



An
Bord
Pleanála

Inspector's Report

ABP-321772-25

Development	Construction of media park and all associated siteworks. NIS and EIAR received.
Location	Site located in the townlands of Coolscudden, Brownstown and Milltown, West of Grange Castle Business Park, Newcastle, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD24A/0087W
Applicant(s)	Lens Media Limited.
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party.
Appellant(s)	Lens Media Limited.
Observer(s)	No Observers.
Date of Site Inspection	6 th of May 2025.

Inspector

Elaine Sullivan

Contents

1.0 Site Location and Description

- 1.1. The subject site is located within lands to the west of Grange Castle Business Park and the Adamstown Road (R120). It is bounded by the Grand Canal to the north and agricultural, open lands to the west, south and east. The site comprises open agricultural lands and adjoins existing vegetation along the northern (along Grand Canal) and eastern site boundaries. Newcastle village is approximately 4km to the south of the site.
- 1.2. Access to the site would be from the Grange Castle West Access Road to the east of the site, which is partially constructed.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a media park and all associated site works.
- 2.2. The media park would comprise 6 no. stage buildings, (buildings 1, 2, 3, 11, 13 & 14), 4 no. workshops (buildings 15, 16, 17 & 18), a TV studio and reception (building No. 4), a 2-storey dining hall with ancillary 100 seat theatre (building 6), a stand-alone café building (building 5), 3 no. single storey production suites (buildings 7, 8 and 9), 3-storey car parking deck (building 19) with 438 no. car spaces and outdoor stage area associated with the TV studio and reception building. An additional 516 no. surface car parking spaces would be provided, along with a Basecamp area to provide 36 no. Large Vehicle parking spaces and 3 no. bus parking spaces with 274 no. covered bicycle parking spaces and 96 no. external spaces.
- 2.3. The primary proposed vehicular, cyclist and pedestrian entrance would be from the newly constructed Grange Castle West Access Road which will be located at the eastern boundary of the site with a secondary vehicular access at the southeastern corner of the site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the development subject to 25 no. planning conditions.
- 3.1.2. Condition No's 24 and 25 relate to development contributions and are the subject of this appeal.

- Condition No. 24 relates to a financial contribution and states the following –

The developer shall pay to the Planning Authority a financial contribution of €8,859,898.08 (Eight million, eight hundred and fifty nine thousand, eight hundred and ninety-eight euros and eight cents), in respect of public infrastructure and facilities benefiting development within 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 2021 - 2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended). The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.

REASON: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

- Condition No. 25 relates to a special contribution under Section 48(2) C of the Planning and Development Act 2000 (as amended) and states the following –

The developer shall pay a special contribution of €143,112 to the planning authority in respect of specific exceptional public infrastructure costs for facilities that will benefit this development within the area of the planning authority, that is provided, or

intended to be provided by or on behalf of the authority, in accordance with Section 48 (2) c of the Planning and Development Acts 2000 (as amended). The works pertaining to this special contribution are the junction upgrades at the R120 Newcastle Village-Pearmount Road. The contribution will be for works on the improved alignment, signalised traffic management and improved pedestrian and cycle facilities at the junction. The special contribution shall be paid prior to occupation of the development, or in such phased payments as the planning authority may facilitate. Indexation in accordance with the Chartered Surveyors of Ireland Construction Tender Price Index will apply annually on 1st January, effective from 1st January 2025.

REASON: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The decision of the Planning Authority was informed by two reports from the Planning Officer (PO). The first report dated the 13th of June 2024 noted that, although the land use was not specifically listed in the ‘EE – Enterprise and Employment’ zoning objective for the site, it was acceptable in principle.
- The report recommended that further information (FI) was requested on 5 no. points which related to clarification of technical details for Weston Airport, surface water drainage, the ecological impact on the proposed Natural Heritage Area (pNHA) of the Grand Canal, Appropriate Assessment and sustainable mobility.
- Information requested under the sustainable mobility heading included revisions to the TTA regarding junctions, traffic impacts for existing and proposed developments as well as the wider Grange Castle West Masterplan Area, mobility management, car parking, public transport, pedestrian access and bicycle parking.

- The second report dated the 19th of December 2024 reviewed the information submitted by the applicant and recommended that planning permission was granted subject to conditions.

3.2.2. Other Technical Reports

- **Roads Department** - Additional information requested.
- **Public Realm** - No objection subject to conditions.
- **Heritage Officer** - Additional information requested.
- **Water Services** - No objection subject to conditions.

3.3. Prescribed Bodies

- **H.S.E. EHO** - No objection.
- **H.S.E - Environmental Health** – Report of the PO notes that an observation was received.
- **Uisce Éireann** (Irish Water) - No objection.
- **National Transport Authority** – No objection in principle but additional transport considerations required.
- **Irish Aviation Authority** -Glint and Glare Assessment report requested.
- **DHLGH Archaeological** – No objection. Monitoring condition recommended.
- **DHLGH NPWS** – Further information recommended regarding the submitted NIS.
- **TII** - Letter submitted stating no observations to make.

3.4. Third Party Observations

- No third-party observations received.

4.0 Planning History

4.1. No planning history for the subject site.

4.2. On adjoining lands to the south-east -

SD188/0009 – Part 8 approved by the PA in December 2018 for lands at Grange Castle West Access Road in the townlands of Brownstown, Clutterland, Loughtown Upper and Milltown, to provide the 1.03km of the Grange Castle West Access Road with 3 no. roundabouts, cycle path, pedestrian walkway, surface water drainage and, controlled and uncontrolled pedestrian and cyclist road crossings along with all associated work and landscaping. The road has been partially constructed to date.

4.3. On adjoining lands to the north -

SD188/0011 – Part 8 approved by the PA in May 2019 for the Grand Canal Greenway – Hazelhatch to 12th Lock, which 4.6km of shared walking and cycling Greenway along the existing northern Grand Canal towpath.

4.4. Wider Grange Castle West lands -

SD23A/0301 – Planning permission granted by the PA in March 2024 on land to the east of the subject site for the construction of five logistics / warehousing units with a total gross internal floor area of c. 56,932 sq.m with a total of c. 4,336 sq.m of office space.

5.0 Policy Context

5.1. Development Plan

South Dublin County Development Plan 2022-2028

- 5.1.1. **Zoning** - The subject site is subject to zoning objective 'EE': *'To provide for enterprise and employment related uses'* under the South Dublin County Development Plan 2022-2028. The proposed use is not specifically listed in Table 12.10, which details the use classes that are 'Permitted in Principle', 'Open for Consideration' or 'Not Permitted'.
- 5.1.2. **Section 12.2.1** states that the use classes and definitions listed are intended as general guidance and are not exhaustive. Development proposals will also be assessed against the policies, objectives, standards and criteria set out in the Plan, in addition to wider legislation and guidance.

The site is within an area covered by a Special Local Objective - **EDE5 SLO2**: To provide for an attractive campus style setting to encourage the investment of high tech, hi-tech manufacturing, and research and development enterprise at Grange Castle Business Park, the expansion of which will be subject to a masterplan incorporating a local transport plan in consultation with the NTA and TII.

Chapter 7 – Sustainable Movement - Table 7.5 sets out a Six Year Roads Programme. Newcastle Road (R120) is listed in the table with ‘Junction upgrades at Super Valu roundabout, Hillcrest Road’ as the description. The function of these works is to ‘Enhance the efficiency and safety of these junctions for all users’. This project is located in Lucan/Adamstown area to the north of the subject site.

5.2. South Dublin County Council Development Contribution Scheme 2021-2025

- 5.2.1. The development contributions were calculated and applied under the South Dublin County Council Development Contribution Scheme 2021-2025, (the Contribution Scheme), which was prepared under the requirements of Section 48 of the Planning and Development Act 2000 (as amended), (the Planning Act).
- 5.2.2. Section 6 - of the Contribution Scheme sets out the Basis for Determination of Contribution’.
- 5.2.3. Section 9 – contains a table which details the Level of Contribution for Residential and Industrial/Commercial development.
- 5.2.4. Note 2 of Section 9 states that, *‘The floor area of proposed development shall be calculated as the gross floor area (GIA). This means the area ascertained by the internal measurement of the floorspace on each floor of a building (including internal walls and partitions), including mezzanine floors. This area is provided by the applicant on the statutorily prescribed planning application form which is subject to technical verification by the Planning Authority’.*
- 5.2.5. Section 11 lists the - Circumstances where no contribution or a reduced contribution apply. The circumstances listed under Section 11 include the following,
- (xxii) Substations, Switch Rooms shall be exempt.

- (xxiii) Ancillary plant rooms (where plant is not core activity/operation) shall be exempt.

5.2.6. Section 22 – relates to Special Development Contributions and states that - A special development contribution may be imposed under Section 48 of the Act where exceptional costs not covered by this Scheme are incurred by the Council in the provision of a specific public infrastructure or facility. (The works will be specified in the planning conditions when special development contributions are levied). Only developments that will benefit from the public infrastructure or facility in question will be liable to pay the special development contribution. Conditions imposing special contributions may be appealed to An Bord Pleanála.

5.3. **National Guidance**

5.3.1. **Development Contributions – Guidelines for Planning Authorities, 2013**

Special Development Contributions - A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution

5.3.2. **OPR Practice Note PN03 – Planning Conditions**

Section 3.16 – Conditions Requiring Financial Contributions or Ceding of Lands

Conditions requiring applicants to pay contributions or other payments to planning authorities or other bodies should be imposed only where there is specific provision for such payments set out in the planning legislative framework applicable to the application. Relevant sections of the 2000 Act are Section 48 (development contribution scheme) and Section 49 (supplementary development contribution scheme), which relate to contributions to the costs involved in providing public infrastructure services and facilities.

Special development contributions are provided for in Section 48 (2)(c) of the 2000 Act for specific works which benefit the individual development. These relate to costs associated with works that are not covered by the planning authority's Development Contribution Scheme. Any works in respect of which the special contribution is being levied must be specified in the condition.

5.3.3. Development Management – Guidelines for Planning Authorities 2007

Section 7.12 relates to - Conditions requiring development contributions (sections 48 and 49 of the Planning Act) and states that,

'Special' contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.

Where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area. Conditions requiring the payment of special contributions may be the subject of appeal.

5.3.4. **Planning and Development Act 2000 (as amended)**

Section 48(2)(c) - A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

Section 48(12) - Where payment of a special contribution is required in accordance with subsection (2) (c), the following provisions shall apply -

(a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

(b) where the works in question—

(i) are not commenced within 5 years of the date of payment to the authority of the contribution,

(ii) have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution, or

(iii) where the local authority decides not to proceed with the proposed works or part thereof.

the contribution shall, subject to paragraph (c), be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority,

(c) where under subparagraph (ii) or (iii) of paragraph (b), any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

Section 48(13) (a) Notwithstanding sections 37 and 139 , where an appeal received by the Board after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under section 37 of the decision of the planning authority under that section, the Board shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal relate to Conditions No. 24 and No. 25 of the notification of decision of the PA.

- Condition No. 24 states the following –

The developer shall pay to the Planning Authority a financial contribution of €8,859,898.08 (Eight million, eight hundred and fifty nine thousand, eight hundred and ninety-eight euros and eight cents), in respect of public infrastructure and facilities benefiting development within 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 2021 - 2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended). The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.

REASON: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

6.1.2. The grounds of appeal include the following,

- Regarding Condition No. 24 the applicant contends that the provisions of the South Dublin County Council Development Contribution Scheme 2021-2025 were not applied properly. The amount stated in Condition No. 24 was calculated using the Total Gross Floor Area of the scheme and did not allow

for the exemptions listed in Section 11 (xxii) and (xxiii) of the Development Contribution Scheme.

- Section 11 lists the ‘Circumstances where no Contribution of a Reduced Contribution Apply’ and states that the following categories of development will be exempted from the requirement to pay development contributions or may pay a reduced rate, as stated, under the Scheme.
 - (xxii) Substations, Switch Rooms shall be exempt.
 - (xxiii) Ancillary plant rooms (where plant is not core activity/operation) shall be exempt.
- The applicant detailed considers that the floor areas for the MV Switch rooms, Plumbing Plant and LV room, ICT room and external services rooms in the various buildings, are exempt from development contributions under Section 11, parts (xxii) and (xxiii). The floor area for the areas listed would amount to 876 sqm. When this floor area is combined with a stand-alone substation of 236 sqm, the applicant calculates that a total floor area of 1,112 sqm would be exempt from development contributions.
- When the contribution rate for industrial / commercial development (€119.52 per sqm) is applied to the exempted areas, it would result in a reduction of €132,906.24 in development contributions.
- The grounds of appeal request that the Board amend Condition No. 24 accordingly by applying the exemptions in Section 11, (xxii) and (xxiii) of the Development Contribution Scheme to 1,112 sqm of floor area which would result in a reduction of €132,906.24 on the total amount which would then be €8,726,997.84 (eight million, seven hundred and twenty six thousand, nine hundred and ninety one euros and eighty four cents).
- Condition No. 25 states the following –

The developer shall pay a special contribution of €143,112 to the planning authority in respect of specific exceptional public infrastructure costs for facilities that will benefit this development within the area of the planning authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with Section

48 (2) c of the Planning and Development Acts 2000 (as amended). The works pertaining to this special contribution are the junction upgrades at the R120 Newcastle Village-Peamount Road. The contribution will be for works on the improved alignment, signalised traffic management and improved pedestrian and cycle facilities at the junction. The special contribution shall be paid prior to occupation of the development, or in such phased payments as the planning authority may facilitate. Indexation in accordance with the Chartered Surveyors of Ireland Construction Tender Price Index will apply annually on 1st January, effective from 1st January 2025.

REASON: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

- The grounds of appeal request that the Board omit Condition No. 25 as it does not meet the requirements of Section 48(2)(c) of the Planning Act (as amended) and will not serve to benefit the very specific requirements of the development, as alluded to in the Development Contribution Guidelines.
- There is a separation distance of approximately 4km between the subject site and the junction at Newcastle Village and the principal public infrastructure that will benefit from the proposed upgrade works would be Nangor Road extension and the associated upgrades to the R120 which have already been allocated funding under the current South Dublin Development Contribution Scheme.
- It is noted in the appeal that the issue of the junction was not raised as a concern during the pre-planning, application and further information stages.
- The applicant also considers that the impact on the junction from the proposed development has been overstated. The junction was assessed in the Traffic and Transport Assessment (TTA) prepared for the development and which concluded that the junction is currently operating under capacity and will continue to operate within its design capacity for some years to come, notwithstanding the delivery of the media park and other foreseeable projects.

- It is submitted by the applicant that the correct mechanism to secure funding for the future upgrade of the junction would be to include a policy to this effect in the upcoming Development Plan and/or Development Contribution Scheme, thereby ensuring that associated costs are collected in a commensurate manner from all permitted developments.
- Should the Board be minded to retain the condition, the applicant requests that the methodology applied by the PA in estimating the amount of the contribution is examined carefully. Little justification is given as to how the figure of €500,000 was arrived at and does not specify the nature/scope of the works and expenditure involved as required in Section 48(12) of the Planning Act.
- The applicant submits that the means of apportioning the cost to the applicant has been arrived at by carrying out a measure of traffic flows generated by the proposal and comparing the baseline levels to arrive at a figure of 28%. Table 2-2 of the TTA shows that flows from the development are predicted to have a much lower impact on the junction and is estimated to be 6.2% in 2026 and 5.5% in 2041. On this basis the applicant does not consider that they should be responsible for 28% of the total cost of the upgrade, particularly when there is uncertainty about the overall cost.
- Reference is made in the appeal to the wording in the report of the PO which states that, *'the scope of the required works, the expenditure involved, and the percentage of contribution can be agreed with the developer prior to occupation/operation of the development'*. However, the wording of the condition states that the developer 'shall' pay the specified amount which leaves no scope for negotiation with the PA.
- The TTA found that the junction will be within capacity by 2031 and would be marginally over capacity by 2041. The assumptions used were conservative and were based on the estimate that network flows will increase by over 20% in the intervening years to 2041.
- A Mobility Management Plan was prepared for the development and conditions 12, 13 and 14 of the PA's decision relate to mobility management. Condition No. 13 requires a review of the mobility management measures

every 5 years and Condition No. 14 formalises the applicant's commitment to operate a shuttle bus service to the development. The applicant considers it inappropriate for the PA to seek further funding to upgrade a junction which will be of little benefit to their development.

6.2. Planning Authority Response

A response was received from the PA on the 25th of March 2025 and includes the following,

- No comment is made regarding Condition No. 24.
- Regarding Condition No. 25, the figure of €500,000 was estimated by applying the National Transport Authority's (NTA) estimating rates and recent outturn costs for similar signalisation upgrades to junctions in the county.
- Information used in the calculation for the special contribution comes from the data provided in the applicant's TTA, which includes traffic surveys of the background traffic at Junction 4 and the generated traffic flows for the proposed development.
- Traffic counts for Junction 4 in the TTA found that background traffic movements at peak times on the Peamount leg of Junction 4 are 154 + 113 (267 total) am peak northwards towards the development, and 172 + 120 (292 total) pm peak southwards from the direction of the subject site. (Counts taken from Figure 1-3 and 1-4 in the TTA report). From this the PA determined that the total peak-time vehicle movements to and from the direction of the development were currently 559 no. movements.
- The total trips to be generated from the development to and from Junction 4 would be 50+30 am peak northwards towards the development and 30+50 pm peak southwards from the development to Junction 4. (Figure 2-1 of the TTA). The PA determined that the total peak-time generated movements would be 160 no. movements.
- Therefore, the proportion of generated traffic (160 movements) to existing background traffic (559 movements) is expressed as a percentage, i.e.
 - $160 \div 559 \times 100 = 28\%$

- The PA states that the total cost of the junction and signal upgrades is €500,000, 28% of which equates to €143, 112.
- The Peamount Road / Newcastle Main Street junction (Junction 4 in the TTA) is currently experiencing capacity issues at peak times. The proposed development is car dominant and will generate significant additional traffic at peak times
- The current development contribution scheme does not account for the needed capacity increases at Junction 4 and there is no other state funding available for the junction improvements required.
- The PA is clear that the proposed development will have an additional negative effect on the congestion at this junction and the proportion of that effect has been calculated against the existing levels of traffic.

6.3. Further Responses

6.3.1. A further response was received from the applicant on the 28th of April 2025. The applicant notes that the PA did not respond to the grounds of appeal relating to Condition No. 24. As their position remains the same on this matter, they have limited their response to comments issued by the PA regarding Condition No. 25. The submission includes the following,

- The applicant considers that the Special Development Contribution (Condition No. 25) was unfairly levied based on a selective interpretation of the TTA, whilst similar contributions have not been applied to recently permitted developments nearby that will also benefit from the junction upgrade. A list of the recent developments is contained in Appendix A of the response and include PA Ref. SD23A/0301, SD20A/0121, SD25A/0011W, SD14A/0021/PL 065.243745, SD14A/0021/ED, LRD23A/0011 and ABP-317595-23/SD22A/0286.
- The submission notes that the R120 has been included in the Development Contribution Scheme for upgrades at Adamstown but queries why the upgrade to Junction 4 / Newcastle – Peamount Road junction was not

included, given the extent of lands zoned for employment at Grange Castle Business Park and the existence of the Grange Castle Masterplan.

- It is submitted by the applicant that the omission of the junction was an oversight that the PA seek to correct through applying a Section 48(2)(c) special contribution whereas the appropriate mechanism would be to revising the Contribution Scheme or adopting a separate contribution scheme for the relevant area, as recommended by the *Development Management Guidelines for Planning Authorities 2007*.
- The extensive amounts of floor space in the scheme have resulted in in a very significant Development Contribution of over eight million euro. Given the sizeable contributions to infrastructure, the applicant considers it unfair to be singled out for additional costs that will benefit the wider area and that have not been apportioned to other developments.
- The applicant is of the opinion that the PA did not provide sufficient evidence of the purported capacity issues at the junction. Reference is made to the conclusion of the TTA which states that Junction No. 4 was operating within capacity and will continue to do so with the proposed development in place. The TTA also notes that a minimum of 12% space capacity is predicted to exist at the junction in 2026 with all predicted development in place. The junction will be at capacity by 2031 with all predicted development in place and by 2041 the junction would be over capacity assuming the network flow increases have materialised.
- The TTA notes that the overall flows will only account for 6.2% of impact on the junction in 2026, which is expected to reduce to 5.5% by 2041 due to the implementation of sustainable development policies by all Local Authorities in the Greater Dublin Area as well as the measures outlined in the Mobility Management Plan for the development.
- The SDCC contribution was calculated based on the anticipated traffic that will be generated at peak times above the baseline figures. However, based on the conclusions of the TTA the junction as analysed will be within capacity by 2031 and only marginally over capacity by 2041. This conclusion is based

on a worst-case scenario with an assumed increase in network flows of 20% in the intervening years.

- The PA's assertion that the proposal will generate significant additional traffic at peak times does not reflect the information submitted through FI regarding parking demand, which states that the number of people involved in film production is not consistent and builds up over the course of the project. Due to the nature of the work, traffic generated by the development is likely to be irregular and will not follow the profile of standard employment uses.
- The applicant reiterates the initial point made regarding the lack of detail in the methodology applied to calculating the costs by the PA. As 28.6% of the proposed cost has been apportioned to the proposed development, it is unclear where the remaining 71.4% of the cost will come from as no other development in the area has a similar special contribution applied to it. As the PA have stated that there are no other funding sources available the applicant assumes that it will be some time before the work will be carried out which would result in the levying of a special contribution for a junction upgrade with no clear timeline as to when it will be delivered.

7.0 Assessment

7.1. This is a first-party appeal against Condition No's. 24 and 25 attached to the Planning Authority's notification of decision to grant permission. Condition No. 24 relates to the application of the relevant Development Contribution Scheme and Condition No. 25 relates to a Section 48(2)(c) development contribution. The development is not subject to any other appeal. Under the provision of Section 48(13)(a) of the Planning and Development Act 2000 (as amended), hereinafter referred to as the Planning Act, the Board should consider only the matters under appeal and should not determine the relevant application as it had been made to it in the first instance.

7.2. Condition No. 24

7.2.1. The first ground of appeal relates to Condition No. 24 which requires a development contribution of €8,859,898.08 in respect of public infrastructure and facilities benefiting development. The applicant contends that the amount of the contribution

was calculated incorrectly and did not take account of the exemptions in Section 11 (xxii) and (xxiii) of the Contribution Scheme which include substations / switch rooms and ancillary plant rooms.

7.2.2. The appeal submits that the amount was calculated using the total gross floor area for the entire development (74,129 sqm, as per Q. 12 on the application form) based on the industrial/commercial rate of €119.52 per sqm. An alternative calculation was put forward in the appeal whereby the applicant measured the floor area of the stand-alone substation, switch rooms, plant rooms and all associated infrastructure support rooms and deducted this from the total gross floor area. Should this approach be applied it would result in a reduction of 1,112 sqm which would represent an overall reduction of €132,906.24 in the amount to be levied under Condition No. 24.

7.2.3. In their response to the appeal, the PA did not comment on the applicant's objection to Condition No. 24. I have reviewed the application and the Development Contribution Scheme, and I accept the argument put forward by the applicant. Section 11 of the Scheme clearly outlines the circumstances where exemptions or reductions can be applied to development contributions. Part (xxii) states that Substations and Switch Rooms shall be exempt, and part (xxiii) states that Ancillary plant rooms (where plant is not core activity/operation) shall be exempt. There are no further descriptions or caveats attached to either circumstance. In my view the exemptions are clear, and it is reasonable to exclude the areas in the development which relate to parts (xxii) and (xxiii) of the Contribution Scheme. Therefore, I recommend that Condition No. 14 be amended and the amount recalculated based on the floor area of the development minus the floor area which qualifies for exemptions under Section 12, parts (xxii) and (xxiii) of the Contribution Scheme.

7.3. Condition No. 25

7.3.1. Condition No. 25 requires the applicant to pay a special contribution of €143,112 under Section 48(2)(c) of the Planning Acts for junction upgrades at the R120 Newcastle Village – Peamount Road junction. The applicant objects to this requirement based on the following arguments,

- the contribution does not qualify as a special contribution under Section 48(2)(c) as it would not serve to benefit the specific requirements of the development,
- the results of the TTA show that the junction operates within capacity now and will continue to do so with the development in place, and,
- the requirement is unfair as it has not been applied to other recently permitted developments in the area, (details supplied in the appeal).

7.3.2. The applicant is also of the opinion that the calculation of the contribution was applied arbitrarily and is not a true or fair representation of the cost of the works or the amount attributable to the development.

Section 48(2)(c) -

7.3.3. In response to the assertion that the contribution does not qualify as a special contribution under Section 48(2)(c) of the Planning Acts, the PA states that the Newcastle / Peamount Road junction (Junction 4 in the TTA) experiences capacity issues at peak times and will require an upgrade. The current contribution scheme does not account for the upgrade cost and there is no other funding available. As the development will have an impact on the capacity of the junction a special contribution is considered appropriate.

7.3.4. Section 48(2)(c) of the Planning Act 2000 states that, *‘A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development’*. Further guidance is provided on the application of special contributions in the Development Contributions – Guidelines for Planning Authorities, 2013 and the OPR Practice Note PN03, (as referenced in Section 5.3 above). The Development Contribution Guidelines expand on the provisions of Section 48(2)(c) and states that, *‘Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution’*. The OPR Practice Note states that, *‘Special development contributions are provided for in Section 48 (2)(c) of the 2000 Act for specific works which benefit the individual development’*.

- 7.3.5. The PA has stated that Junction 4 currently experiences capacity issues and will require an upgrade. The upgrade works are not included in the projects listed in Appendix II of the Development Contribution Scheme, which means that Section 48 development contributions will not directly fund the works. However, based on the guidance regarding the application of Section 48(2)(c), I am not satisfied that the works would represent a '*specific exceptional cost*' for '*specific works which benefit the individual development*' as stated in the guidelines listed above.
- 7.3.6. The upgrade works to the junction in Newcastle village would benefit not only the subject site but also the other lands within the area. Therefore, the infrastructure is not specific to the development. Furthermore, the proposed development is approximately 4km away from the junction and is not dependent on the junction for access or for its operation. On this basis I do not consider that the development would directly incur costs because of, or in order to facilitate, the development in question and that are properly attributable to it. The upgrade of an existing junction in Newcastle village and on lands outside of the control of the applicant does not represent a specific exceptional cost that has been incurred by the development. On this basis I consider that the contribution does not qualify as a special contribution under the requirements of Section 48(2)(c) and I recommend that Condition No. 25 is removed from the decision of the PA.

Methodology

- 7.3.7. Should the Board disagree with my recommendation and decide that Condition No. 25 should be attached, the grounds of appeal request that the Board consider how the calculation was derived. The grounds of appeal argue that the methodology applied lacks detail and has not allowed for the provisions contained in the Mobility Management Plan (MMP) and wider transport objectives for the county to reduce car use. It is also submitted that the PA did not interpret the result of the TTA correctly.
- 7.3.8. The argument put forward by the PA is that the traffic generated by the development will necessitate the junction upgrade as it will cause it to operate above capacity. An EIAR was prepared for the proposed development and included a Traffic and Transport section in the Material Assets chapter. A TTA was submitted with the application and was revised and updated under FI. Additional surveys were carried

out to inform the FI request and as such the TTA submitted under FI has the most up to date figures for traffic in the area.

- 7.3.9. The PA's calculations for the amount in Condition No. 25 were informed by Figures 1-3 and 1-4 of the TTA which show the results of the traffic surveys for the AM and PM peak flows for the junction. Existing traffic movements were found to be 267 movements northwards towards the development site in the AM and 292 movements southward from the development site in the PM. The projected increase in traffic as a direct result of the development was then extrapolated. Based on the PA's methodology, the development was found to represent a 28% increase in trips through the junction. The total cost of the junction upgrade was estimated from the National Transport Authority rates and 28% of the total cost was attributed to the applicant/development.
- 7.3.10. Table 3.1 of the revised TTA details the capacity of Junction No. 4 at the AM and PM peaks for the years 2023, 2026, 2031 and 2041. Three different scenarios are assessed: the capacity without the development, with the traffic flows from the proposed development and, with the proposed development flows and the permitted development flows. Permitted development relates to four extant permissions, (SDZ23A/0012 – 205 residential units, SD23A/0012 – a Battery Energy Storage System, SD22A/0105 – Substation Compound and SD21A/0042 – Data Storage building and gas powered generation plant), which were considered to be relevant to the traffic assessment by virtue of the volume of traffic flows generated and their proximity to the local road network.
- 7.3.11. Junction capacity is measured in the Ratio of Flow to Capacity (RFC), which indicates the extent to which traffic flows on an intersection arm approach capacity. An intersection arm operating at capacity would have an RFC value of 1. The results of the TTA modelling show that for the scenario with the proposed development, the junction would reach capacity in 2041 at the PM peak, which would have an RFC of 1.06. For the scenario with the proposed development and development already permitted in the vicinity, the junction would have a PM peak RFC of 1.02 in 2031 and 1.16 in 2041.
- 7.3.12. Section 4. 2 of the TTA concludes that Junction No. 4 currently operates within capacity and will continue to do so up to 2041 with the development in place. With

the proposed development and all other currently permitted development in place the junction will reach capacity in 2031. The PA's calculation seems to be based on the present day / opening year (2026) figures for the junction. However, the TTA clearly shows that, with the proposed development alone, the junction will not be at capacity until 2041. Furthermore, Table 2-2 of the TTA shows the network and development flows at Junction 4 for the opening year (2026), design year 1 (2031), and design year 2 (2041). The calculations in the table show that the traffic flows attributed to the development would represent 6.2% of the total network flows in the AM peak and 5.8% of the total network flows in the PM peak for 2026. The PA's calculation extracted the projected figures for traffic travelling north from the junction in the AM and south to the junction in the PM to reflect the perceived traffic flows to and from the development. Whilst this may be a fair representation of predicted travel patterns, it lacks nuance as it is the combined effect of all traffic movements that impacts on the overall capacity of the junction.

7.3.13. The scenario modelled in the TTA considers the worst-case scenario in order to present a robust analysis. The TTA assumes that 70% of workers will arrive by car when the actual opening day figure is proposed to be 62%, reducing to 50% by year 5, (2031). The report also notes that the implementation of the Mobility Management Strategy will be influential in reducing trips to and from the site and that transport policy in the Dublin Metropolitan Area will result in a year-on-year modal shift away from private car use. Whilst the TTA shows that the junction would eventually operate at capacity with the development in place in 2041, the modelled figures do not account for the provisions of the mobility management plan for the development and include a conservative growth estimate. I also note that, should the permitted developments included in the TTA become operational the junction will reach capacity by 2031. However, none of the developments listed in the TTA had a special contribution applied to their permission to address capacity issues at the junction.

7.3.14. The applicant objects to the methodology used for the calculation and is of the view that it is rudimentary and does not consider the capacity of the junction and factors that would influence movement such as the MMP for the development and improvements in public transport. Based on the information submitted with the application and the appeal, I consider that the methodology used by the PA lacks

nuance and does not consider external factors such as the commitments made in the MMP and the national and local transport policies to reduce the level of private car use. As part of the MMP a shuttle bus to and from bus and rail connections would be provided at peak times. I note to the Board that the PA considered the MMP to be acceptable and attached Condition No. 12 to their decision which requires final sign off on the MMP and, Condition No. 14 which requires the agreement and implementation of the shuttle bus.

7.3.15. Regarding the costs of the upgrade, I accept that in the absence of a detailed plan or scope of works that the PA must rely on an estimate of costs based on the NTA rates. However, I would also question whether the lack of specific costs and the lack of scope and detail for the works required are in accordance with the requirements of Section 48(12)(a) which requires that where a condition applied under the provisions of 48(2)(c) that the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.

7.3.16. The estimated cost of the junction upgrade and the methodology for calculating and attributing the contribution was detailed in the PA's response to the appeal. However, the methodology used does not fully consider all the potential factors that would impact on the capacity of the Junction No. 4. In the absence of appropriate consideration of the impact of overall traffic movements on the junction as well as the measures proposed by the applicant in the MMP to reduce private car use, the methodology used is not robust and does not provide an accurate estimate of the cost attributed to the proposed development. Should the Board decide to retain and attach Condition No. 25, I recommend that the methodology applied to the calculation be revised to include the measures listed in the MMP to provide a more accurate estimation of the amount applicable to the development.

8.0 Recommendation

8.1. I recommend that Condition No. 24 is amended, and that Condition No. 25 is removed.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature of the condition which is the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended:

Condition No. 24 -

To **AMEND** Condition No. 24 as follows for the reasons and considerations hereunder:

The developer shall pay to the Planning Authority a financial contribution of €8,726,991.84 (Eight million, seven hundred and twenty six thousand, nine hundred and ninety-one euros and eighty four cents), in respect of public infrastructure and facilities benefiting development within 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 2021 - 2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended). The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.

REASON: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

Reason and Considerations (1)

It is considered that the provisions of Section 11, parts (xxii) and (xxiii) of the South Dublin County Council Development Contribution Scheme 2021-2025, which relate

to contribution exemptions, were not properly applied and a commercial levy was applied to 1,112 sqm of the development which comprise switchrooms, plant rooms, ancillary plant rooms and a stand-alone substation, all of which are listed as exempt from development contributions under Section 11, parts (xxii) and (xxiii) of the South Dublin County Council Development Contribution Scheme 2021-2025.

Condition No. 25 -

To **REMOVE** Condition No. 25 for the reasons and considerations hereunder:

Reasons and Considerations (2)

It is considered that Condition No. 25 is not in accordance with the requirements of Section 48(2)(c) of the Planning and Development Act as the development referenced in the condition is not exceptional or specific to the proposed development.

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.

Elaine Sullivan
Senior Planning Inspector

8th of May 2025