



An
Bord
Pleanála

Inspector's Report ABP-317595-23

Development

Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works.

Location

Main Street, Newcastle, Co. Dublin.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD22A/0286

Applicant(s)

Deane and Deans Ltd.

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party v Grant

Appellant(s)

1. Jannette Dempsey and Padraic Cawley.
2. Newcastle Glebe Management Company.

Observer(s)

None.

Date of Site Inspection

4th September 2024.

Inspector

Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located on the western edge of the village of Newcastle, Co. Dublin, and is served by an existing agricultural access from the north of Main Street.
- 1.2. The site is bounded to the north by agricultural lands, to the northeast and east by existing residential developments. To the south the site is bounded by St. Finian's Community Hall and the Main Street, and to the west by a historic townland boundary that is heavily planted with mature trees. This boundary separates the townlands of the Glebe to the west and Newcastle North to the east, and the adjoining Oakville House.
- 1.3. Newcastle Glebe is located to the northeast of the site and comprises 84 no. residential units and a Childcare Facility. This residential estate comprises dormer and two storey houses, two storey duplex units and is accessed off the Peamount Road R120. Newcastle Glebe Management Company are a third-party appellant to the appeal. Market Square is located to the eastern side of the site and consists of a residential development of terraced s storey houses.
- 1.4. There are currently two no agricultural sheds located on site, one is currently in use as a hay shed.
- 1.5. The site slopes down northwards from the Main Street to the south and has a stated area of approx. 1.35 hectares.
- 1.6. Newcastle is served by Dublin Bus Route 68 which operates hourly between Greenogue, Newcastle, Clondalkin and Dublin City Centre. Go-Ahead Route W62 operates every 30 minutes between St. Finian's School to the east of the site and The Square, Tallaght.

2.0 Proposed Development

The planning application was lodged with the planning authority on the 24/06/2022.

The application seeks permission for;

- Demolition of 2no. sheds with a footprint of 850m²,

- Construction of 30 no. two storey, dwellings (28 no. 3 bed and 2 no. 2 bed) (each provided with car parking spaces),
- Vehicular and pedestrian link with Main Street and with Glebe Square,
- Provision of communal open space,
- All associated and ancillary site development works including boundary walls, drainage, landscaping, paving, boundary treatments

The following tables set out some key elements of the proposed development as lodged on these lands:

Table 1

Site Area	
Gross Area	1.35 hectares
Lands Zoned Rural Amenity (RU)	0.31 hectares
Net Developable Area	0.93 hectares
Plot Ratio	0.39
No. of Units	30
Houses	30
Building Height	2 storeys
Density:	32.3 units per hectare
Open Space within Gross Site Area	0.45 hectares
Open Space within Net Site Area	0.12 hectares
Car Parking –	55

- 2.1. The proposed dwellings are positioned in a linear pattern addressing the internal road layout. The main area of open space proposed, is located to the west of the site to the north of Oakville House.
- 2.2. All houses are two storeys and are stepped following the slope of the site from south to north. Drawings submitted show the following house types.

Table 2 House Types

House Type	No. of Beds	House Type	Floor Area	No. of Units
A1	3	Terraced	112.4m ²	15
A2	3	End of Terrace	113.2m ²	2
A3	3	Semi-Detached	125.4m ²	6
B1	3	Detached/Semi-Detached	116.8m ²	4
B2	3	Detached	116.8m ²	1
C	2	Semi-Detached	86.9m ²	2
			Total Units	30

2.3. The planning application was accompanied by;

- Architectural Design Statement
- Engineering Services Report
- Site Specific Flood Risk Assessment
- Traffic Impact Assessment
- Outline Construction Management Plan
- Construction and Demolition Waste Management Plan
- Ecological Impact Assessment Report
- Appropriate Assessment Screening Report
- Bat Survey
- Archaeological Assessment Report
- Arboricultural Assessment
- Landowner consent letter

2.4. The proposed development was revised by way of FI submitted to the PA 06/03/2023. The number of houses was reduced from 30 to 29 to accommodate the extension of the Community Centre and increased separation between proposed units on the southern part of the site. Revised design and layout proposals, provide for new pedestrian footpaths within the development and omission of vehicular link with Glebe Square. The RFI was accompanied by revised drawings and the following reports;

- Arboricultural Assessment
- SuDS Management Plan
- Outdoor Lighting Report
- Architectural Impact and Design Rationale Report
- Archaeological Assessment Report
- Traffic Impact Assessment

2.4.1. The proposed development was further amended by way of clarification of further information submitted to the PA on 26/05/2023. The CFI was accompanied by revised drawings which primarily remove any residential development from the 'RU' zoned lands.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **grant** permission 22nd June 2023 subject to conditions. Conditions are generally standard, though I note the following in summary:

2. Amendments to include a plan indicating the areas of public open space within RES-N zoning, with details of the functionality / usability of the open space. If not agreeable to the PA, then a dwelling shall be omitted to provide open space.

Boundary treatments / landscaping shall be agreed for the remaining dwellings. In terms of windows at first floor level of the side elevation for dwelling numbers 1, 10, 11 and 20, if any of these dwellings are removed via another condition, then the adjacent dwelling shall provide windows at first floor level of the side elevation.

Details of bin storage / collection to be submitted. A Property Registration Authority (PRA) Compliant Map, to include site dimensions and site area, clearly indicating the extent of lands outside of the subject site and within the applicant's ownership, to be conserved as an amenity for the public and to accommodate the future expansion of St Finnian's Community Centre. A revised housing quality assessment (HQA), to include the total areas of residential floorspace, for the purposes of calculating

financial contributions, and incorporate any changes required as a result of other conditions.

3. Drainage – St. Finian’s Community Centre. Foul and surface water drainage shall be constructed where indicated as 'potential future foul and surface water drainage connection' on drawing NCA-CSC-ZZ-SI-DR-C0002 as part of the works, to facilitate the future expansion of St. Finian's Community Centre.

4. Details of materials and finishes.

7. Surface water infrastructure details, to include revised surface water and SuDS layout, omitting underground attenuation tanks to attenuate surface water, and Suds solutions to include alternative source control methods to a petrol interceptor. Plan to indicate the required increase in attenuation. Proposed Surface Water outfall and section of pipeline is outside the site boundary, in an area that SDCC will not be taking in charge. Revised details that allow for the outfall and pipe maintenance, which Water Services would require for access purposes. If this is not provided, then revised details shall be provided within an alternative location where SDCC has access for maintenance purposes.

8. Green Infrastructure / Landscape details/plans to include a Green Infrastructure Plan, a revised landscape plan with a much higher percentage of the existing trees and hedgerows on site being retained and protected, particularly along the townland boundaries, a revised landscape plan that provides for Street trees (SUDS tree pits) at regular intervals on both sides of each street, details for the proposed playground; details of boundary treatments for the written agreement of the Planning Authority, and a revised design of the open space that integrates SuDS and play requirements, accessible spaces and retain existing hedgerow.

9. Retention of Landscape Architect.

10. Implementation of Landscape Plans

11. Retention of Arborist/Tree Protection

12. Full implementation of mitigation measures set out in the Archaeological Assessment, Ecological Impact Assessment, and Bat Assessment (including lighting recommendations).

22. Restriction on Use and Occupancy.

24. Permission Required for Class 1 & 3 Exemptions.

25. Archaeological details.

29. Lands outside the subject site, outlined in blue as being within the applicant's ownership shall be reserved for the purposes of conserving that land as amenity for the public, under the provisions of Section 34(4)(a)(ii) of the Planning and Development Act 2000 (as amended).

30. Demonstrate compliance with LAP Objectives LUD12 & MSW9, CDP COS2 Objectives 1 and 3 in relation to the provision of community infrastructure in tandem with housing provision and more particularly complying with the specific local objective CS9 SLO 2 as included in the County Development Plan 2022-2028.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning application was lodged with the planning authority on the 24/06/2022.

The **1st Planners Report** dated **18/08/2022** is the basis for the Planning Authority decision. It includes:

- *County Development Plan* – Notes that the South Dublin County Development Plan 2022-2028 is now the relevant Development Plan
- *Rural (RU) Zoned Lands* - Concerns in relation to the provision of public open space associated with residential development on the Rural (RU) zoned lands. Section 8.7.3 of the Development Plan requires an overall standard of 2.4ha per 1,000 people, including a minimum provision of 15% on site and details that there are options at the discretion of the Planning Authority in relation to the provision of some of the overall standard (2.4ha per 1,000) off site. As such, under the Development Plan, there may be scope for the Rural zoned lands to be used as public open space as part of an off-site/ outside zoning provision. The applicant is requested to review Section 8.7.3 of the CDP.
- *Area to the west and northwest zoned 'RU'* – Notes that an area of public open space as well as an element of car parking and roads infrastructure are proposed to be located within the 'RU' zone, which could be considered

ancillary 'residential' in nature. Residential is open for consideration within the RU zoning 'In accordance with Council policy for residential development in rural areas'. The applicant is requested to demonstrate that these elements of the proposal are consistent with the referenced Council policy and consider amending the proposal.

- *Objective PN6 of the LAP* - Requires the provision of a connection between the rear of St. Finian's Hall (community centre) with Newcastle Glebe in the form of an 'extended vehicular cul-de-sac'. The proposed development provides for a vehicular connection from the subject site to Newcastle Glebe as required by the objective. It is noted that the objective refers to an extended vehicular cul de sac. Vehicular permeability to the Main Street from the Glebe is provided and as such, a cul de sac arrangement is not provided. The applicant is requested to provide an extended vehicular cul de sac arrangement with the Glebe in accordance with Objective PN6 of the LAP. This is likely to require omission of vehicular connection to the Main Street.
- *Sufficient Legal Interest* - Concerns are raised in relation to the implementation of the vehicular connection to the Glebe and sufficient legal interest. The street in Newcastle Glebe appears to be Taken in Charge, however, third parties have questioned same. The applicant is required to clarify that sufficient legal interest and relevant consents are in place.
- *Objective PN5 of the LAP* – Requires the provision of a through route to the rear of Main Street and St. Finian's Hall and upgrade such as a pedestrian and cyclist green link with the Village Core via Market Square off Main Street (West). The subject application has included an indicative connection from the subject site to Market Square. Given the ambition to provide a community centre extension with pedestrian access/entrance from the north, it is considered that the connectivity sought by the objective is required. The applicant is required to demonstrate sufficient legal interest to complete the connection, provide clarity on grounds levels and provide appropriate design amendments adjacent to the connection (appropriate public realm areas at proposed car parking area).

- *Objective LUD12 of the LAP and CS9 SLO 2 of the CDP* - Notes that the applicant has identified a portion of land to the rear of the existing St. Finian's Community Centre to facilitate the delivery of an extension to this centre as required by Objective LUD12 of the Newcastle LAP and CS9 SLO 2 of the CDP.
- Notes objective LUD 12 requires the provision of the community floorspace at, or adjoining, the existing St. Finian's Community Centre and/or the payment of development contributions towards the provision of community floorspace at this location. CS9 SLO 2 states 'To facilitate and commit to the delivery of Phase 1 residential lands at Burgage North to the north of St. Finian's Community Centre which reserve suitable lands to facilitate the extension of the existing community centre'. It is noted that Objective LUD12 requires the provision of the community floorspace (or financial contribution) and the SLO requires the reserving of suitable lands to facilitate the extension to the existing community centre.
- *Lands for the community centre* - should be clearly outlined on the site layout plan for transferring to the Council for the community centre. Considers site layout and lands for the future community centre extension are not suitable to facilitate the extension in accordance with the SLO. The area of land identified to the rear of the existing Newcastle Community Centre is significantly smaller than the initial site identified and would negatively impact the proposed planned extension.
- Recommends further information.

3.2.2. Letter from Agent dated 05/01/2023 seeking an extension of time for response to FI request.

3.2.3. PA issued a FI extension notification dated 09/01/2023.

3.2.4. The **2nd Planners Report** dated 03/04/2023 sought Clarification of FI in relation to outstanding issues raised in relation to green infrastructure, landscape plans, and surface water drainage proposals.

3.2.5. A response to the Clarification of additional information was received 26/05/2023.

3.2.6. The **3rd Planners Report** dated 22/06/2023 reflects the decision to grant permission for this development. The South Dublin County Council Planner considered the proposal to be in accordance with the South Dublin County Development Plan 2022-2028 and that it would not seriously injure the amenities of the area or of property in the vicinity of the proposed development.

3.3. Other Technical Reports

- **Roads Department: 1st Report** dated 04/07/2023 recommends further information, in relation to the Public Lighting design, stage one Road Safety Audit, revised layout showing accurate visibility splay in both directions from the entrance, having regard to the public parking along the Main Street Newcastle and details in relation to the height of boundary walls at vehicle access points. Further details in relation to permeable paving to be taking in charge, and revised parking arrangement are requested.

A traffic assessment detailing the results of analysis of the existing road network capacity, including the junction capacity of the Newcastle Glebe/Peamount Road junction, the junction at Main Street/Peamount Road and the Junction of Athgoe Road/R405, and include any recent developments to the south of Main Street Newcastle. A layout plan indicating a segregated cycling along the proposed link street and any connections to proposed infrastructure in the area.

- **2nd Report** dated 11/09/2023 recommends no objection subject to conditions.
- **Parks: 1st Report** dated 18/08/2022) recommends **refusal** noting concerns regarding impacts on existing trees, hedgerows and local biodiversity, impacts on bat commuting and foraging routes and roosts, ecological impacts, non-compliance with SDCC Green Infrastructure Strategy, Greening Factor not provided, non-compliance with SDCC SuDS Guidelines, lack of suitable usable and functional open space and lack of play provision. In the event that FI is sought recommends revised proposals to address the above concerns.
- **2nd Report** dated 28/03/2023 recommends **refusal** on the basis of impact on trees, hedgerows and biodiversity, lack of green infrastructure strategy and integrated SuDS design. In the event that CFI is sought recommends further details to address the above concerns.

- **3rd Report** dated 13/06/2023 recommends no objection subject to conditions to address outstanding issues in relation to Green Infrastructure, revised landscape plans and SuDS.
- **Water Services: 1st Report** dated 10/08/2022 and 17/08/2022 recommends further information.
 - Estimate that proposed attenuation of 580m³ is undersized by approximately 8%. It is unclear how much attenuation is provided by tree pits, biodiversity areas and swales for proposed development. –
 - A drawing and report to clearly show all surface water attenuation provided in m³, is required.
 - Applicant requested to show; how much surface water attenuation is provided by all SuDS (Sustainable Drainage System) such as biodiversity, tree pits, Swales and all other SuDS systems in proposed development.
 - To re-examine surface water discharge/outfall location, such that it does not discharge at actual pond at Glebe house. Confirm ownership of lands where surface water network discharge pipe is located, to allow determination of need for a wayleave for South Dublin County Council.
 - To review the gradients proposed Surface Water Sewers, and
 - To include additional SuDS to attenuate surface water and examine how underground attenuation systems can be replaced with overground SuDS attenuation systems.
- **2nd Report** dated 27/03/2023 recommends CFI in relation to surface water proposals. Specifically, the quantum of and proposals to cater for/manage surface water attenuation on site by means of a variety of SuDS features. Land ownership details where the surface water network discharge pipe is located, gradients of surface water network proposed taking account of gradients on site, and maximising the use of SuDS, details of swale and proposals for revised depths of drainage works are also sought
- **3rd Report** not on file.

- **Architectural Conservation Officer: 1st Report** recommended further information in relation to an Architectural Impact Assessment with a Schedule of materials and finishes. The sites' location adjacent to a Protected Structure site and within an Architectural Conservation Area, is noted and a darker palette of colours including stone is recommended in order to create minimal visual impact. **2nd Report** dated 30/03/2023 raised no objections, subject to a condition in relation to materials and finishes.
- **Housing:** Report dated 27/07/2022 recommends no objection subject to Part V condition.

The application was circulated to Community Development, Waste Management, and Heritage Officer but no reports were received at the time of writing.

3.3.1. **Conditions**

- The PA have attached a number of bespoke conditions which are outlined in section 3.1 above and addressed further in my assessment below.

3.4. **Prescribed Bodies**

- **Transport Infrastructure Ireland (TII):** Report dated 18/07/2022 recommends no objection.
- **Uisce Éireann: 1st Report** dated 06/08/2022 recommends no objection subject to requirements. **2nd Report** dated 28/08/2023 confirms previous report.
- **Department of Housing, Local Government & Heritage-DAU: 1st Report** dated 02/08/2022 recommends further information. Applicant is requested to engage the services of a suitably qualified Archaeologist to carry out an Archaeological Impact Assessment (AIA) which should include a programme of Archaeological Geophysical Survey and Archaeological Test Excavation. **2nd Report** dated 24/03/2023 recommends no objection subject to condition.

- **Environmental Health Officer: 1st Report** dated 03/08/2022 recommends no objection subject to requirements. **2nd Report** dated 30/03/2023 recommends no objection subject to similar requirements.

The application was circulated to the Department of Defence and the Heritage Council, but no report was received at the time of writing.

3.5. Third Party Observations

3.5.1. A number of submissions were received from the following parties;

- Cllr. S O'Hara
- N Betts
- D Carroll
- A Hughes
- P Hughes
- B Phelan
- B Phelan, Access Property Services
- H Sexton
- D & K Kane
- J McInerney
- J Dempsey
- D Scanlan
- T Goldrick
- A Rafferty

3.5.2. Objections to the proposed development received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third-party appeals summarised in section 6 below.

3.6. Planning History

Appeal Site

PA Reg.Ref. SD10A/0017: Permission **granted** 30/06/2011 for

- (1) 1 two-storey block on Main Street comprising a medical suite at ground floor level, 1 pharmacy retail unit, and 4 apartments at first floor level; 3 two-storey terraced blocks to the south containing 11 split-level houses 1 terraced block to the east containing 11 houses; 1 block containing 14 split-level houses, 4 two-storey duplex units and 12 apartments.
- (2) demolition of Oakville House,
- (3) a new vehicular and pedestrian entrance from Main Street, Newcastle;
- (4) surface water attenuation area and pumping station together with all ancillary site works;
- (5) a new access road, together with footpaths, drains, landscaped areas and a hard surface track to service the attenuation area;
- (6) surface car parking for 110 cars.

At Oakville House, Main Street, Newcastle, Co. Dublin.

PA Reg.Ref. SD10A/0017/EP: Extension of Duration Permission **refused** 05/05/2016 for the following reason.

'Since December 2012, the Newcastle Local Area Plan is the basis for South Dublin County Council to consider future development in the area. The Plan provides detailed guidance relating to the proper planning and sustainable development of Newcastle Village, including density, dwelling mix, building height and burgage hedges. The development permitted under SD10A/0017 (PL06S.237827) would materially contravene specific objectives of the Local Area Plan as follows:

- (i) The site is not identified as being a location for apartments,
- (ii) The dwelling mix of houses and apartments does not comply with the requirement to largely provide terraced houses (with opportunities for detached and semi-detached houses) (Objective PN12)

- (iii) Building heights are greater than the maximum permissible in the village (Objective BF8),
- (iv) The layout does not adequately retain existing burgage hedges (Objective BN1),
- (v) A specific objective is required to provide a connection to the Glebe Estate (Objective PN7).

Therefore, there have been significant changes in the development objectives in the Development Plan (Newcastle Local Area Plan) since the date of the permission (30th June 2011), such that the development would no longer be consistent with the proper planning and sustainable development of the area. Thus, the proposed development would materially contravene Section 42(1)(a)(ii)(II) of the Planning and Development Act, 2000 (as amended).'

Appeal site including adjoining site to the North

PA Reg.Ref.SD09A/0489 ABPL06S.237646: Permission **granted** 28/03/2011

- (1) A Nursing Home comprising 64 bedrooms in a 2-storey block
- (2) surface car parking
- (3) demolition of Oakville House
- (4) a new access road, together with footpaths, drains, landscaped areas;
- (5) a new vehicular and pedestrian entrance from Main Street, Newcastle;
- (6) surface water attenuation area together with all ancillary site works.

At Oakville House, Main Street, Newcastle, Co. Dublin.

PA Reg.Ref.SD09A/0489/EP: Extension of Duration Permission **granted** 05/05/2016 for a period of 5 years due to expire on the 28th March 2021. This permission was not implemented and has now expired.

Adjacent Site to the East

PA Reg.Ref. SD17A/0010 ABP PL06S.248760: Permission **granted** 18/12/2017 for 23 houses, 6 apartments, retail units, market square, access roads and footpaths, car parking, signage, foul sewer network, watermain, utilities. Unit No. 26 was

omitted by way of condition so a total of 28 units (22 houses and 6 apartments) were permitted. This permission has been implemented on site.

Market Square to the South

Leave to Appeal S37(6) applications made by a number of third parties were **refused** 05/11/2019 for 16 additional car parking spaces around the approved Market Square and ancillary site works. These include PA Reg.Ref. SD19A/0239 ABP:LV06S.305637-19, 305638-19, 305640-19, 305641-19, 305642-19, 305644-19, 305606-19, and 305706-19.

4.0 Policy Context

4.1. National Policy

4.1.1. Project Ireland 2040 – National Planning Framework (NPF)

Chapter 4 of the National Planning Framework (NPF) is entitled ‘Making Stronger Urban Places’ and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 4 seeks to ‘Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being’.
- National Planning Objective 11 provides that ‘In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth’.
- National Planning Objective 13 provides that “In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected”.

Chapter 6 of the NPF is entitled ‘People, Homes and Communities’ and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages’.
- National Policy Objective 33 seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.
- National Policy Objective 35 seeks ‘To increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’.

4.1.2. Section 28 Ministerial Guidelines

The following is a list of Section 28 - Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (DoHLGH, 2024)
- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).

Other Relevant Policy Documents include:

- Design Manual for Urban Roads and Streets (DMURS) 2019
- Permeability Best Practice Guide – National Transport Authority.

4.2. Regional Policy

4.2.1. Regional Spatial and Economic Strategy (RSES) 2019 – 2031

The Eastern & Midland Regional Assembly 'Regional Spatial & Economic Strategy 2019-2031' provides for the development of nine counties including Dublin and supports the implementation of the National Development Plan (NDP).

Regional Policy Objective 4.83 which seeks to '*support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the cores strategies of the county development plans*'.

4.3. Development Plan

The South Dublin County Development Plan 2022 - 2028 is the current statutory plan for South Dublin, including Newcastle/ the subject site.

The Core Strategy is provided in **Chapter 2**, and this sets out population projections over the lifetime of the plan. Table 9 provides the 'Capacity of undeveloped lands within South Dublin' and Newcastle has a potential capacity of 646 units. Table 11 provides the 'Core Strategy Table 2022 - 2028' and Newcastle has a planned population increase of 1,094 persons over the life of the plan. Newcastle is defined as one of the 'Self-Sustaining Growth Towns' in the county.

Policy CS9: Newcastle states:

'Support the sustainable long-term growth of Newcastle by focusing development growth within the current settlement boundary and based on the ability of local services to cater for sustainable growth levels.' CS9 Objective 1 to 4 are relevant, and I have summarised them as follows:

Objective 1: Provision of facilities/ infrastructure be provided in conjunction with development in accordance with population growth. This objective refers to the Newcastle LAP and its extension to December 2022.

Objective 2: Support infill and brownfield development.

Objective 3: Provide for suitable services etc.

Objective 4: Residential development to be provided in a coordinated/ planned manner on a phased basis in accordance with CS9 SLO1, SLO2, SLO3 and SLO4.

SLO1 to SLO4 outline how development is to be undertaken and what services/ infrastructure is to be provided in conjunction with this.

Objective CS9 SLO2 refers to the lands of the subject site and states the following:

‘To facilitate and commit to the delivery of Phase 1 residential lands at Burgage North to the north of St. Finian’s Community Centre which reserve suitable lands to facilitate the extension of the existing community centre.’

Chapter 3 refers to ‘Natural, Cultural and Built Heritage (NCBH)’ and the section on Newcastle Village is noted:

‘Newcastle is an historically significant village originally established as a medieval manor in the thirteenth century. Its large number of surviving archaeological monuments and well-preserved medieval land holding system of burgage plots preserved in hedgerows makes Newcastle a village of national significance. The built fabric of the village core has been classed as some of the oldest in the region. The buildings of interest within the ACA envelope are medieval structures such as tower houses constructed before 1500, the Church of Ireland, the mid-eighteenth-century Glebe House, and the Old National School and St Finian’s Roman Catholic Church which date from the early to mid-nineteenth century.’

Chapter 7 refers to ‘Sustainable Movement’ and Newcastle is listed in Policy SM3 Objective 12 as a location for improved bus services. In Table 7.5 ‘Six Year Road Programme’ it is proposed to develop the ‘Formation of a strategic street network providing access throughout the LAP lands’.

SM6 SLO 1 ‘To carry out a traffic and transport study for Rathcoole, Saggart and Newcastle and the surrounding areas following the publication of the GDA Strategy review to 2042 which will clarify the context within which the road network in the area will function and to include a review of HGV movement.

Chapter 8 refers to ‘Community and Open Space’ and Policy COS4 Objective 14 seeks ‘To provide a sports and recreational amenity in Newcastle, incorporating a full-size GAA, multi-use, all-weather playing pitch, two basketball courts, tennis court,

dressing rooms, a walking / jogging / cycling track as well as parking areas and related additional open space.'

4.3.1. Newcastle is located on Map 7 of the South Dublin County Development Plan. The subject site is zoned as follows:

- **Objective 'RES'** - 'To protect and/or improve residential amenity.' - 0.04ha
- **Objective RES-N'** - 'To provide for new residential communities in accordance with approved area plans'. – 0.83ha. This is the primary zoning on this site.
- **Objective 'RU'** - 'To protect and improve rural amenity and to provide for the development of agriculture'. – 0.39 ha
- **Objective 'VC'** 'To protect, improve and provide for the future development of Village Centre'. - 0.04ha

A number of lines indicating 'Cycleway Proposal' are on the map along the Main Street at the southern entrance to the site.

The subject lands are located within the Sites and Monuments Record zone of Notification and within the Newcastle Architectural Conservation Area.

4.3.2. The Environmental Reports include a Strategic Environmental Assessment (SEA), a Natura Impact Report and a Strategic Flood Risk Assessment (SFRA).

4.4. Natural Heritage Designations

The following designated sites are in proximity to the appeal site. The Grand Canal, Site Code 002104, is designated a pNHA and is located approximately 2.1 km to the northwest of the subject site.

Name	Site Code	Designation	Distance from Site
Rye Water Valley/Cartron	001398	SAC	7km N
Glenasmole Valley	001209	SAC	9km SE
Wicklow Mountains	002122	SAC	10.1km SE
Red Bog	000397	SAC	11.6km SW
Poulaphouca Reservoir	004063	SPA	13.2km S

Wicklow Mountains	004040	SPA	14.5km SE
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4.5. EIA Screening

- 4.5.1. The PA determined that the proposed development is not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations as amended nor does it meet the requirements for sub-threshold EIA as outlined in Section 103 of the Planning and Development Regulations 2001 as amended, and that no EIA is therefore required.
- 4.5.2. The proposed development includes the construction of 30 residential dwellings on a residentially zoned and serviced site within an existing village. Having regard to the nature and scale of the proposed development 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 and a screening determination is not required.

5.0 The Appeal

5.1. Grounds of Appeal

- 5.1.1. Two no. third-party appeals against the decision to grant permission were lodged by the following parties.

- Jannette Dempsey and Padraic Cawley
- Newcastle Glebe Management Company

Appeal No. 1. Jannette Dempsey and Padraic Cawley

This appeal was lodged by a planning consultant on behalf of the following Directors of the Newcastle Glebe Management Company (NGMC),

- Jannette Dempsey, 23 Glebe Square, Newcastle Glebe, Peamount Road, Newcastle, Co. Dublin
- Padraic Cawley, 16 Glebe Square, Newcastle Glebe, Peamount Road, Newcastle, Co. Dublin

The appeal was accompanied by a number of documents including the following;

- South Dublin County Council Taking in Charge Process (SDCC Website) and associated documents relating to Newcastle Glebe.
- South Dublin County Council Taking in Charge Policy June 2018
- Land Registry details, Property Registration Authority Folio Map and Folio details.

The main grounds of appeal can be summarised as follows;

County Development Plan

- Concern that if permission is granted for the proposed development, it will be utilized to facilitate access to the current 'RU' zoned lands, resulting in Newcastle Glebe forming part of a large housing development.
- Newcastle Local Area Plan 2012-2017 now expired– Objective PN7 'Require the provision of a connection between the permitted residential development to the rear of St. Finian's Hall with Newcastle Glebe in the form of an extended vehicular cul-de-sac. An extension of duration of permission for development to the rear of Saint Finian's Hall should only be granted where it provides a direct link with Newcastle Glebe.'

Planning History

- Notes life of previous permissions now expired.
- No specific condition attached to the grant of permission by ABP under (PL06S.131390) requiring future access be made available to lands to the south of Newcastle Glebe.
- Residents were of the view that the estate boundary would remain as such in perpetuity

Procedural Matters

- Submit lodgement of AI was not considered as Significant AI and was not readvertised by the PA, so the Residents of Newcastle Glebe were statutory barred from making an observation.

Landownership/Consent

- Red line boundary of the proposed site includes 2 no. strips of land not within the ownership of the Applicant.
- Western strip of land is in the ownership of a Mr. Liam Butler, who by Letter of Consent submitted with the planning application dated 26th May 2022 gave permission to the Applicants to use the wayleave marked in green on an attached map. The Wayleave was required to facilitate the disposal of surface water from the proposed development.
- Eastern strip of land encroaches into Newcastle Glebe, to facilitate the connection of the proposed foul sewer to the existing foul sewer located in Newcastle Glebe, and removal of existing boundary wall separating the Site from Newcastle Glebe.
- Submit that neither Tenbury Developments Limited (who are in liquidation) nor Newcastle Glebe Management Company (NGMC) gave consent to the making of the planning application and /or laying of the proposed foul sewer and removal of existing boundary wall to facilitate vehicular/pedestrian access.

Taking in Charge

- Note that while the roads and watermain network within Newcastle Glebe are Taken-In-Charge by SDCC this does not obviate the need to seek consent to the making of the planning application or the removal of the estate boundary wall and/or the authority to connect to the foul sewer system.

PA Assessment/ Third Party Observations

- Submit assessment of the application by the PA placed no weight on the third-party observations.

Vehicular Access / Safety

- New road proposed will encourage drivers to increase speed through Newcastle Glebe.

Impact on Residential Amenity

- Proposals to allow vehicular traffic from the proposed development enter and exit via Glebe Square will have an adverse impact.

- Additional traffic movements will discourage children playing on the courtyard open space.
- *Traffic* - Creating a new through road linking Main Street with Peamount Road will create a rat run for vehicular traffic held up along Main Street during school opening and closing times.

Proposed Vehicular/Pedestrian Access to Newcastle Glebe

- Road Layout Drawing NCA-CCS-ZZ-DR-C-0004 originally proposed to remove all of an existing boundary wall and possibly lower part of the boundary for the provision of vertical sightlines in respect of perpendicular off-street car parking at Glebe Square.
- Traffic Impact Statement makes no reference to existing boundary wall.
- AI indicates site access with cycle and pedestrian only bollards, at 12000mm centres.
- Insufficient details provided by way of AI in relation to the width of the cycle and pedestrian access, consequently the extent of the boundary wall proposed to be removed is unclear.
- No justifiable planning reasons to bring additional vehicular traffic through a settled estate to serve the proposed development when an alternative access is also proposed from Main Street.
- Note that the Crèche located within the estate serves mostly children from outside the estate, this generates additional traffic movement from adjoining areas in the mornings and evenings.
- Proposed development is premature on the grounds that it will generate additional traffic movements in Newcastle, until such time as the traffic study for Rathcoole, Saggart and Newcastle has been carried out in accordance with SM6 SLO 1 of the SDCC CDP.

Foul Sewer Connection to Existing Sewer in Newcastle Glebe

- Landowner Tenbury Developments Limited did not give their consent to the making of the Application nor the laying of the proposed foul sewer under the public road.

Consideration of Planning Application by PA

- Newcastle Local Area Plan lapsed in April 2023, and Objective PN6 requiring a connection between Main Street and Newcastle Glebe also lapsed. This objective is not included within the current CDP.
- Planners Report refers to the Roads Department as having confirmed that the wall is taken in charge, but this is not referred to in any of the 3 no. reports from the Roads Department.
- Concerns raised by NG in relation to land ownership not fully assessed and responded to by the PA in the Planners Report. Note Water Services Section of the PA sought CAI in relation to land ownership in respect of the location of the surface water discharge pipe. Question why a similar request did not issue as part of the CFI.

Property Rights v Taken-in-Charge

- PA and applicant under the misperception as regards Taking in Charge procedure and unaware of the property rights of the landowner.
- Observations submitted on behalf of the Residents of Newcastle Glebe raising this matter, was accepted by the PA and formed part of the FI request, but the Applicant did not respond to same. PA did not request CFI on TIC matters raised in observations. and have rendered themselves liable to judicial review.
- Following the raising of the issue of third-party ownership, the PA accepting that a genuine concern had been raised to justify including it in the request for AI and the applicant refusing to clarify the matter, planning permission should have been refused in the absence of the necessary consents.

Legislation

- Cites definitions of a 'public road' and 'road' under Section 2 and section 11(1) of the Roads Act, 1993
- Roads within Newcastle Glebe are public roads under the control of SDCC and boundary walls are not included.
- Cites Article 22 (2)(g) under the Planning and Development Regulations, 2001 (as amended)

- Applicant is not the legal owner of the estate boundary wall and has not provided written consent of the owner of the wall to make the application. Such consent would include consent from SDCC as the applicant alleges the wall has been taken in charge by SDCC.
- Proposals include development under a public road, i.e. the laying of a foul sewer for which the applicant did not include written confirmation from the statutory undertaker having a right or interest to provide services to connect with the development. Submit that no statutory undertaker has the right to lay a proposed foul sewer through land in the ownership of another party.

Conclusion

- Applicant does not have the necessary consents to complete the development as proposed and approved by the PA.

Appeal No. 2 Newcastle Glebe Management Company

This appeal was lodged by Access Property Services on behalf of Newcastle Glebe Management Company (NGMC).

The main grounds of appeal can be summarised as follows;

- Proposal to direct people and traffic (without consultation) through a quiet existing residential estate unsuitable.
- Traffic and safety issues for residents and the village.
- Planning application submitted lacked sufficient detail. Significant further information submitted was not readvertised which excluded third party submissions.
- Planning application should be resubmitted to allow consultation with residents of Newcastle Glebe.

5.2. Applicant Response

- 5.2.1. A response to the third-party grounds of appeal was submitted to the Board by Planning and Development Consultants, on behalf of the applicant. The response can be summarised briefly as follows;

- Submit that both grounds of appeal are based on unsubstantiated claims relating to property ownership and incorrect interpretation of the development proposed, of planning law and practice.
- *Planning Policy Context* – Application was submitted to SDCC on 24th June at a time when the Newcastle LAP (NLAP), extended to 2022, was still in effect. During the assessment of the application by SDCC, the SDCCDP came into effect and the Newcastle LAP lapsed.
- *Local Objective NLAP* - At the time of making of the planning application there was a local objective in the NLAP to achieve access and permeability by linkage into the Newcastle Glebe (NG) estate. The applicants sought to comply with this objective and brought relevant infrastructure up to, but not across, the boundary on the NG estate.
- This detail on the original planning application layout has been ignored by the appellants. Plan extract accompanying the response to the grounds of appeal indicates piers are within the application site, and there is no proposal for removal of a boundary wall.
- The applicant's response to the request for further information (RFI) to SDCC, includes drawings states that a 'potential connection has been facilitated and not hindered with no proposal for a physical connection'.
- Submit that there is no proposal to provide a physical connection as part of the planning application, as the land required for such connection is not within the applicant's ownership (as clarified by the applicant in their response to the request for further information (RFI)).
- *Contradictory Assertion* – Claim that residents in Newcastle Glebe (NG) could not have been aware of a desire to connect their estate with the development lands to the south yet includes an extract from the parent permission layout for NG from 2004 which indicates this connection.
- *Parent Permission* – Notes reference in grounds of appeal to the life of the parent permission which has expired, as has the appropriate period for taking enforcement action in respect of any development not carried out in accordance with the parent permission.

- *Expired Permission* - Section 40(2) of the PDA relating to the withering of permission clearly indicates permission put into effect does not expire in respect of necessary infrastructure. There is also the implication that that the appellants wish to rely upon unauthorised development to sustain their appeal.
- *Property Ownership* – Claims made by the appellants agent are unsupported. ABP is not a property arbitration body and should not engage in determining who owns land where ownership is disputed and has no remit in this regard. If NGMC wish to make a possessory claim to property that place to do that is in a court or in another forum but not in an appeal.
- The applicants are aware of Section 34(13) of the Planning and Development Act (PDA).
- *Vehicle Access* - Originally it was intended in the LAP that vehicle access would be through Newcastle Glebe and not from Main St. Newcastle. The applicants proposed access from Main St. and facilitated access to NG. However, when access from Main St. was accepted by the PA in the RFI request, the applicants in their response, facilitated the possibility of a pedestrian linkage in the interests of accessibility and permeability. This arrangement on the RFI plans has also been ignored in the grounds of appeal. Bollards shown on the application drawings are on the applicant's lands and not in NG.
- *Owner* – As defined in the PDA as amended, *'owner', in relation to land, means a person, other than a mortgagee not in possession, who whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let.*
- The Council is entitled to the 'rack rent' for the public roads in charge. Councils regularly charge rent for parking on roads and for road opening licences, street furniture licences etc. Therefore, the local authority is the owner for the purposes of planning.

- While NGMC may have managed and maintained ‘common areas’, it did not manage and maintain roads and underlying services and has no claim to adverse possession of them. NGMC are not ‘owners’ for planning purposes. They cannot charge any rent to any persons using the public right of way that is now a public street.
- *Observations to PA* - Observer’s submission to SDCC relating to sewers and disposal of surface water were not ignored. An applicant for planning permission engages with Uisce Eireann (UE, formerly Irish Water) for the purposes of receiving a letter of feasibility and demonstrates how potentially to connect to the UE mains water supply and foul sewer system. Where an appropriate condition is attached to a grant of permission, connection to the UE infrastructure rests with the UE and a connection agreement is made for a specific design and lay contract. As that stage the connection is ‘ex-planning’ i.e. independent of the planning process.
- *Surface Water* - Appellant does not seem to be aware that UE does not have any role in relation to Surface Water drainage, hence the PA did not make any CFI request relating to foul drainage or water supply as these are within the UE remit. SDCC requested CFI relating to surface water and this was appropriate as this is within their remit.

5.3. Planning Authority Response

No response received.

5.4. Observations

No observations to the appeal were received by the Board.

5.5. Further Responses

The appeal was circulated by the Board to An Taisce, Fáilte Ireland, The Heritage Council, and An Chomhairle Ealaíon. No responses were received.

6.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings.

- Principle of Development
- Design Layout Density
- Traffic and Car Parking
- Water Infrastructure and Flood Risk
- Landownership/Consent of the owner
- Built Heritage/Archaeology
- Open Space
- Procedural Matters

6.1. Principle of Development

- 6.1.1. The South Dublin County Development Plan 2022-2028 ('County Development Plan') took effect on 3rd August 2022. The Newcastle Local Area Plan 2012 (as extended) expired in December 2022.
- 6.1.2. The current application was lodged on the 24th June 2022, prior to the adoption of the CDP 2022-2028. The application while lodged and initially assessed under the then operative CDP and NLAP, was subsequently over the course of the application (i.e. FI, and CFI requests) assessed under the adopted CDP 2022-2028.
- 6.1.3. In the interests of clarity, I will base my assessment on the current South Dublin County Development Plan 2022-2028, having regard also to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.
- 6.1.4. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities were issued on 15th January 2024. The Guidelines replace the Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities issued as Ministerial Guidelines under Section 28 of the Act in 2009 (now revoked).

- 6.1.5. These Section 28 Guidelines came into effect after the notification of decision by the PA on 22nd June 2023, and lodgement of the Third Party appeals. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.
- 6.1.6. The density ranges support the application of densities that respond to settlement size and to different place contexts, recognising in particular the differences between cities, large and medium sized towns and smaller towns and villages. The development standards for housing will allow for greater flexibility and innovation and support the delivery of a greater range of housing options.
- 6.1.7. The appeal site is in my opinion a textbook example of an infill residential development on a primarily residentially zoned site which is currently vacant. The proposed infill residential development is therefore, in accordance with the primary zoning Objective RES-N' - 'To provide for new residential communities in accordance with approved area plans'. There is however no currently approved/adopted LAP for Newcastle.
- 6.1.8. The principle of a residential development on the site is also already established under two previously permitted planning applications dating back to 2009 and 2010. One was for a nursing home and one for a mixed-use scheme. Both applications were subject of extension of duration applications to the PA and both permissions were never implemented and have since expired.
- 6.1.9. I am satisfied therefore, that the proposed residential development is acceptable in principle subject to infrastructural capacity, and design requirements as set out in the South Dublin County Development Plan 2022-2028, and density requirements as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

6.2. Design Layout Density

- 6.2.1. The Planning Authority raised no specific concerns in terms of the layout of the development and the nature of the units proposed. The extent of public open space within RES-N zoning, and reservation of suitable lands to north of St. Finian's

Community Centre to facilitate the extension of the existing community centre were however issues that were raised in the assessment by the PA.

- 6.2.2. Revised site Layout drawings submitted by way of further information provide for a revised layout of the units along the southern part of the site. The omission of one house (house no. 11) allows for a greater separation and therefore increased garden depth to house no's 6 and 7 to the west. The 2 pairs of semi-detached houses are replaced with a terrace of three houses, which also extends the area and layout of the area allocated for the proposed extension to St. Finian's Community Centre.
- 6.2.3. Condition no. 2 seeks revised plans indicating proposed areas to be public open space and where not agreeable to the Planning Department, then a dwelling is to be omitted from the scheme to provide open space.
- 6.2.4. In general, I consider that the proposed development in terms of layout and interface between residential units and open space to be acceptable. The revised layout submitted by way of further information is considered to be acceptable in terms of quantum of public open space, and future extension to and connection to services for St. Finian's Community Centre. The issue of surface water drainage etc. is considered further in this report.
- 6.2.5. I note that Development Plan Map 7 indicates a map based objective CS9 SLO2 'To facilitate and commit to the delivery of Phase 1 residential lands at Burgage North to the north of St. Finian's Community Centre which reserve suitable lands to facilitate the extension of the existing community centre.
- 6.2.6. I am satisfied that the proposed development does not preclude the provision of an extension of the existing community centre and does not prevent the implementation of this objective in the future.
- 6.2.7. *Impact on third party residential amenity:* The Planning Authority raised no issues of concern in relation to impact from the development on existing residential amenity. I would note that existing residential units within adjoining developments to the east and north address the appeal site and proposed units along their side gables. No issues were raised in the appeal in relation to impact on existing residential amenity, apart from the introduction of vehicular and pedestrian/cycle links to adjoining developments which is addressed below.

- 6.2.8. Adequate separation distances are proposed between the proposed and existing residential units on adjoining lands. The proposed layout has been carefully considered to ensure that overlooking leading to a loss of privacy does not arise. Similarly overshadowing leading to a loss of daylight and sunlight does not arise considering the available separation distances between the units and the orientation of the site layout/proposed units. The houses are two storey units and do not give rise to overshadowing issues of adjoining two storey houses and duplex units.
- 6.2.9. *Proposed residential amenity:* The proposed development will provide for a mix of house types. The proposed houses are two storey units and provide for a mix of three-and two-bedroom units in the form of detached, semi-detached and terraced units. 27 of the 29 units are three bedroom, and I am satisfied that the range of unit types will provide for a suitable tenure mix at this location.
- 6.2.10. All housing units are provided with adequate floor areas. Private amenity space to serve each dwelling is provided in the form of a rear garden. The size of the rear gardens is consistent with the requirements set out in the current County Development Plan. The PA raised concerns in relation to the depth of the rear gardens and the functionality of these private amenity areas particularly in respect of house no.s 1-5.
- 6.2.11. The layout/design of houses has been carefully considered in this application. The PA had raised concerns in relation to the separation between certain units. For example, in the case of Units 1 to 5 located to their east, a separation of 17.618m is provided but potential overlooking is addressed through the units to the west (1 to 5) having small bathroom and landing windows to the upper-level rear and fitted with obscured glazing. Notwithstanding that this separation distance was further reduced to 15.596m by way of further information, this reduced separation is acceptable on the basis of design of first floor windows and ensures that residential amenity is protected.
- 6.2.12. Units 6 has a separation of 7.97m from the rear east facing elevation to unit no 8 west facing gable, however this was increased to 10.29m in revised plans submitted by way of further information. The PA raised concern in relation to passive overlooking to the proposed car parking spaces to the north of the site. The PA also noted the separation distance of approx. 17m between No.12 and No.'s 30/29, but

that they are not directly opposing, and raised minor concerns regarding potential overlooking of proposed units given the separations stances proposed between units.

- 6.2.13. I share the concerns raised by the PA in relation to potential overlooking and depth/functionality of rear gardens and also satisfied that these issues have been addressed in the revised site layout drawings submitted by way of further information.
- 6.2.14. *Public Open Space:* The Planning Authority considered the provision of public open space in their assessment and noted that the communal open space was located on lands outside the RES-N zoning objective.
- 6.2.15. The Parks and Landscaping Division of the PA raised concern in relation to the lack of suitable usable and functional open space and lack of play provision. The PA sought FI and CFI in relation to this issue, and condition no. 2 of the notification of the grant of permission requires further details in relation to same. The PA note in this planning condition that if the PA are not satisfied with proposals to provide public open space within the RES-N zoning then a dwelling shall be omitted from the scheme to provide the open space.
- 6.2.16. I am satisfied that the development will provide for adequate public open space to serve residents of the proposed development but also the wider Newcastle area. The applicant has indicated that 33% of the site area is to provide for open space. From the submitted plans it is evident that the principal area of open space located to the west and to the rear/north of Oakville House will allow for active and passive use, as well as providing for smaller pocket amenity areas throughout the overall site.
- 6.2.17. I have reviewed the Landscaping proposals and drawings submitted over the course of the application and am satisfied that the area of open space and configuration is acceptable.
- 6.2.18. I have reviewed the Landscaping proposals in conjunction with the Aboricultural Assessment submitted in response to the further information request. Condition no. 8 (b) of the notification of decision to grant permission refers to the retention of a much higher percentage of existing trees and hedgerows particularly along the townland boundaries. I am satisfied that this is a reasonable requirement given the

balance to be struck between providing sufficient useable and functional open space and retention of existing mature and historically significant planting along site boundaries.

- 6.2.19. Concern was also raised by the SDCC public realm section in relation to the provision of playground areas within the development and Condition no. 8 (d) refers. I would concur with the PA in this regard particularly given the mix of family sized dwellings. If the Board are minded granting permission a similarly worded condition would be appropriate.
- 6.2.20. Condition no. 2 (b) of the notification of decision to grant permission refers to windows at first floor level located to the side elevation of dwelling end units (nos. 1,10,11 and 20). The condition states that should any of the housing units be omitted the adjacent dwelling shall provide windows at first floor level of the side elevation. In my opinion while this condition is entirely logical in terms of providing passive surveillance. Should the Board seek to omit a unit to increase the provision of open space then a similarly worded condition would be appropriate.
- 6.2.21. I have reviewed the proposals submitted and consider in terms of the area provided by the applicant to facilitate the future extension of St. Finian's Hall, which to my mind represents a significant planning gain, that the omission of a residential unit is not warranted in this instance.
- 6.2.22. Condition no. 2 (d) requires the applicant to submit a Property Registration Authority (PRA) compliant map indicating the extent of lands to be conserved as an amenity for the public and to accommodate the future expansion of St. Finian's Community Centre. If the Board are minded granting permission a similarly worded condition would be appropriate.
- 6.2.23. *Conclusion on Residential Amenity:* I am satisfied that the proposed development will provide for a suitably high-quality development to the western side of Newcastle and will provide for extended /improved public open space that can be used by the local community through the links to the Main Street and adjoining residential developments. The proposed development ensures that existing residential amenity is protected, whilst also ensuring that the proposed development provides for a high standard of residential amenity.

6.3. Traffic and Car Parking

- 6.3.1. The proposed development will provide for a residential development consisting of houses which will be served by a new vehicular and pedestrian link with Main Street from the south. The application as lodged provides for a vehicle and pedestrian link with the adjoining residential development at Glebe Square located to the northeast, and pedestrian link only with the adjoining residential development to the east. The internal road layout allows for permeability through the site and also ensures that access is available to adjoining lands.
- 6.3.2. *Parking:* A total of 55 no. car parking spaces (including 7 no. visitors car parking spaces) were originally proposed to serve the 30 no. houses. This equates to 1.6 cars per household. The revised layout submitted by way of further information provides for the omission of a house and a total of 41 no. dedicated car parking spaces (plus 5 visitor car parking spaces and 1 disabled space) to serve the 29 no. houses. In addition, 4 no. car parking spaces (including 1 disabled space) are identified within the area reserved to accommodate the future extension to the Community Hall.
- 6.3.3. *Layout:* The internal road layout, as already described, initially allowed for a through route (vehicular and pedestrian access) between the proposed development and Glebe Square to the northeast. Glebe Square, which comprises a short terrace of houses and duplex units address a cul de sac, and forms part of the Newcastle Glebe Estate which is accessed from the R120 Peamount Road further to the east.
- 6.3.4. A pedestrian access link is also proposed between the eastern portion of the site and adjoining residential estate to the east within Market Square. As part of the further information response, revised site layout plans were submitted and confirmation was provided that a pedestrian access only would be included to the northeast and east, and this was acceptable to the South Dublin County Council Roads Department. Revised site layout plan drawings submitted by way of further information reflect this arrangement.
- 6.3.5. *Access to adjoining lands:* The third-party appellants have raised concern in relation to access to adjoining lands and traffic safety and refer specifically to Drawing no. NCA-CSC-ZZ-SI-DR-C-0004 Proposed Road Layout prepared by CS Consulting Group which indicates the access points from the subject site to adjoining lands. I

note that observations to the Planning Authority were from residents of both adjoining estates, but that the appeals are both in relation to the adjoining lands to the northeast within Newcastle Glebe Estate.

- 6.3.6. The Transport Department of the PA sought FI and Clarification of FI on issues relating to the detail regarding the arrangement of these access points. I accept that the original proposal to create a vehicular connection with Glebe Square is particularly problematic, as it would have likely necessitated the removal part of an existing boundary wall. I would note however that revised plans submitted clearly indicate the provision of footpaths extending to the boundary with bollards located along the boundary with Glebe Square. Revised Road Layout Drawing no. NCA-CSC-ZZ-SI-DR-C-0017 submitted by way of FI refers.
- 6.3.7. Revised proposals submitted by way of CFI indicate CSC-ZZ-SI-DR-C-0016 indicate a proposed pedestrian access with Market Square to the east.
- 6.3.8. I consider that these two potential access points should be constructed to the red line boundary of the site, and the boundary treatment to be such as to clearly indicate that these boundaries include pedestrian and cycle access only. I do not suggest that any additional vehicular access points be provided to adjoining lands, though it would be appropriate that pedestrian/cyclist access be provided to the north and east as proposed.
- 6.3.9. The third-party appellants submit that the boundary wall has not been Taken In Charge (TIC) by the PA and that consent to carry out the works to the boundary wall and provide a vehicular access connecting to the adjoining residential estate has not been provided by the applicant. I also note the applicant's contention that a potential connection only has been facilitated and not hindered with no proposal for a physical connection.
- 6.3.10. Notwithstanding, the proposed introduction of a vehicular access through the adjoining residential development is the crux of the appeal. The objective of a creating a potential connection is somewhat of a legacy issue as the provision of same was clearly outlined as part of the original permitted proposals and was an objective in the now expired LAP. That aside the application as it evolved over the course of the application does not provide for a vehicular access through adjoining lands.

- 6.3.11. In my opinion this boundary wall is effectively a party boundary wall between two sites/landowners. As such any works to this party boundary wall is a civil matter for both parties the applicant/landowner in the current application and the landowner of the adjoining residential estate and party to the appeal.
- 6.3.12. I am satisfied that this matter can be dealt with by way of an appropriately worded condition.
- 6.3.13. *Conclusion on accesses:* I am satisfied that the proposed development has allowed for pedestrian and cycle access/connectivity/permeability with adjacent lands whilst enabling universal access from the subject site / proposed road network. This will allow for a properly planned and integrated road/pedestrian/cycle network to the north of Newcastle. The issues raised in the appeal in relation to access/connections are noted and I am satisfied that the proposed development will not give rise to a traffic hazard.

Traffic Safety

- 6.3.14. The third-party appellants have raised concern in relation to traffic safety particularly in the event that there may be a through route through the Newcastle Glebe estate.
- 6.3.15. I have had regard to the Traffic Impact Assessment submitted by the applicant and the concerns raised by the Transport Dept of the PA. I am satisfied that the proposed development is acceptable from a traffic safety perspective. Given that the proposed development as revised at application stage does not actually propose a traffic route through the adjoining estates, I do not propose to address this matter further.
- 6.3.16. I am also satisfied that the proposed development is not premature pending a Traffic Study for Rathcoole, Saggart and Newcastle and is not contrary to SM6 SL01 of the SDCC CDP.
- 6.3.17. I am satisfied that the proposed road layout and access points are acceptable. In general, pedestrian and cyclist provision are good within and to/from the subject site and adjoining lands. I also note the Cycleway Proposal identified on the CDP Map 7 along the Mainstreet at the southern entrance to the site. The proposed layout will extend the length of available cycle track in the Newcastle area and provide for an

alternative north south route rather than having to use the R120 which forms a T junction with the Main Street.

- 6.3.18. I am also satisfied that the additional traffic generated by the proposed development is not premature pending a traffic study for Rathcoole, Saggart and Newcastle and is therefore not contrary to SM6 SLO 1 of the SDCC CDP.

6.4. Water Infrastructure and Flood Risk

- 6.4.1. *Water supply and foul drainage:* Uisce Éireann reported no objection to the proposed foul drainage and water supply systems subject to conditions requiring the developer to enter into agreements with them. I am satisfied that the development can be connected to the public foul drainage and water supply systems.
- 6.4.2. *Surface Water Drainage:* The applicant provided details of their proposed surface water drainage system and further details were provided in response to a request for further information and clarification of further information request. There were issues raised in relation to the capacity of the surface water attenuation system, and SuDS proposals, which the South Dublin County Council Water Services Departments recommended that permission be granted for this development. The Public Realm Section of the PA also expressed concern in relation to the lack of integration of proposed SuDS proposals into the landscape design proposals.
- 6.4.3. The Planning Authority proposed alterations to include additional SuDS proposals to attenuate surface water by replacing underground attenuation systems with overground SuDS attenuation systems such as biodiversity, tree pits, Swales and all other SuDS systems in proposed development.
- 6.4.4. I note the submitted information with the application, the concerns raised by the SDCC Water Services Department, and the proposed revisions provided by the Planning Authority. I am satisfied that these revisions, dealt with by way of condition by SDCC, would be acceptable and the final details in relation to surface water drainage can be agreed between the applicant and the local authority.
- 6.4.5. *Flood Risk:* CS Consulting Group have prepared a 'Site Specific Flood Risk Assessment' for this development. This is in accordance with 'The Planning System and Flood Risk Management Guidelines, 2009' and its technical appendices. No potential flood risks were identified.

- 6.4.6. The SSFRA considers that the development and its surface water drainage system can be accommodated on site. The site historically has no recorded flood events as noted in the OPW's flood maps. The South Dublin County Councils Strategic Flood Risk Assessment Maps indicate that the subject lands are located outside the 0.1% AEP Zone. The proposed development will have a storm water attenuation system to address a 1-in-100 year extreme storm event increased by 20% for predicted climate change values. Adjoining lands would not be adversely affected by the proposed development in terms of flooding issues.
- 6.4.7. The Report concludes that the site is within Flood Zone C, is appropriate for residential development, full regard is had to the flood guidelines and a justification test is not required.
- 6.4.8. From the submitted information and the available information, I am satisfied that the risk of flooding on site is low and that the proposed development will not adversely affect adjoining lands. The subject lands are located within flood Zone C and South Dublin County Council did not raise any issues of concern regarding flooding. The proposed development will provide for a comprehensive SuDS scheme ensuring that surface water run-off is at a greenfield rate.
- 6.4.9. I recommend that a similar condition to that provided by the Planning Authority that the final surface water drainage network be agreed between the applicant and the Planning Authority. I do not foresee any adverse impacts on third parties from the inclusion of such a condition.

6.5. Landownership/Consent of the owner

- 6.5.1. One of the main issues raised in the third-party appeals relates to landownership. The third-party states that the applicant has not obtained the consent of the landowner of the adjoining estate to either make the planning application or carry out the proposed works on third party lands.
- 6.5.2. Article 22 of the Planning and Development Regulations 2001 as amended sets out requirements for the content of planning applications generally. Article 22(2)(g) states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application.

- 6.5.3. In this regard I note that a letter of consent was submitted with the application by the landowner of the site, and of the western strip of land/wayleave required to facilitate the disposal of surface water from the proposed development.
- 6.5.4. The proposed development proposes a connection to existing foul and watermains connections within an eastern strip of land to the northeast within the adjoining residential estate Newcastle Glebe. This area has been taken in charge by the PA.
- 6.5.5. The Board is not an arbiter of title and the extent to which it is required to interrogate these issues is limited. There is nothing in this case to suggest that the applicant for permission is not the legal owner of the subject site, the Board are entitled to rely on this without further interrogation of the matter. This is supported by section 5.13 the Development Management Guidelines for Planning Authorities (June 2007). Section 34(13) of the Planning and Development Act further provides that if the applicant lacks title or owner's consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development.
- 6.5.6. The ownership of lands or consent of the landowner is disputed in submissions on the application, in so far as the extent of the lands and works relate to the areas of the development which have already been taken in charge by the local authority.
- 6.5.7. The determination of title is not a matter for the Board. The Board is entitled to accept the evidence of title provided (e.g. folio details) and is not required to go behind the registered title and to make enquiries as to who might be the beneficial owner. Where a dispute regarding sufficient interest goes to issues that the Board is not competent to resolve, then the Board can grant planning permission, knowing that it is subject to s.34(13).
- 6.5.8. I have considered the submissions of all parties relating to title and am satisfied that fair procedures have been followed, e.g. that the applicant for permission has been given an opportunity to rebut any submission that it does not have a sufficient legal interest to make the application. Notwithstanding that the planning application was validated by the planning authority and that the matter was raised at application stage, I am satisfied that the applicant has addressed the issues raised by the appellants in their response to the third-party appeals. I am satisfied that the applicant has demonstrated sufficient legal interest.

- 6.5.9. I am satisfied that as the Road and Drainage have been taken in charge by the PA, and that they have not objected to the proposed works, that the connection / laying of the pipes is acceptable. I have also examined the TIC drawings submitted and am satisfied that the provision of services between these lands is a matter for the PA and Uisce Éireann.
- 6.5.10. The Board may wish to seek further information or submissions from relevant parties under S.131, on the question over landownership and the adequacy of the consents provided, however in my view the matter is a civil matter between both parties, and beyond the jurisdiction of the Board.
- 6.5.11. I also note that the Board is entitled to grant planning permission even where a question of legal title remains outstanding and would suggest to the Board that express reference to section 34(13) should be provided to the parties in any cover letter enclosing the Board's decision.

6.6. Built Heritage and Archaeology

Impact on Newcastle Architectural Conservation Area

- 6.6.1. The subject site is located within the Newcastle Architectural Conservation Area (ACA). I note the concerns of the Architectural Conservation Officer in relation to materials and finishes and preference for a darker palette of colours including stone in order to create minimal visual impact. I also note the Architectural Impact and Design Rationale Report, and further details submitted in response to the request for additional information and additional details in relation to finishes. I have had regard to the Architectural Design Statement – Public Realm submitted as part of the response to the further information request.
- 6.6.2. I am satisfied from the submitted information and my site visit, that the proposed development will not have a negative impact on the Newcastle ACA or on designated Protected Structures. There is a cluster of three no. protected structures located to the west of Oakville House, which adjoins the appeal site along its western boundary. These include 226 225 & 223. There is a second cluster of three no. protected structures to the south east of the appeal site on the southern side of Main Street. These include 229, 230 and 232.

- 6.6.3. The site is located to the rear/north of Main Street and the layout/proposed heights and distance from the protected structures will ensure that there is no adverse impact on the visual character of the area.

St Finian's Community Hall

- 6.6.4. The southern part of the site includes an area to the rear of an existing single storey building known as St. Finian's Hall which fronts on Main Street. This area is identified as being reserved for possible future use associated with the Community Centre. I have had regard to the revised site layout drawings and Preliminary Design for St. Finian's Community Centre submitted as part of the response to the further information request.
- 6.6.5. An extended and more integrated parking area and vehicular access to same via the proposed development associated with the future extension of the Community Centre by SDCC is clearly indicated. I note this was acceptable to the PA, subject to future foul and surface water drainage connections be carried out as part of the work to facilitate the future expansion of St. Finian's Community Centre. If the Board are minded granting permission a similarly worded condition to that of the PA can be attached.

Archaeology

- 6.6.6. An Archaeological Assessment Report, prepared by Icon Archaeology was submitted with the application. The report from the Department of Housing, Local Government and Heritage DAU requested that the applicant engage the services of a suitably qualified Archaeologist to carry out an Archaeological Impact Assessment (AIA) which should include a programme of Archaeological Geophysical Survey and Archaeological Test Excavation.
- 6.6.7. A further Archaeological Assessment Report was submitted by way of further information and was acceptable to the Department of Housing, Local Government and Heritage DAU subject to condition in relation to archaeological works. Condition no. 25 of the notification to grant permission refers.
- 6.6.8. I note the submitted AIA reports and I agree with the Department of Housing, Local Government and Heritage DAU in respect of the inclusion of a condition. The proposed development will not have a negative impact on archaeology which may be located within the site area.

6.7. Other Matters

- 6.7.1. *Procedural Matters* - The third-party appellants to the appeal assert that the PA placed insufficient weight in their assessment to issues raised in third party submissions.
- 6.7.2. It is also submitted that further information received by the PA constituted Significant Further Information and that revised public notices should have been requested by the PA and submitted by the applicant. The third-party appellants assert that as such they were denied the opportunity to make further submissions on the application and have been left with no alternative but to lodge an appeal against the decision.
- 6.7.3. In this regard it may be noted that the Board will consider and decide upon the application 'de novo'. I would note that each application is assessed on its own merits, having regard to the relevant planning considerations and site context.
- 6.7.4. The Board have no jurisdiction over the PA assessment the application, and the third parties have been afforded the right to make a third-party appeal.

7.0 AA Screening

- 7.1.1. The subject site is not located within or boarding any designated Natura 2000 sites. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 7.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site.
- 7.1.3. A Stage 1 Appropriate Assessment Screening report was submitted in support of the proposed development to address the likely or possible significant effects, if any, arising from the proposed development on any European site.

Screening for Appropriate Assessment:

- 7.1.4. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:
- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
 - 7.2. b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.
- 7.2.1. The AA Screening Report considered Natura 2000 sites within 15km of the subject site. Table 1 of the Report presents the analysis of the sites in tabular form and it is concluded, having regard to the lack of source-pathway-receptor links and the separation distance between the site and the designated sites, that it is unlikely that significant effects will occur at designated sites.

Conclusion on Stage 1 Screening:

- 7.2.2. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European sites, in view of the sites' conservation Objectives and that a Stage 2 Appropriate Assessment is not required.

8.0 Recommendation

I recommend that planning permission be **granted** for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to

- (a) the policies and objectives set out in the South Dublin County Development Plan 2022-2028, which support the consolidation of
- (b) the nature, scale and design of the proposed development which provides for a mix of house types,

(c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), and

(d) Regional Policy Objective 4.83 of the Regional Spatial and Economic Strategy for the Eastern and Midlands Area 2019-2031,

It is considered that subject to compliance with the conditions set out below, the proposed development would.

- not be visually obtrusive or out of character with the surrounding area,
- would not seriously injure the amenities of adjoining properties,
- would provide a satisfactory standard of amenity for the future occupants of the development,
- would not materially contravene the current development plan for the area, and
- would be acceptable in terms of pedestrian and traffic safety.

It is considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and revised by further information and clarification of further information 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The number of residential units permitted by this grant of permission is 29 residential units.

Reason: In the interests of clarity.

3. A Property Registration Authority (PRA) compliant map clearly indicating the extent of lands outside the subject site and within the applicant's ownership, to be conserved as amenity for the public and to accommodate the future expansion of St. Finian's Community Centre, shall be submitted to for agreement in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of clarity.

4. The attenuation and disposal of surface water shall comply with the requirements of the Planning Authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health and surface water management

5. Foul and surface water drainage shall be constructed where indicated as 'potential future foul and surface water drainage connection' on drawing NCA-CSC-ZZ-SI-DR-C0002 as part of the works, to facilitate the future expansion of St. Finian's Community Centre.

Reason: In the interest public health and surface water management.

6. Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the Planning Authority.

Reason: To ensure that adequate public open space, road and pedestrian/ cycle infrastructure be provided in accordance with the development of housing and in accordance with the plans of the Local Authority.

8. Each residential unit shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

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

9. Details of the materials, colours, and textures of all the external finishes to the proposed dwellings shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisement/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

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

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

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

12. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the

planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

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

13. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

14. a) The road network serving the proposed development, including turning bays, junction with the public road, footpaths and kerbs, shall be in accordance with the provisions of the Design Manual for Urban Roads and Street (2019).
b) Provision to be made for access from the subject site to the adjoining lands as per Road Layout Drawing no. NCA-CSC-ZZ-SI-DR-C-0016 and NCA-CSC-ZZ-SI-DR-C-0017 submitted by way of further information and clarification of further information. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These

areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority.

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

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

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

16. A minimum of 10% of all car parking spaces serving the apartments shall be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

17. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) Existing trees, hedgerows, shrubs, rock outcroppings, stone walls, specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period

- (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species
- (iv) Details of screen planting [which shall not include cupressocyparis x leylandii
- (v) Details of roadside/street planting which shall not include prunus species
- (vi) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (c) A timescale for implementation including details of phasing

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

18. An accurate tree survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
- (b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of residential and visual amenity.

19. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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

21. 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.

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority.

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

23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday and 0800 to 1400 Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

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

24. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the Planning Authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

25. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act,

as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and development Act 2000, as amended, and of the housing strategy in the development plan of the area.

26. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

27. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan McHugh

Senior Planning Inspector

20th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317595-23			
Proposed Development Summary	Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works.			
Development Address	Main Street, Newcastle, Co. Dublin.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____