
Dated

2022

CAIRN HOMES PROPERTIES LIMITED

DUN LAOGHAIRE – RATHDOWN COUNTY COUNCIL

Draft Section 47 Agreement

**Build-to-rent premises at the Barrington Tower site, Brennanstown Road,
Dublin 18**

BETWEEN:

1. **CAIRN HOMES PROPERTIES LIMITED** having its registered office at 7 Grand Canal, Grand Canal Street Lower, Dublin 2 (the "**Developer**"); and
2. **DUN LAOGHAIRE RATHDOWN COUNTY COUNCIL** (the "**County Council**").

RECITALS:

- (A) The Developer applied to An Bord Pleanála for a Strategic Housing Development for permission under the Planning and Development (Housing) and Residential Tenancies Act 2016 (the "**2016 Act**") to develop a mixed-use development (the "**Development**") which includes 534 no. Build-to-Rent apartments at the Barrington Tower site, Brennanstown Road, Dublin 18 (the "**Development Site**").
- (B) An Bord Pleanála granted permission, register reference [•] dated [•] (the "**Planning Permission**") pursuant to the 2016 Act for the Development subject to certain conditions as described in the Planning Permission, a copy of which is included at Appendix A.
- (C) The Developer and the County Council, as planning authority for the functional area in which the Development Site is located, have agreed to enter into this agreement pursuant to condition no. (insert condition number) of the Planning Permission and Section 47 of the Planning and Development Act 2000, as amended (the "**Planning Acts**") in relation to the use of the 534 no. Build-to-Rent apartments in the Development (the "**Apartments**").
- (D) The Apartments permitted by the Planning Permission are to be located in eight (8) individual buildings or blocks within the Development Site (the Apartments in each such individual building or block being a "**Relevant Development**" for the purposes of this Agreement).

IT IS AGREED AND DECLARED as follows:

1. The application for planning permission of the Developer dated [•], the plans, drawings and documents referred to in the Planning Permission and the Planning Permission are hereby incorporated in this Agreement and shall be read and construed with this Agreement.
2. This Agreement shall bind the Developer or its successors in title and assigns as owner(s) for the time being of a Relevant Development and all persons claiming through or under the Developer or such successors in title and assigns in accordance with the provisions of Section 47 of the Planning Acts during the period of fifteen (15) years from the date of the Planning Permission (the "**Term**").

Section 47 of the Planning Acts

3. In accordance with condition no. (insert condition number) of the Planning Permission and Section 47 of the Planning Acts and in accordance with the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments published December 2020, the Developer hereby covenants and agrees with the County Council to restrict and regulate each Relevant Development for the Term as follows:
 - 3.1. a Relevant Development shall remain owned by a single entity and operated by or on behalf of that single entity;¹
 - 3.2. no individual Apartment in a Relevant Development may be sold separately (save to a group company of the said single entity within the definition of holding

¹ The requirement as set out at paragraph 5.3 and required by SPPR7 of the Apartment Guidelines.

company or subsidiary company under sections 7 and 8 of the Companies Act 2014);²

- 3.3. no individual Apartment in a Relevant Development may be sub-let separately;³
- 3.4. upon expiry of the Term, any one or more of the individual Apartments may be sold individually or collectively without the need for any further or other planning permission;⁴

3.5. [(if necessary, any other conditions or matters to be agreed as part of the planning process).]

- 4. Provided that nothing in clause 3 of this Agreement shall prohibit or restrict:
 - 4.1. sale of the entire of a Relevant Development to a single entity;⁵
 - 4.2. sale, transfer and/or leasing of Apartments in accordance with section 96(3)(b) of the Planning Acts to satisfy the requirements of the County Council under Part V of the Planning Acts;⁶
 - 4.3. the transfer (including by way of long lease) of the common areas (as defined in the Multi-Unit Developments Act 2011) in a Relevant Development to an owners' management company pursuant to that Act and/or the operation of such common areas by an owners' management company;
 - 4.4. the grant of any charge and/or security over a Relevant Development or any part of it to a lender providing debt funding in respect of a Relevant Development or any part of it; and/or
 - 4.5. the owner of a Relevant Development from leasing individual Apartments as part of its investment in a Relevant Development as a long term commercial rental undertaking.⁷
- 5. Upon expiry of the Term, the Developer and its successors in title and assigns shall be deemed discharged and released from its and their covenants and agreements contained in and obligations under this Agreement. Upon the written request of the Developer and/or as applicable its successors in title and assigns, the County Council shall provide an acknowledgement in writing of the satisfactory compliance by the Developer and its successors in title and assigns with its and their covenants and agreements contained in and obligations under this Agreement.
- 6. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute one agreement.

In witness of which the parties have executed this Agreement the day and year first above written.

² The requirement as set out at paragraph 5.3 and required by SPPR7 of the Apartment Guidelines.
³ The requirement as set out at paragraph 5.3 and required by SPPR7 of the Apartment Guidelines.
⁴ The requirement as set out at paragraph 5.11 of the Apartment Guidelines.
⁵ The requirement as set out at paragraph 5.3 and required by SPPR7 of the Apartment Guidelines.
⁶ The requirement as set out at paragraph 5.12 of the Apartment Guidelines.
⁷ The requirement as set out at paragraph 5.3 of the Apartment Guidelines.

PRESENT when the common seal
of **CAIRN HOMES PROPERTIES LIMITED**
was affixed hereto and this **DEED**
was **DELIVERED**:

Director

Director/Secretary

⁸**PRESENT** when the common seal
of the **COUNTY COUNCIL**
was affixed hereto and this **DEED**
was **DELIVERED**:

Director

Director/Secretary

⁸ County Council to confirm form of execution clause.

APPENDIX A
Planning Permission