



An
Coimisiún
Pleanála

Inspector's Report

ACP-324365-26

Development	Large Scale Residential Development of 53 Houses and 60 apartments
Location	Newcastle South, Newcastle, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	LRD25A/0014W
Applicant(s)	Cairn Homes Properties Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party v Financial Contribution
Observer(s)	Department of Defence
Date of Site Inspection	21 st August 2026
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site contains lands with a stated area of 4.08 hectares located to the south of Newcastle, Co. Dublin. The subject lands were undeveloped on the day of the site visit, primarily under grass, however there was evidence of recent site clearance works having commenced and temporary construction fencing was in place around the site.
- 1.2. The site is located to the west of Graydon Road, East of Mason Cross Park and north of Newcastle Boulevard; all these roads/ streets are relatively new additions to Newcastle. The site is located to the south of St Finian's National School and is also south of a Lidl supermarket located to the south of Main Street.
- 1.3. The area to the south of Main Street, Newcastle has undergone extensive residential development over the last twenty years. The lands immediately adjoining the subject site are in residential use except for the school, Lidl and other commercial development to the north.

Note: The Commission should note that this is a first party appeal against a condition included with the decision of South Dublin County Council to grant permission for a large-scale residential development (LRD). The appeal relates solely to the imposition of a financial development contribution under Section 48(10)(b) of the Planning and Development Act 2000 as amended. No appeal has been brought by any other person against the decision of the planning authority, and therefore, in accordance with Section 48(13)(a) of the Act, the Commission must not determine this application as if it had been made to it in the first instance, but only the matters subject of this special contribution appeal.

2.0 Proposed Development

- 2.1. The proposal, as per the submitted public notices, comprises the construction of 113 residential units, private, public, and communal open space, and all associated site works. The open space provision includes the remaining lands to form the 'Burgage South' Park.

- 2.2. The following tables set out some key elements of the proposed development on these lands:

Site Area	
Gross Area	4.08 hectares
Net Developable Area (Phase 2A and 2B)	2.98 hectares
Plot Ratio – Based on Net Site Area	0.36
No. of Units	113
Duplexes	60
Houses	53
Density:	37.92 units per hectare
Open Space Provision	
Public Open Space	4126sq m
Communal Open Space	528sq m
Total	4654sq m
Car Parking –	149
Bicycle Parking –	
Total	180
Motorbikes	8

Table 2: Unit Mix

Bedrooms	House	Duplex	Total
1 Bed	0	0	0 (0%)
2 Bed	4 (3.5%)	30 (26.6%)	34 (30.1%)
3 Bed	43 (38%)	30 (26.6%)	73 (64.6%)
4 Bed	6 (5.3%)	0 (0%)	6 (5.3%)
Total	53	60	113 (100%)

- 2.3. In addition, all associated site works, car parking and open space areas are provided in support of this development.

3.0 Planning Authority Decision

3.1. Decision

South Dublin County Council decided to grant permission subject to conditions, following the receipt of further information. The further information requested details in relation to sunlight/ daylight assessment, archaeology, open space/ removal of burgage hedgerows, and updating of a design statement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report reflects the decision to grant permission for the proposed development, following the receipt of further information. The proposal was in accordance with the South Dublin County Development Plan 2022 – 2028 and provided for a suitable layout/ design that would not seriously injure the residential amenity of the area.

3.2.2. Other Technical Reports

Environmental Health Department: No objection subject to recommended conditions.

Parks and Landscape Department/ Public Realm Planning: Refusal recommended as there is concern about the quantum of open space to be provided and also concern about the loss of burgage hedgerows. Other issues include the provision of suitable street trees and also the layout would lead to fragmentation of green infrastructure networks. Conditions are recommended if permission is to be granted.

Roads Department: No objection subject to conditions including amendments to the layout. The amendments to the layout are required to ensure that burgage hedgerows are not cut.

Public Lighting: No objection subject to condition.

South Dublin Childcare Committee: Note that there is no provision for childcare, demand for such provision exists and refers to the requirements of the Childcare Planning Guidelines. Request that such a facility be provided.

Water Services Department: Further information requested in relation to surface water drainage. No objection in relation to flood risk.

Housing Department: No objection subject to condition.

3.2.3. Conditions

The appeal refers to Condition no. 25 which I have included as follows:

‘Public Open Space Contribution in Lieu

The developer shall pay to the Planning Authority a financial contribution of €434,403.00 (Four Hundred Thirty Four Thousand Four Hundred Three Euros And Zero Cents), in lieu of public open space provision, towards the cost of amenity works in the area of the proposed development, in accordance with policy COS5 of the South Dublin County Development Plan 2022 – 2028, and in accordance with the terms of the South Dublin County Council Development Contribution Scheme 2026 - 2028, made under Section 48 of the Planning and Development Act 2000 (as amended), and based on a shortfall of 0.310Ha of public open space. 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 amenities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public open space 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.’

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – Development

Application Units: Further information requested – applicant to carry out an Archaeological Impact Assessment (AIA). This is to include Archaeological Geophysical survey and Archaeological Test Excavation of the site.

Uisce Éireann: Further information requested – applicant to engage with UÉ and submit a Pre-Connection Enquiry to assess the feasibility of connection to the public water/ wastewater systems.

Department of Defence: Details of on-site cranes to be coordinated with the Air Corps Air Traffic Services at least 30 days prior to use, suitable bird control measures to be deployed and applicant is advised that the site may be within a high noise area due to aircraft operating in the area.

3.4. Third Party Observations

A single submission was received from St. Finian's GAA Club. Their concern relates to the loss of a field that could be used by themselves, which historically was used as a training area, and they consider this to be contrary to Objective COS4 of the South Dublin County Development Plan – provision of sporting facilities in Newcastle including a full-sized GAA pitch.

4.0 Planning History

ABP SHD Ref. 313814-22 refers to an August 2025 decision to refuse permission for 280 no. residential units (128 no. houses, 152 no. apartments), creche and associated site works on the subject site. The reasons for refusal, in summary, included:

1. Development is underway on part of the site, and the proposal is permitted may require the demolition of recently constructed units and revisions to a permitted layout. Demolition of such units would be contrary to Policy E3 – Objective 2 and 3 of the South Dublin County Development Plan which seeks to prioritise retrofitting of buildings over their demolition and subsequent redevelopment of these sites. The baseline environment set out in the

submitted EIAR and NIS is inaccurate and details provided in support of the application are flawed.

2. The design of two of the apartment blocks, containing 58 units, lack suitable architectural variety in form, building height and finishes and do not provide an appropriate urban response to the site.

On adjoining site to the south and west:

PA Ref. LRD23A/--11/ ABP Ref. 319500-24 refers to a July 2024 decision to grant permission for the construction of 131 residential units in the form of 119 houses and 12 apartments and all associated site works.

The above are the most recent and relevant file in terms of planning history. The Planning Authority have provided a detailed planning history of the site in their report.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. 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. 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.

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'.

- 5.1.2. Chapter 8 refers to 'Community and Open Space' and is particularly relevant to this appeal.

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.'

Policy COS5: Parks and Public Open Space – Overarching

'Provide a well-connected, inclusive and integrated public open space network through a multi-functional high-quality open space hierarchy that is accessible to all who live, work and visit the County.'

‘COS5 Objective 1:

To support a hierarchy of multi-functional, accessible parks and public open spaces across the County in line with Table 8.1, based on existing populations and planned growth in accordance with the overall standard of 2.4ha per 1,000 population.’ Table 8.1 – ‘Public Open Space Hierarchy’ outlines the types of open spaces and which range from Regional Park to Civic Spaces/ Squares.

Section 8.7.3 – ‘Quantity of Public Open Space’ includes the following:

The overall standard for public open space is 2.4 hectares per 1,000 population. This will be applied to all developments with a residential element. Within that standard, there are specified percentages as set out in Table 8.2 which must, as a minimum, be provided on site. Only in exceptional defined circumstances, as set out in the objectives below, will flexibility be provided for.

Table 8.2: ‘Public Open Space Standards’ provides the following:

Land Use	Public Open Space Standards (minimum)
Overall Standard	2.4 Ha per 1,000 Population
New Residential Development on Lands Zone RES-N	Minimum 15% of site area
New Residential Development on Lands in Other Zones including mixed use	Minimum 10% of site area
Institutional Lands / ‘Windfall’ Sites	Minimum 20% of site area

Section 8.7.4 – ‘Delivery of Public Open Space and Contributions in Lieu’ includes the following:

‘The Council’s general intent is to ensure a minimum provision of public open space on site, within the relevant zoning, as set out under Table 8.2 Public Open Space Standards.

The Council may, in certain circumstances and at its sole discretion, allow for an element of open space to be located off-site where it exceeds the minimum on-site requirements. Alternatively, the Council may in certain circumstances and at its sole discretion, determine a financial contribution in lieu of all, or part of, the public open space requirement for a particular development. These circumstances may include (but are not limited to) situations where public open space requirements cannot be met on site in full or partially because:

- the provision of open space would be so small that it would not be viable due to the size, shape, configuration or context of the site;
- an element of off-site provision would better facilitate the proposed development and allow for the improvement of existing open space or improvements to the GI Network located in the vicinity of the site.

Any contributions in lieu of public open space will be calculated in accordance with the South Dublin County Council Development Contribution Scheme prepared under Section 48, of the Planning and Development Act, 2000 (as amended).'

The following objectives are relevant in cases of levying a contribution in lieu:

‘COS5 Objective 4:

To require the provision of public open space as part of a proposed development site area in accordance with the Public Open Space Standards (minimum) set out in Table 8.2.

The Council has the discretion for the remaining open space requirement to achieve the overall standard of 2.4 ha per 1,000 population, to allow for the provision or upgrading of small parks, local parks and neighbourhood parks outside the development site area, subject to the open space or facilities meeting the open space ‘accessibility from homes’ standards for each public open space type set out in Table 8.1.

In exceptional circumstances where the provision or upgrade of small parks, local parks and neighbourhood parks is not achievable, the Council has the discretion for the remaining open space requirement to allow provision or upgrade of Regional Parks, to achieve the overall standard of 2.4 ha per 1,000 population, subject to the

Regional Park meeting the open space 'accessibility from homes' standard set out in Table 8.1.'

'COS5 Objective 5:

To require the provision of public open space as part of a proposed development site area in accordance with the Public Open Space Standards (minimum) set out in Table 8.2.

The Council has the discretion to accept a financial contribution in lieu of any remaining open space requirement to achieve the overall standard of 2.4 ha per 1,000 population, such contribution being held solely for the purpose of the acquisition or upgrading of small parks, local parks and neighbourhood parks subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 8.1. In exceptional circumstances where the provision or upgrade of small parks, local parks and neighbourhood parks is not achievable, the Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision or upgrade of Regional Parks, subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 8.1.

Where the Council accepts financial contributions in lieu of open space, the total contribution shall be calculated on the basis of the costs set out in the applicable Development Contribution Scheme, in addition to the development costs of the open space.'

'COS5 Objective 6:

To require that public open space calculations be based on an occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.'

'COS5 Objective 7:

To require at the sole discretion of the Planning Authority a pro rata contribution in lieu of provision of public open space where, due to the small size, configuration or

location of a particular development or on sites with less than three units it is not possible to provide functional public open space on site.'

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

- Objective RES-N' - 'To provide for new residential communities in accordance with approved area plans'. This is the primary zoning on this site and as per Table 8.2 – there is a requirement that a minimum of 15% of the site be provided as public open space.

A number of lines indicating 'Road Proposal – 6 Year' are on the map.

The lands are located within the following Aviation restricted areas:

- Airport Surfaces - Casement
- Take of Climb Surfaces – Casement and Weston

The majority of the site is located within an area defined as 'Locations in which Development of up to 30m in height above ground are unlikely to have significance in relation to Aviation'.

The subject lands are located within the Newcastle Architectural Conservation Area.

Objective CS9 SLO3 includes the subject lands and states the following:

'A sequentially phased programme to be submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described 1) No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south 2) Urban Park / Square c. 1ha in size (Burgage South Park) to the satisfaction of the planning authority, 3) East-West Link Street, 4) Sean Feirm Park c. 0.2ha in size, 5) a portion of Tower House Park c. 0.1ha. All applications shall demonstrate to the satisfaction of the Planning Authority how they are supporting the delivery of North South Street connections to the Main Street. With regards delivery of a new primary school at Taobh Chnoic, the timing of this will be subject to educational needs in consultation with the Department of Education. Prior to completion of 200 units confirmation to be provided from the Department of

Education on the transfer of lands to provide for the school, subject to their confirmation of need.'

5.2. Variations

Variation No.2 to the South Dublin County Development Plan 2022 – 2028 seeks to incorporate the requirements of the following into the development plan:

- NPF Implementation: Housing Growth Requirements - Guidelines for Planning Authorities, 2025 and
- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities 2024.

Following a round of public consultation and consideration of submissions received, South Dublin County Council proposed material alterations to this variation, and these were put out on public display between the 7th of July 2026 and the 5th of August 2026. The final decision to adopt/ reject or modify the variation has not been made to date.

5.3. Development Contribution Scheme

- 5.3.1. The current scheme is the Development Contribution Scheme 2026 – 2028 which was approved by the elected members of South Dublin County Council in October 2025. The subject application refers to a permission granted after this date and is therefore subject to this Development Contribution Scheme. The level of contribution is provided in the following table contained within the Development Contribution Scheme:

Class of Public Infrastructural Development	€ per square metre of Residential Development	€ per square metre of Industrial/Commercial class of Development
Class 1: Transport infrastructure & facilities	26.52	25.07
Class 2: Surface water & environment infrastructure & facilities	10.6	10.02
Class 3: Community facilities & amenities	15.79	14.92
Class 4: Parks and open space facilities and amenities	42.49	40.16
Class 5: Economic, Enterprise and Tourism Development, including Libraries	31.05	29.35
Total Contributions Payable	126.45	119.52

Two notes are included with the above and I have summarised them as follows:

Note 1: Contribution rates above to be applied to all development granted permission after the 1st of January 2026 within the South Dublin County Council area. Rates are fixed for the period 1st of January 2026 to 31st of December 2026.

The above to be indexed in accordance with the Chartered Surveyors of Ireland Construction Tender Price, which may be carried out each year on 1st of January (from 1st January 2027). Indexing may not occur each year due to economic or other circumstances.

Note 2: Floor area to be calculated as gross floor area.

- 5.3.2. A separate section is provided for 'Contribution in Lieu of Public Open Space' and states the following:

'(a) Countywide Standard

The South Dublin County Development Plan 2022-2028 provides for the Planning Authority to, at its absolute discretion, determine a financial contribution in lieu of all or part of the open space requirements for a particular development to meet the required 2.4ha per 1,000 people standard in Section 8.7.4. Where the Council accepts financial contributions in lieu of the provision of open space, the financial

contribution shall be calculated on the basis of land acquisition costs and development costs.

Land acquisition costs are calculated on the basis of 85% larger parks (Class 1) and 15% smaller parks (Class 2), as per table below and the Public Open Space hierarchy in the County Development Plan. The financial contribution in lieu of open space provision is calculated based on the following:

1. Class 1 Open Space - €618,000 per hectare to purchase land based on the value of amenity land.
2. Class 2 Open Space - €2,470,000 per hectare to purchase land in residential areas.
3. Development costs are calculated at €500,000 per hectare.

The financial contribution in lieu of open space shall be levied to all development to which it applies at a rate of €1,395,000 per hectare or on a pro rata basis of the public open space not provided to meet the Development Plan standard.

The following table provides the relevant 'Classification of Open Space':

Classification of Open Space	Type of Open Space*
Class 1	Regional Park Neighbourhood Park Local Park / Open Space
Class 2	Small Park / Open Space Smaller Open Spaces Civic Plaza / Square
*As per County Development Plan Parks and Open Spaces Hierarchy	

A list of exclusions of when a contribution in lieu is not required is provided and includes where a statutory local objective/ local area plan is approved and open space in accordance with the development plan standard is demonstrated, developments in Adamstown/ Clonburris SDZs, types of social housing developments, particular affordable housing schemes, developments of 'Living over the Shop' where there is no increase in the footprint of the unit.

- 5.3.3. There are particular requirements for development within the Tallaght Local Area Plan Lands, and which do not impact on the subject site. Section 11 of the Development Contribution Scheme lists the 'Circumstances where no contribution or a reduced contribution apply'.

5.4. National Guidance

- Development Contributions Guidelines for Planning Authorities (DoEC&LG, 2013)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DHLGH, 2024)

5.5. Natural Heritage Designations

The Grand Canal, Site Code 002104, is designated a pNHA and is located approximately 2.2 km to the north west of the subject site.

5.6. EIA Screening

This appeal refers to a Financial Contribution and the appeal is limited to considering the merits of the levy under Section 48(10) of the Planning and Development Act 2000 as amended. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant has appealed the inclusion by South Dublin County Council of Condition No.25 on the grant of permission for the development in Newcastle South, Newcastle, Co. Dublin. Condition No. 25 requires the payment of 'a financial contribution of €434,403.00 (Four Hundred Thirty Four Thousand Four Hundred Three Euros And Zero Cents), in lieu of public open space provision, towards the cost of amenity works in the area of the proposed development'. This is in accordance with policy COS5 of the South Dublin County Development Plan and is also in accordance with the terms of the South Dublin County Council Development

Contribution Scheme 2026 – 2028. The applicant considers that the Planning Authority have misinterpreted the required quantum of open space to be provided as part of this LRD, they have misapplied the South Dublin County Council Development Contribution Scheme, they have not taken into account exclusions that are allowed under the South Dublin County Development Plan as well as not taking into account the amount of open space provided by the developer to date and the requirements of the South Dublin County Development Plan, in particular Table 8.2, have been superseded by the Compact Settlements Guidelines, 2024.

6.1.2. The applicant details these points as follows:

- The Planning Authority have misinterpreted the required quantum of open space to be provided as part of this LRD: The Planning Authority have identified the provision of 0.465 hectares of public open space, not already provided, as part of this development. The applicant has calculated the actual provision to be 0.7704 hectares which is a difference of 0.34 hectares not included in the Planning Authority calculation. The applicant notes that a portion of the Burgage South Park included 0.34 hectares of previously approved open space, but this is not part of the 0.7704 hectares to be provided as part of this development.
- The Planning Authority have misapplied the South Dublin County Council Development Contribution Scheme: Refers to the wording and general terms of the Development Contribution Scheme. The general requirement is for 2.4 hectares per 1000 population. A contribution in lieu may be sought where the size of open space is not viable due to its small size/ shape and provision would be better served by off-site provision. COS5 – Objective 4 requires the provision of open space in accordance with the requirements of Table 8.2 – Public Open Space Standards. The development provides for 0.77 hectares which at 20.5% is greater than the requirement for 15% set out in Table 8.2. The applicant has calculated the requirement for open space to be 7,860sq m (0.786 hectares) and this is a shortfall of only 156sq m (0.0156 hectares).

The applicant has outlined that they have provided 8.18 hectares of open space in the Newcastle lands to date, giving a surplus of 3.23 hectares or 61% over provision. The development is provided with adequate open space in accordance with the requirements of the Compact Settlements Guidelines and

the lands form part of an overall masterplan area and for which it appears that the Planning Authority have not taken fully into account.

- The Planning Authority have not taken into account exclusions that are allowed under the South Dublin County Development Plan as well as not taking into account the amount of open space provided by the developer to date: The applicant has outlined the open space/ amenity areas provided by them to date, and which are in accordance with the requirements of CS9 SL03 of the South Dublin County Development Plan. The requirement is for 15% of the subject site area to be allocated as open space, and the applicant has identified the provision of this in their appeal.
- The requirements of the South Dublin County Development Plan, in particular Table 8.2, have been superseded by the Compact Settlements Guidelines, 2024: The appeal considers that the Planning Authority should have amended the relevant parts of the South Dublin County Development Plan in accordance with this Section 28 guidance. The inclusion of the lands in Burgage South Park would equate to a provision of 0.8050 hectares of open space or 27% of the overall site area.

In conclusion they contend that South Dublin County Council have incorrectly applied the development contribution scheme on this site and request that the Commission remove Condition No. 25.

6.2. Planning Authority Response

Report that the development was assessed in accordance with the policies and objectives, specifically those contained within Chapter 8 of the South Dublin Development Plan 2022 – 2028. The Planning Authority report that the appeal contains a number of errors of fact and interpretation and they have addressed them as follows:

- The contribution is provided in accordance with the requirement for 2.4 hectares per 1000 population, and the 15% requirement is not relevant to the contribution in lieu, though the 15% on site provision requires demonstration of compliance.

- There is no inconsistency between the South Dublin County Development Plan and the Compact Settlements Guidelines as the Section 28 Guidelines do not set any Specific Planning Policy Requirement in relation to open space.
- Whilst the Newcastle Local Area Plan has expired, some of its requirements have been included as SLOs in the South Dublin County Development Plan 2022 – 2028. The Planning Authority are unclear as to what open space is include in the applicant's analysis and would welcome a tabular breakdown of permitted units, expected population arising from development, and proposed open space on site.

The Planning Authority outline how open space and contribution in lieu is calculated, in accordance with the Development Contribution Scheme. The Planning Authority note that the applicant has referred to Plan Led development and which would allow for development to be excluded from contributions in lieu. The Planning Authority refer to the requirements of COS5 SLO1 and COS5 SLO3. The Burgage Park South does not provide for the required 1 hectare of open space (as per COS5 SLO3) but they are satisfied with what has been provided on site.

The Planning Authority state that 'Ultimately the Commission may wish to adjudicate as to whether the statutory local objectives provide for the relevant standard and have been sufficiently delivered upon to exclude a contribution in lieu.'

The Planning Authority request the Commission uphold their decision to levy the contribution in lieu of open space.

6.3. **Observations**

Department of Defence: Observation received reiterating the points already made to the Planning Authority. Request that an Aviation Impact Assessment on flight operations at Casement Aerodrome be made, a Wildlife Impact Assessment to be undertaken and notification of at least 30 days prior to installation of cranes be made to the Air Corps Air Traffic Services. Negative impacts on future military radar

systems will require the developer to engage with the Department of Defence and to provide for suitable mitigation measures as appropriate.

7.0 Assessment

7.1. Background:

- 7.1.1. A first party appeal has been brought to An Coimisiún Pleanála under Section 48 of the Planning and Development Act 2000 as amended, against the inclusion of Condition no.25 in the decision to grant permission for this development; a contribution of €434,403 in lieu of open space provision towards the cost of amenity works in the area of the proposed development, based on a shortfall of 0.2610 hectares of open space. The Planning Authority clearly outline their calculations on Pages 74 and 75 of the 'Record of Executive Business and Chief Executive's Order'.
- 7.1.2. As this is an appeal made under the provisions of Section 48(10)(b) of the Planning and Development Act, 2000 as amended, and therefore the Commission is restricted to consideration of Condition No. 25 only and cannot consider the proposed development de novo. The assessment is therefore confined to the appropriate application of the terms of the South Dublin County Council Development Contribution Scheme.

7.2. Shortfall in Open Space:

- 7.2.1. From my reading of the South Dublin Development Plan 2022 – 2028, and the Development Contribution Scheme 2026 – 2028, there are two key considerations with regard to open space provision. Firstly, a requirement that 2.4 hectares of open space be provided per 1000 population and secondly a requirement on the minimum percentage of a site to be allocated as open space. Both have to be demonstrated; the first requirement ensures that each person living in the county has adequate open space and the second ensures that a percentage of every site is allocated as open space for the use of the residents of that development. Table 8.2 of the South Dublin County Development Plan makes clear that the requirements of Public Open Space Standards are minimum figures.

7.2.2. The appeal primarily relates to the requirement for 2.4 hectares per 1000 population and the Planning Authority have demonstrated in their appeal response that the applicant is not compliant with the relevant requirements.

7.3. Provision of 2.4 hectares per 1000 population:

7.3.1. The indicated shortfall comes through the requirement of 2.4 hectares per 1000 population as set out in the South Dublin County Development Plan. The overall development of 113 units has a requirement as follows:

Type	Number	x 1.5 Bedspaces	x 3.5 Bedspaces	Total
Two Bedrooms	36	54		
Three + Units	77		269.5	323.5

7.3.2. The open space requirement for this development is 0.7764 hectares. The applicant has indicated that they propose to provide for 0.7704 hectares. The applicant has provided a breakdown of the areas of open space to be provided as follows:

- Burgage South Park: 4,126sq m
- Kick About Area: 1,300sq m
- Public Area: 1,750sq m
- Communal Open Space: 528sq m (not public open space)

Total Open Space: 7,704sq m (0.7704 hectares).

7.3.3. The submitted Appeal and the Planning Authority do not appear to dispute the open space provided in the form of a kick about area, public area and communal open space and which would provide for 0.3578 hectares of open space. The issue relates to the remaining area of land – 0.4186 hectares (0.7764 hectares – 0.3578 hectares) to be provided. The area of the open space to be provided as part of Burgage South Park is questioned by the Planning Authority. A total of 0.7526 hectares will be provided to form this park and the applicant states that 0.34 hectares of this is already approved. The Planning Authority disagree and report that a significant portion of this park has already been approved; they calculate the

Burgage South Park to be 0.73 hectares, which is short approximately 0.31 hectares as per CS9 SLO3.

7.3.4. The following sections/ areas of this park have been approved to date:

- Phase 1 under SHD-ABP-305343-19 – 0.19 hectares
- Permission under PA Ref. SD17A/0378/ ABP Ref. 301421-18 – 0.38 hectares

This provides for a total of 0.57 hectares, subtracted from the overall area of 0.73 hectares, then only 0.16 hectares is new open space. Combined with the other open space provided as part of this development, the applicant will be providing 0.4650 hectares of open space, which when subtracted from the open space requirement of 0.7764 hectares gives a shortfall of 0.3114 hectares. I therefore consider this to be the figure that a contribution in lieu should be sought.

7.4. Requirement of 15% of Site Area as Open Space:

7.4.1. I am satisfied that that the applicant will provide for 15% open space on site. The net site area is given as 2.98 hectares and allowing for the provision of 0.5378 hectares of open space giving 15.6% of the site area as open space. Including all of the open space to be provided on site as part of this application, the percentage would increase to 27%. The Planning Authority have raised no specific issue about this figure.

7.5. Discretion on Provision of Public Open Space on Site:

7.5.1. Section 8.7.4 of the South Dublin County Development Plan makes clear that ‘The Council’s general intent is to ensure a minimum provision of public open space on site, within the relevant zoning, as set out under Table 8.2 Public Open Space Standards.’ and ‘The Council may, in certain circumstances and at its sole discretion, allow for an element of open space to be located off-site where it exceeds the minimum on-site requirements.’ A financial contribution may be accepted in certain circumstances. COS5 Objective 4 allows for discretion in providing the open space elsewhere or through the upgrading of existing facilities. COS5 Objective 5 is similar in wording but allows for the acceptance of a contribution in lieu for the provision of open space or upgrading of open space/ amenity facilities off site.

7.5.2. The Planning Authority have not sought the provision of open space off site and have sought a contribution in lieu instead. From my reading of their report the contribution in lieu would be in accordance with COS5 Objective 5 of the South Dublin County Development Plan 2022 – 2028.

7.6. Exemptions due to Plan Led Development:

7.6.1. The applicant has sought to reduce the contribution/ remove Condition No.25 through reference to CS9 SLO3 of the South Dublin County Development Plan and which allows for an allowance for reduced requirements of open space through specific plan led development.

7.6.2. The only plan relevant to these lands is the South Dublin County Development Plan 2022 – 2028. The Newcastle Local Area Plan has expired, though as noted by the Planning Authority some of the Specific Local Objectives were incorporated into the current development plan. CS9 SLO3 has a requirement for an urban park with an area of 1 hectare; the Planning Authority have reported that the applicant has not provided/ proposed such an area, but the Planning Authority have accepted the reduced site area.

7.6.3. The applicant has indicated in their appeal that significant areas of open space/ amenity lands have been provided to date, and proposed through the subject application, they also indicate that 5.01 hectares of open space will be provided which equates to a 3.23 hectare/ 61% over provision of open space. It is difficult to ascertain the useability or otherwise of the areas proposed and through Figure 3.1 of their appeal, some sections of provided lands appear to be very small. As reported by the Planning Authority, approved areas of open space have been lost through subsequent development of houses on them.

7.6.4. I do not therefore consider that the exemptions listed apply here. COS5 SLO1 is achieved through the provision of a neighbourhood park in Newcastle at Burgage South, but CS9 SLO3 is not achieved as the requirement for 1 hectare to form this park is not provided as there is a shortfall in open space to meet this figure. The objective allows for flexibility as the area to be provided is 'c.1ha in size' 'to the satisfaction of the Planning Authority'. The Planning Authority have reported that they are satisfied with the reduced site area here, I note this acceptance of a reduced figure.

7.6.5. My reading of CS9 SLO3 is that it seeks to complete the development of Newcastle in accordance with a local area plan, that has now expired, whilst ensuring that certain infrastructure is put in place to facilitate the development of this area. The 'Exclusions' in the Development Contribution Scheme are focused on an integrated plan or objective for a location, and I am of the opinion that CS0 SLO3 is not of an equivalent as that listed in the Exclusions. I also agree with the Planning Authority that it is unclear if each of the developments listed by the applicant/ in the appeal demonstrate the provision of 2.4 hectares per 1,000 population, which is a requirement of this SLO.

7.7. Non-Compliance with the Compact Settlements Guidelines:

7.7.1. The appeal refers to the Compact Settlements Guidelines and the South Dublin County Development Plan 2022 – 2028 should be varied to align with the requirements of the Section 28 guidelines. The specific identified requirement is 'Policy and Objective 5.1 – Public Open Space' and a requirement 'for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas. The minimum requirement should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations.' The applicant refers to the provision of open space forming the public open space as 10% or 0.3050 hectares and which is within the range expressed in the Section 28 Guidelines.

7.7.2. The Planning Authority report that the Section 28 Guidelines do not override the provisions of the South Dublin County Development 2022 – 2028 but actually provide a similar approach to public open space provision, to ensure that residents of a development have access to suitable open space.

7.7.3. I note the issues raised in the appeal and by the Planning Authority and I see no conflict between the South Dublin County Development Plan and the Compact Settlements Guidelines. The referenced Policy and Objective 5.1 seeks to ensure that development plans include a provision for open space with a minimum range of 10 – 15% proposed. I am satisfied that the South Dublin County Development Plan achieves this objective. The requirement is for the applicant to provide for 15% of a

site area as open space; the 2.4 hectares per 1000 population is a separate requirement and which the Compact Settlements Guidelines do not reference.

7.8. Other Issues

- 7.8.1. I note that an observation was received from the Department of Defence. This does not refer to the issues raised in the appeal. The Planning Authority have included Condition no. 22, and which requires consultation with the Irish Air Corps if cranes are to be used on site, control of birds on site and also mitigation measures to be provided in relation to noise generated by aircraft operating from Casement Aerodrome. This condition covers/ addresses most of the issues raised by the Department of Defence.
- 7.8.2. There is a fourth issue and that is the potential for negative impacts on future military radar systems, and a requirement on the provision of 'suitable mitigations as soon as practical'. This was not raised in the submission made to the Planning Authority on the 12th of January 2026. There is a significant amount of ambiguity in this requirement as no details of such radars are available in terms of location or potential impact and there is no detail as to when they may be installed. It is possible that this development could be constructed at a rapid pace and any future requirement would rest with the homeowner and not the developer; from my knowledge of Newcastle and my most recent site visit, development progresses rapidly once permission has been granted.
- 7.8.3. Future security needs require a state level response, however there is no indication that this development would adversely affect the provision of radar facilities. The site is an infill scheme at this stage of the development of Newcastle with housing to the east/ west and south having relatively recently been constructed. The tallest units are the duplex blocks with a height of just over 12m and I do not foresee any negative impacts through their height or location on existing radar/ aviation related navigation systems in the area, and it is unlikely that there would be an impact on future systems considering the position of the subject site in Newcastle.
- 7.8.4. In conclusion, I am commenting on this issue as it was not raised in the original application to the Planning Authority and I am bringing it to the attention of the Commission in the interest of completeness. However, it is not a matter relevant to the appeal which solely refers to the application of the South Dublin County Council

Development Contribution Scheme, and I recommend that no further action is required.

8.0 Recommendation

- 8.1. It is considered that the Planning Authority correctly applied the terms of the South Dublin County Council Development Contribution Scheme 2026 – 2028 in requiring a contribution by way of condition. It is therefore recommended that Condition no. 25 be retained as worded by the Planning Authority.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature of the development, which provides for 113 residential units in the form of houses, apartments and duplex units, I consider that the Planning Authority have correctly applied the terms of the South Dublin County Council Development Contribution Scheme 2026 – 2028. A shortfall of 0.310 hectares of open space has been identified, and the applicant is required to pay a contribution in lieu of this open space. Therefore, Condition no.25 of PA Ref. LRD25A/0014W shall be retained as written by the Planning Authority.

10.0 Condition

Public Open Space Contribution in Lieu

The developer shall pay to the Planning Authority a financial contribution of €434,403.00 (Four Hundred Thirty Four Thousand Four Hundred Three Euros And Zero Cents), in lieu of public open space provision, towards the cost of amenity works in the area of the proposed development, in accordance with policy COS5 of the South Dublin County Development Plan 2022 – 2028, and in accordance with the terms of the South Dublin County Council Development Contribution Scheme 2026 - 2028, made under Section 48 of the Planning and Development Act 2000 (as amended), and based on a shortfall of 0.310 Hectares of public open space. 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 amenities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public open space 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.

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.

Paul O'Brien
Inspectorate

1st September 2026