permission which might issue from the Board. Drawings submitted indicate a refuse store within the building. If refuse is stored within this unit, there should be no disamenity caused for proposed residents or for residents of nearby Ballynakelly Cottages.

#### 7.5.14. Term of Stay of Occupants & Nature of Stay

The applicant has stated that the maximum permitted stay for occupants will be two months. The Board has previously granted permission for aparthotels – stipulating a maximum two-month continuous occupancy of any unit. The applicant states that the aparthotel will largely be occupied by workers on short-term contracts within local business parks. The Observer has put forward arguments in relation to the different types of client – leisure tourists or workers from regional areas of Ireland or from abroad. There is no way of knowing where occupants would come from. The profile of occupant could change over time – depending on the state of the economy and the availability/cost of accommodation elsewhere within the area. I would not consider that the nature of the occupants is of planning concern. I note the arguments put forward by the applicant for the need for this type of accommodation.

#### 7.5.15. Noise

It is the contention of the Observer that noise nuisance will result from this development for residents of Ballynakelly Cottages. Ballynakelly Cottages form part of the town of Newcastle. The busy R120 runs along the northern boundary of this group of cottages. The proposed aparthotel is in the nature of a residential-type of use. There is no function-room, bar, or restaurant included as part of the development. The nature of the use would be similar to an apartment-type use – a form of residential use, which must be acceptable adjacent to another type of

residential use (in this instance, detached housing). I would be satisfied that the proposed development would not result in any significant disamenity for existing residents of Ballynakelly Cottages – arising from noise. Any noise caused during the construction phase would be of limited duration; and it would be possible to attach a condition to any grant of permission, relating to hours of construction and construction noise, which would protect the amenities of nearby residents.

## **8.0 Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

## **9.0 Reasons and Considerations**

1. The proposed aparthotel would represent an unplanned and haphazard form of development, immediately outside of the Newcastle Local Area Plan development boundary, on an approach road to the town. The proposed development could militate against any planned future provision of sewers, watermains, roads/footpaths/cycle paths, open space, community facilities, public transport and connectivity/linkages between the town and its wider hinterland, which might accompany any extension of the Local Area Plan boundary in this area. The proposed development would, therefore, be premature, and be contrary to the proper planning and sustainable development of the area.
2. The development lands are zoned 'RU' – 'To protect and improve rural amenity and to provide for the development of agriculture', in the current development plan for the area. The proposed aparthotel would not be conducive to securing the objective of this zoning; in that it would not result in the protection or improvement of rural amenity. The proposed development would, therefore, materially contravene a development objective in the development plan for the zoning of land solely or primarily for agricultural use, and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposal would set an undesirable precedent for similar-type development, on lands immediately outside the Newcastle Local Area Plan development boundary, which would result in unsustainable ribbon development and urban sprawl.

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**Michael Dillon,  
Planning Inspectorate.**

**3<sup>rd</sup> May 2019.**