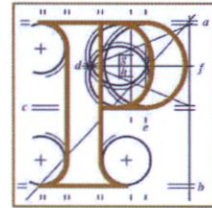


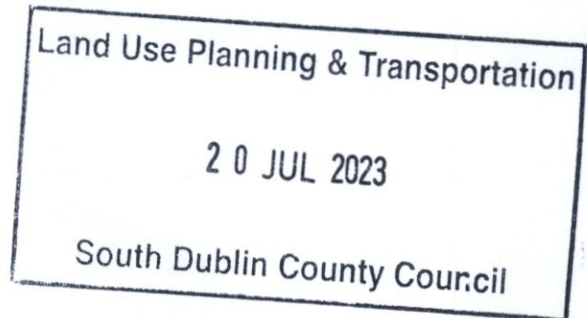
**Our Case Number:** ABP-317595-23

**Planning Authority Reference Number:** SD22A/0286



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24



**Date:** 19 July 2023

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

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, within a period of 2 weeks beginning on the date of this letter, the following documents:-

(i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,

(ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,

(iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,

(iv) a copy of the notification of decision given to the applicant,

(v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,

(vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure.

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaio Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Riomphost</b>	<b>Email</b>	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,
- (viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,
- (ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,
- (x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,
- (xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:-

Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

- a) Certified Manager's Order,
- b) the site location, site layout maps, all plans and
- c) particulars and all internal reports.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### Contingency Submission

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act, (as amended), (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act.

Any such contingency submission, in circumstances which your authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Teil  
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**James McInerney, Planning Consultant.**  
39, Kilheale Heights, Kilheale Manor, Kill, Co. Kildare, W91 R28R  
Mobile: 0863179730 Email: [jamesmcinerney@live.ie](mailto:jamesmcinerney@live.ie)

Land Use Planning & Transportation  
17 July 2023

20 JUL 2023

South Dublin County Council

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

Dear Sir/Madam.

RE: **Third Party Planning Appeal**  
Planning Authority of South Dublin County Council Reg. Ref. No. SD22A/0286  
Residential Development at Main Street, Newcastle, Co. Dublin  
Deane and Deane Ltd.

### Third Party Appeal.

I am a Planning Consultant and have been instructed by the following Directors of the Newcastle Glebe Management Company to lodge this Third-Party Appeal against the Decision of the Planning Authority of South Dublin County Council by Order dated 22-June-2023 to Grant Permission:

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

The above persons act on behalf of the residents of Newcastle Glebe.

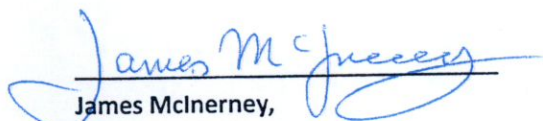
### Application to SDCC

Application No.	SD22A/ <del>0286</del> 0286
Registration Date	24-June-2022
Additional Information	06-Mar-2023
Clarification of AI	26-May-2023
Decision Date	22-June-2023
Decision Order No	1475
Location	Main Street, Newcastle, C4, . Dublin
Applicant	Deane and Deane Ltd, C/o JFOC Architects, 3 & 4, Greenmount House, Harolds Cross, D6W X008.
Proposed Development	Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works
Application Type	Permission

The following is attached in support of this Appeal:

- (i) Copy of Acknowledgement of Receipt of Third-Party Submission to planning authority
- (ii) Grounds of Appeal with an Addendum and
- (iii) Appeal Fee - €220.00.

Yours faithfully,

  
James McInerney,  
Planning Consultant.

<b>AN BORD PLEANÁLA</b>	
LDG-	065060-23
ABP-	
17 JUL 2023	
Fee: €	220 type: CASH
Time: 10:25	By: HAND



**James McInerney,  
Planning Consultant**

on behalf of Newcastle Glebe Management Company  
8, Rochford Park  
Kill  
Naas  
Co. Kildare  
W91 F8P5

Date: 02-Aug-2022

Dear Sir/Madam,

**Register Ref:** SD22A/0286  
**Development:** Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works.  
**Location:** Main Street, Newcastle, Dublin  
**Applicant:** Deane and Deane Ltd.  
**Application Type:** Permission  
**Date Rec'd:** 24-Jun-2022

I wish to acknowledge receipt of your submission in connection with the above planning application. The appropriate fee of €20.00 has been paid and your submission is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended). The contents of your submission will be brought to the attention of the Planning Officer during the course of consideration of this application.

This is an important document. You will be required to produce this document to An Bord Pleanála if you wish to appeal the decision of the Council when it is made. You will be informed of the decision in due course. Please be advised that all current applications are available for inspection at the public counter and on the Council's Website, [www.sdublincoco.ie](http://www.sdublincoco.ie).

You may wish to avail of the Planning Departments email notification system on our website. When in the *Planning Applications* part of the Council website, [www.sdublincoco.ie](http://www.sdublincoco.ie), and when viewing an application on which a decision has not been made, you can input your email address into the box named "Notify me of changes" and click on "Subscribe". You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.



**Please note:** If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Crowley  
for **Senior Planner**



**Planning Authority Reg. Ref. No. SD22A/0286**

**Third Party Appeal**

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**For**

**Residential Development**

**at**

**Main Street  
Newcastle  
Co. Dublin**

**for**

**Deane & Deane**



## **Third Party Grounds of Appeal.**

### **South Dublin County Council Reg. Ref. No. SD22A/0286.**

#### **Appeal.**

This is Third Party Appeal on behalf of the Residents of Newcastle Glebe, Peamount Road, Newcastle, Co. Dublin, against the Decision of the Planning Authority of South Dublin County Council by Order No. 0716 dated 22-Jun-2023 to Grant Permission subject to 30No. Conditions for development consisting of:

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

Condition No. 13 Roads g. states:

*Prior to occupation of the development hereby permitted, pedestrian and cycle links to the adjoining Newcastle Glebe housing development shall be implemented.*

*Reason: In the interest of safety and sustainable transport.*

This Appeal is against the Decision to Grant Permission and not solely in respect to Condition 13 Roads g.

Newcastle Glebe is located north of the Site. A Third-Party Observation was submitted on behalf of the Residents of Newcastle Glebe objecting to the provision of a vehicular and pedestrian access through their estate and the laying of a foul sewer within their estate to serve the proposed development without the required consents and rights to do so. Newcastle Glebe was developed circa 2006 and consists of owner occupier dwellings with families and a Creche. Newcastle Glebe is a well maintained and settled estate, with a unique courtyard open space. The Residents have no objection to the provision of new homes on the site to the south of Newcastle Glebe, Newcastle.

#### **South Dublin County Council Development Plan 2022-2028.**

The Application was consideration under the South Dublin County Council Development Plan 2022-2028. The Site is located within an area with Zoning Objective 'RES-New' – *To provide for new residential communities in accordance with approved area plans.* Under this Zoning Objective the proposed development is 'permitted in principle', subject to compliance with the policies and objectives of the Development Plan. The site is surrounded by different zoning objectives:

Newcastle Glebe Estate – 'RES Existing' – *"To protect and improve residential amenities"*.

North and part east of Estate– 'RU' – *"to protect and improve rural amenity and to provide for the development of agriculture"*.

South of Estate– 'VC' *"To protect, improve and provide for the future development of Village Centers"*.

Reference No. SD-C195-134 refers to an unsuccessful Stage 2 SDCC Draft Development Plan submission requesting rezoning of Zoning Objective 'RU' rural lands at Peamount Road, Newcastle to Zoning Objective 'RES-N' lands. This proposal will most certainly be resubmitted when the current development plan comes up, for review. It is possible that should permission be granted for the proposed development it will be utilized to facilitate access to the currently 'RU' zoned lands, resulting in Newcastle Glebe forming part of a large housing development sometime in the future should rezoning be successful. Hence, the wishes of the Residents of Newcastle Glebe, requiring their settled estate to remain intact is paramount.

#### **Newcastle Local Area Plan 2012-2017 extended to early 2023 and expired on 7<sup>th</sup> April 2023.**

##### **Objective PN7**

*Require the provision of a connection between the permitted residential development to the rear of St. Finian's Hall with Newcastle Glebe in the form of an extended vehicular cul-de-sac. An extension of duration of permission for development to the rear of Saint Finian's Hall should only be granted where it provides a direct link with Newcastle Glebe.*

The Residents Observation to the planning authority express concerns in relation to access from the site to Newcastle Glebe. The SDCC Planning Report responded by stating:



*Some concerns are expressed by third parties in relation to the connection. The Planning Authority notes that the LAP was subject to public consultation and the connection is clear in the Plan, both in text and diagrammatically presented. Concerns are raised in relation to the implementation of the vehicular connection and sufficient legal interest. The street in Newcastle Glebe appears to be Taking in Charge, however, third parties have questioned same. Further information required.*

The NLAP came into existence after the residents purchased their dwellings and it cannot be expected that they would have studied the Plan in detail when it was introduced and have spotted the above Objective. It is disingenuous of the planning authority to expect members of the public to be fully aware of the contents of the Plan in detail, in particular circumstances where there was no condition attached to any permission for such access. The NLAP has expired together with the above Objective.

### **Planning History for Newcastle Glebe, Peamount Road, Newcastle, Co. Dublin.**

The following Grants of Permission have been availed of and which are relevant to the current application.

#### **Reg. Ref. No. S00A/0919 & ABP PL06S. 131390**

Grant of Permission by Order of An Bord Pleanála dated 10-December-2004 to Tenbury Developments Ltd for development consisting of:

106no. residential units comprising 34no. two and three bed two story terraced units, 20no. two bed apartments in 3no. two story blocks, 42no. 3 bed apartments in 5no. 3 storey blocks and 10no. dormer bungalows including all associated development works and public open spaces on the site of 6.1 acres locations as Hynestown, Newcastle, County Dublin with access of the Lucan Road for Tenbury Developments, subject to 21No. Conditions. The Appeal was by the First Party against Conditions of the Decision and by Third Parties against the Decision to Grant Permission by SDCC.

Condition No. 1 states:

*The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by further information received by the planning authority on the 15th day of May, 2003, the 15th day of November, 2003 and the 2nd day of February, 2004, except as may otherwise be required in order to comply with the following conditions.*

There was no **specific** condition in the Grant of Permission by An Bord Pleanála requiring future access through the approved development to lands south of the development. Neither did the Board insert Condition Nos. 2 and 5 or similar as did SDCC in their Decision to Grant Permission as set out hereunder.

Condition No. 2 of Decision stated:

*Prior to commencement of development, the applicant is requested to submit for the written agreement of the Planning Authority, the following alterations to the proposed development.*

*d) The pedestrian access between housing units number 16 and 17 shall be omitted from development and the applicant shall revise units to make better use of this space the potential to extend road 4 into the lands to the South of the site will allow future access there.*

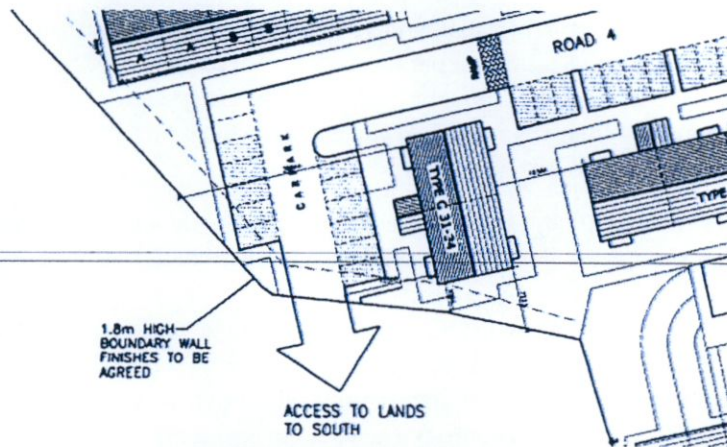
Condition No.5 of Decision stated:

a) *The provision of future access from road number 4 to the land to the South of the side will require the applicant to revise road 4 so that a 6 metre radius curb is provided at the 90 degree turn which will result in the loss of two number car parking spaces.*

b) A Revised Site Layout Plan was submitted under Clarification of

A Revised Site Layout Plan was submitted under Clarification of Additional Information (copy attached to this Observation), with extract hereunder showing a cul-de-sac at Road 4.





Extract from Approved Site Layout Plan showing cul-de-sac at Road 4.

The Site Layout Plan bears the following relevant notations:

'Access to lands to south' and '1.8m high boundary wall finishes to be agreed'.

**Note:** The life of the above permission has expired, together with the appropriate period for taking of enforcement action in respect to any aspect of the development not carried out in accordance with the grant of permission, i.e., 09 December 2009 and 08-December 2016 respectively.

**Reg. Ref. No. SD05A/0265.**

Grant of permission by Order dated 01-Dec-2005 to Tenbury Developments Limited for development consisting of:

This application is sought as requested by Condition No. 3 of An Bord Pleanála decision Ref: PL 06S.131390 (Planning Reference S00A/0919) for 20 no. two storey semi-detached and terrace houses with associated site development works and landscaping on a site located at Newcastle North, Newcastle, Co. Dublin with access off the Newcastle / Peamount Road.

**Reg. Ref. No. SD06A/0914.**

Grant of permission by Order dated 05-Feb-2006 to Maplewood Homes Ltd for development consisting of:

Alterations to a previously approved two storey creche building, (Planning Ref. No. SD05A/1048), to include a change of orientation of the building, minor alterations to elevational treatments, internal layout alterations and associated alterations to external areas and drainage.

**Comment.**

There is no **specific** condition attached to the Grant of Permission by An Bord Pleanála (PL 06S. 131390) requiring that future access be made available to the lands south of the site. In addition to the plans and particulars submitted to SDCC, the Board would also have had knowledge of the internal reports on file with SDCC and of the wording of Condition Nos 2 and 5 attached to the Decision.

Conditions of the SDCC Decision required specific works to be carried out to facilitate the potential of an access to lands to south of the site. It should be noted that the erection of a boundary wall was not specified in said works. A boundary wall was erected at the cul-de-sac to (Road 4) Glebe Square. When the residents purchased their homes and had view of the boundary wall erected on the site, they would have justifiable considered that the estate was a cul-de-sac ed enclosed estate with no through traffic. They would have considered that the estate would be a safe environment for children because its internal roads would not be continued beyond the boundaries of the estate.



Boundary Wall at end of Road 4 Glebe Square.



The residents were of the view that the estate boundary wall would remain as such in perpetuity. Their view was reinforced when a planning application for permission was lodged for a residential and commercial development on the lands to the south, without any vehicular/pedestrian access through Glebe Square (see details below). It's highly unlikely that the residents would have in fact carried out a thorough examination of the planning file in relation to their new homes.

Condition No1 requires the development to be carried out in accordance with clarification of additional information, i.e., the plans and particular submitted referred to the provision of an access to lands south of the site.

Condition No.2d) required works to be carried out so that there would be better use of space for the **potential** to extend Road 4 into the lands south of the site.

Condition No. 5a) requires also required works to be carried out so that there would be better use of space for the **provision** for future access from Road 4 into the lands south of the site.

As such, Condition Nos 2d) and 5a) only required works to be carried out solely to facilitate **potential/provision** of access to the lands south of the site. Such works as specified in the wording of the permission did not refer to boundary treatments around the perimeter of the site such as the erection of a boundary wall which would prohibit access to lands south of the site.

The Planning Authority having considered all the plans and particulars submitted with the application originally, with further information, with unsolicited additional information and with clarification of additional information did not consider it necessary to insert a **specific** condition in the grant of permission requiring a vehicular access be provided from the site to the lands south of the site if required in the future.

A boundary wall was erected prior to the completion of the development and has existed for approximately 15 years, this boundary wall now hinders vehicular and pedestrian access to the lands south of Glebe Square. The Manger's Order under Point 2d) stated:

*The applicant has shown that all roads continue up to the boundary of the site it is clear for people who move into these houses, that these roads will continue on to other sites in the future. This is acceptable.*

When the residents of Newcastle Glebe moved into their new homes, they found that a boundary wall had been erected within the site itself, bounding agricultural lands to the south and west. Whatever, about the Manager's Order taking a view that the approved site layout would indicate to perspective homeowners that the cul-de-sac would eventually be used for access to lands to the south, that view has proved to be incorrect.

Off-street car parking on Glebe Square adjacent to the boundary wall is perpendicular to the road and therefore, the boundary wall will also have to be reduced in height for the provision of vertical sightlines for vehicular traffic exiting the proposed development.

### **Relevant Planning History on the Site, Main Street, Newcastle.**

#### **Reg. Ref. No. SD09A/0489 & ABP Reference No. PL06S.237646**

Grant of Permission by Order of An Bord Pleanála dated 28-March-2011 for development consisting of:

- (1) a nursing home comprising 64 bedrooms in a two-storey block forming an enclosed courtyard together with ancillary accommodation including reception area and toilets, four staff bedrooms, two offices, a kitchen and two dining rooms, four number sitting rooms, four number assisted bathrooms, four treatment rooms, two nurses stations, prayer room, two number activity rooms, bin store, laundry, plant rooms, cleaner stores, staff room/dining room, staff changing room and stores; (2) surface car parking for 24 cars; (3) demolition of Oakville House; a two-storey house of 295 square metres and adjoining garage of 50 square metres; (4) a new access road, 240 metres in length approximately, together with footpaths, drains, landscaped areas; (5) a new vehicular and pedestrian entrance from Main Street, Newcastle; and (6) surface water attenuation area together with all ancillary site works on a site of 1.1918 hectares at Oakville House, Main Street, Newcastle, County Dublin for Liam Butler.

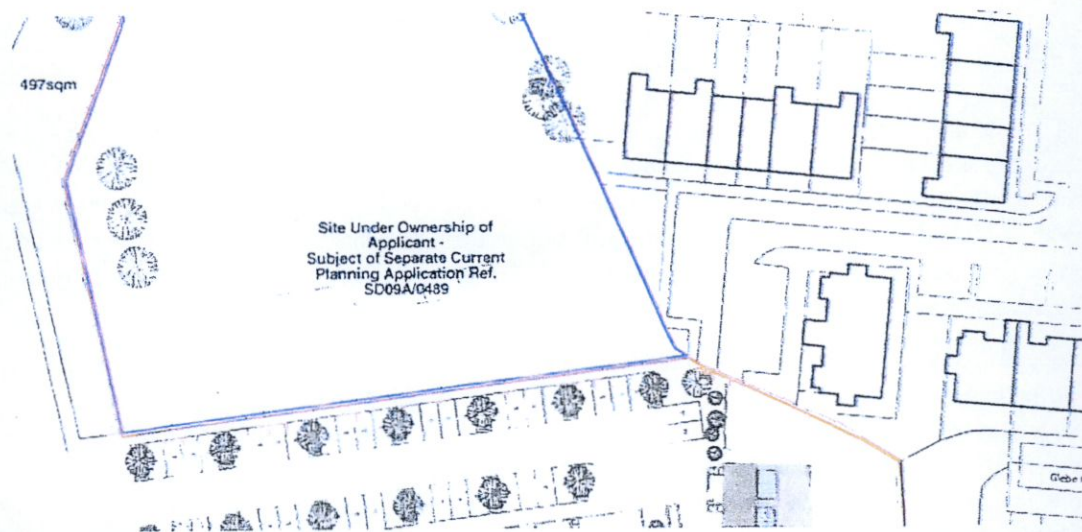


**Reg. Ref. No. SD10A/0017 & ABP Reference No. PL06S.237827**

Grant of Permission by Order of An Bord Pleanála dated 30 June 2010 for development consisting of:

(1) 1 no. two-storey block on Main Street comprising a 469sq.m. medical suite at ground floor level comprising 2 no. medical units, 1 no. pharmacy retail unit, bin store and 4 no. apartments at first floor level (3 no. 2- bed and 1 no. 1-bed) with balconies to the north, south and west elevations; 3 no. two-storey terraced blocks to the south of the site containing 11 no. split-level houses (3 no. 2 bed units with first floor terraces and 8 no. 3-bed units.) 1 no. two- storey terraced block to the east of the site containing 11 no. houses(9 no. 2 bed and 2 no. 3 bed); 1 no. block containing 14 no. split-level houses with first floor terraces (7 no. two-storey, 2 bed and 7 no. three-storey 3-bed houses), 4 no. two-storey 2-bed duplex units with first floor terraces and 12 no. apartments (6 no. 2-bed and 6 no. 1- bed) over three storeys with access deck to the east and balconies to the west elevations; (2) demolition of Oakville House, a 2-storey house of 295sq.m. with adjoining garage of 50sq.m. and shed; (3) a new vehicular and pedestrian entrance from Main Street, Newcastle; (4) surface water attenuation area and pumping station together with all ancillary site works; (5) a new access road, approximately 320 metres in length, together with footpaths, drains, landscaped areas and a hard surface track approximately 80 metres in length to service the attenuation area; (6) surface car parking for 110 cars at Oakville House, Main Street, Newcastle for Mr. Liam Butler.

An Extension of Duration of Permission was refused by Order dated 14 March 2016 under Reg. Ref. No. SD10A/0017/EP. The life of the above permissions has now expired without any development having been carried out.



Reg. Ref. No. SD10A/0017 Extract from Site Layout Plan submitted as Further Information, also indicates the site of the application for a Nursing Home under Reg. Ref. No. SD09A/0489 and their relationship with Road 4 Glebe Square.

**Planning Application for Permission to Planning Authority Reg. Ref. No. SD22A/0286.**

Permission was sought on 24-June- 2022 for the proposed development and was subject to a Request for Additional Information on 18-Aug-2022 and the seeking of Clarification of Additional Information on 03-Apr-2023. The lodgement of the Additional Information was not considered as Significant Additional Information and therefore the Residents of Newcastle Glebe were statutory barred from the making of a further Observation, even though their objection to the proposed development was part of the Request for Additional Information. This Appeal is the only procedure now open to the Appellants for challenging the averments made by the planning authority and Applicant, other than seeking a judicial review. The Board are requested to give due weight to the averments made in these Grounds of Appeal.



**The Site.**

The Site is located north of Main Street and southwest of Newcastle Glebe, which is accessed off the Peamount Road. The Site Location Map exhibited below, submitted with the application indicated the Application Boundary and Applicant Ownership.



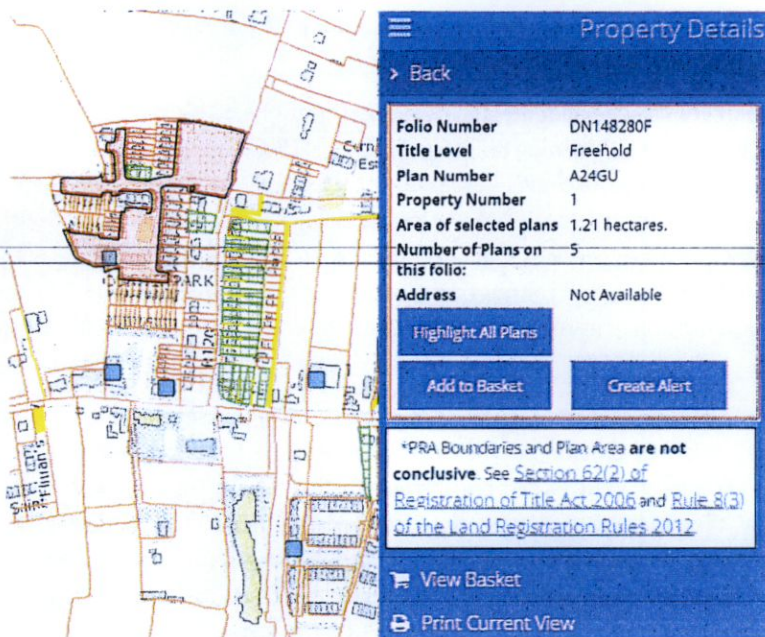
Extract from Site Location Map

The red line boundary of the proposed site includes 2No. narrow width and longitudinal length strips of land to the north of the Site which are not within the ownership of the Applicant.

The western strip of land is in the ownership of a Mr. Liam Butler, who by Letter of Consent submitted with the planning application dated 26<sup>th</sup> May 2022 gave permission to the Applicants to use the Wayleave marked in green on an attached map. The Wayleave was required to facilitate the disposal of surface water from the proposed development.

The eastern strip of land encroached into Newcastle Glebe, for the purpose of facilitating the connection of the proposed foul sewer to the existing foul sewer located in Newcastle Glebe and removal of existing boundary wall separating the Site from Newcastle Glebe. Newcastle Glebe was developed by Tenbury Development Ltd, who are in liquidation and is presently under the administration of Newcastle Glebe Management Company since 2006. As NGMC has maintained the estate for a period in excess of 12 years they can invoke possessory title to the lands registered. Below is a snapshot from the Property Registration Authority of Ireland Website indicating that the roads, open space and curtilage of a Crèche are contained in Folio Number DN148280F. Attached to this Appeal is the Land Registry Sealed and Certified Copy Folio (& Filed Plan). On Page 5 of the Folio Part 2 – Ownership, the full owner is Tenbury Developments Limited (Limited Liability Company). Neither Tenbury Developments Limited nor Newcastle Glebe Management Company gave consent to the making of the planning application and/or the laying of the proposed foul sewer and removal of existing boundary wall to facilitate vehicular/pedestrian access.





Extract from Property Registration Authority Website for Newcastle Glebe

**Land Registry**  
**County Dublin** **Folio 148280F**  
**Part 2 - Ownership**

Title ABSOLUTE

No.	<b>The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965</b>
1	03-APR-2001 Tenbury Developments Limited (Limited Liability Company) of D2001DN009661X 46, Temple Road, Dartry, Dublin 6 is full owner.

Extract from Page 5 Folio 148280F

A Third-Party Observation was also submitted by Brian Phelan of Access Property Services, for and on behalf of Newcastle Glebe Management Company CLG, who stated "that they have operated and maintained the common areas for the development since the development was completed over 15 years ago". The Observation also states that:

*"We have not been informed of any planned construction on the above. Nobody communicated or informed us by any medium and we certainly have had no request to remove or boundary wall in Newcastle Glebe. It's not within their rights to interfere with our property nor has our permission sought or any discussion entered regarding same".*

A further Third-Party Observation was submitted by Rafferty Jameson Solicitors on behalf of the Newcastle Glebe Management Company stating:

*"The applicant is seeking to demolish a wall and create a vehicular and pedestrian entrance through our client's property. The applicant has never consulted or saw permission from our client to do this. Our client does not consent to the demolition of the wall to create a new entrance through Newcastle Glebe Estate. The applicant has no right to create an entrance to their property via our client's property. The applicant also has no right to access their property via our client's property".*

And

*"This planning application is a blatant breach of third-party property rights. Permission may be granted for this development but same does not confirm a right to interfere with third party property*



*rights. The residents of Newcastle estate have constitutional rights and legal rights acquired under the terms of their long-term leases”.*

The particulars submitted with the application includes a Certificate Ref: TIC/9187/2022 dated 03/06/2022 from Roads Maintenance, Land Use, Planning & Transportation, SDCC, certifying that the Roads and Services within Newcastle Glebe are in charge of South Dublin County Council. The Watermains Network and Foul Sewer System were taken in charge by South Dublin County Council, are maintained by South Dublin County Council and that ownership of these services resides with Irish Water. This letter/certificate is solely in respect to the Taken-in-Charge of Newcastle and cannot be construed as regards to the giving of consent to the making of the planning application, the removal of the estate boundary wall and/or the authority to connect to the foul sewer system.

The assessment of the Application by the planning authority placed no weight on the third-party observations. Initially, the planning authority sought additional information and the Applicant replied that the information now being sought was in fact lodged with the application. As such the Applicant gave no new additional information. Surprisingly, the planning authority then dropped the issue because “*Roads Department confirmed that the wall that the wall is taken in charge*”. Both the Applicant and the planning authority are replying on the Taken-in-Charge Letter as to the giving of consent to the making of the application and the authority to carry out the demolition of the boundary wall and the laying of the proposed foul sewer.

The issue of the assessment of the application by the planning authority and of Property Rights v Taken-in-Charge are addressed hereunder in more detail below.

### **Newcastle Glebe.**

Newcastle Glebe is a small residential cul de-sac estate comprising of 84No. residential units and a Cocoon Childcare Facility. The estate was development circa 2006 and most of the families living there are the original occupiers. Such residents have an emotional attachment to the place as it has people friendly streets and spaces.



**Newcastle Glebe, Peamount Road, Newcastle, Co. Dublin.**

The estate has a unique character with a well-designed courtyard type public open space in Glebe Square, overlooked by houses on all its four sides providing passive supervision of young children playing at all times. Glebe Square has created an intimate enclosure that adds to the character and distinctiveness of the estate. The front doors of all the houses face the streets thus creating active frontages.

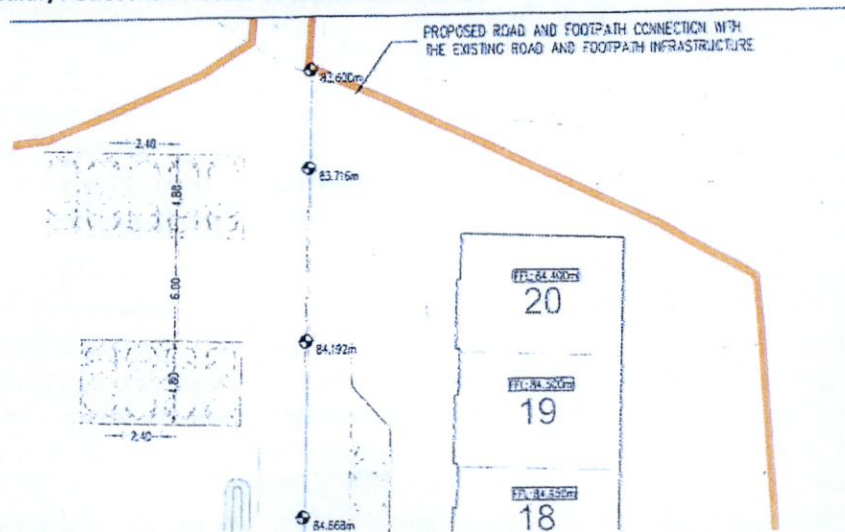
Most of the streets terminate in cul-de-sacs which have not given rise to crime or anti-social behaviour. The streets are of short lengths and are not heavily trafficked thus allowing the roads to be shared by cars, cyclists



and pedestrians. Traffic speeds throughout the estate are controlled by the layout rather than speed humps. Residents feel safe in the estate and have established a routine for walking or cycling to the public facilities in the village. The new road in the proposed development will create a long length of road, this will encourage drivers to increase speed along said road and will maintain such speed through Newcastle Glebe.

The proposal to allow vehicular traffic from the proposed development enter and exist via Glebe Square will have an adverse impact on how this routes currently operates. Additional traffic movements through Glebe Square will discourage children playing on the courtyard open space. Creating a new through road linking Main Street with Peamount Road will create a rat run for vehicular traffic held up along Main Street during school opening and closing times. Main Street is a through route for vehicular traffic from adjoining towns in Co. Kildare for access to the N7 and at morning peak times the traffic is grid locked. The generation of additional traffic movements will be injurious to the residents' amenities contrary to the zoning objective for the estate.

**Proposed Vehicular/Pedestrian Access to Newcastle Glebe.**



Extract from CS Consulting Group - Proposed Road Layout Drg. No. NCA-CCS-ZZ-DR-C-0004, originally proposed.

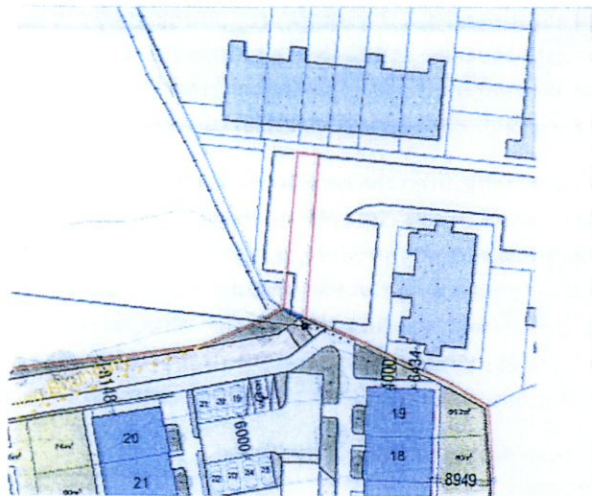
There is no notation on the above plan to indicate that it will be necessary to remove all of an existing boundary wall and possibly to lower part of said boundary for the provision of vertical sightlines in respect to perpendicular off-street car parking at Glebe Square.

The CS Consulting Traffic Impact Statement makes no mention that an existing boundary wall presently impedes access for vehicular traffic and the provision of adequate sightlines. The Statement ignores the unique courtyard open space in Glebe Square which contributes to the residents using the streets as a shared surface for pedestrian and vehicular traffic and children playing.

Under Additional Information the proposed vehicular access with Newcastle Glen was revised to

- 'Site Access
- Cycle and Pedestrian Only
- Bollards at 1200mm Centres'





Extract from revised Site Layout Plan under Additional Information.

Sufficient details as regards the actual width of the cycle and pedestrian access were not included with the Additional Information, thus the extent of the boundary wall proposed to be removed is unknown. The conditions attached to the Decision are silent as regards requiring details to be submitted. Suffice, to state that the Residents of Newcastle Glebe object to the removal of any part of their estate boundary wall.

The submitted Site layout Plans for the proposed developments indicated only one vehicular access for both developments onto Main Street, Newcastle. No linkage vehicular or pedestrian was indicated with (Road 4), Glebe Square. South Dublin County Council and An Bord Pleanála did not condition the provision of any such linkage. Accordingly, two large scale developments were approved with one vehicular access only and both South Dublin County Council and An Bord Pleanála would have considered same to be in accordance with the proper planning and sustainable development of the area and that the proposed development would not endanger public safety by reason of a traffic hazard. Therefore, it can be concluded that for a smaller scale development such as proposed, but with one vehicular access would also be considered as being in accordance with the proper planning and sustainable development of the area and also would not constitute a traffic hazard.

Accordingly, the residents of Newcastle Glebe are of the view that there are no justifiable planning reasons to bring additional vehicular traffic movements through their settled estate to serve the proposed development when an alternative access is also proposed from Main Street. Presently, the Crèche located within the estate serves now mostly children from outside Newcastle Glebe, which generates additional traffic movement from adjoining areas in the mornings and evenings much to the occasional inconvenience to the residents of Newcastle Glebe.

It can be considered that the making of this application is premature on the grounds that it will generate additional traffic movements in Newcastle, until such time as the traffic study for Rathcoole, Saggart and Newcastle has been carried out in accordance with amended SM6 SLO 1 of the SDCC Development Plan 2022-2028:

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

#### **Proposed Foul Sewer Connection to Existing Sewer Located in Newcastle Glebe.**

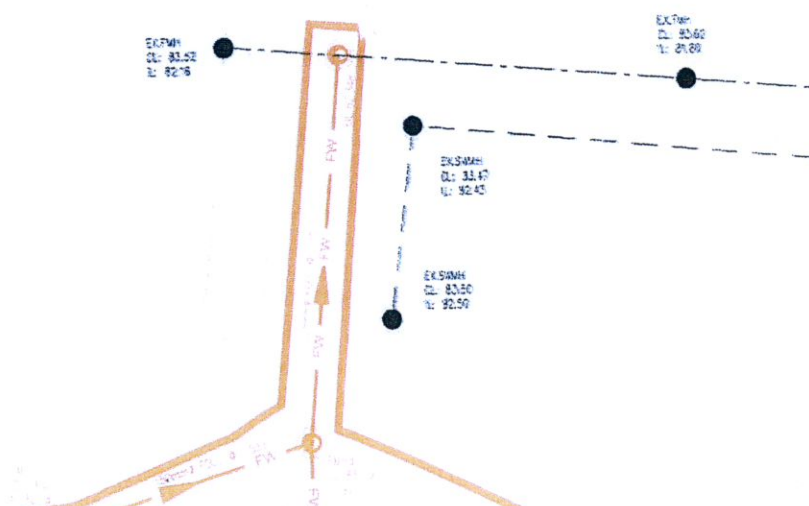
It is proposed to provide for the disposal of foul sewage from the new development via a new 225mm foul sewer to be laid under the boundary wall in question and continue for a distance of approx. 18m under the infrastructure of public road surface within Newcastle Glebe to connect to an existing manhole within Newcastle Glebe. The below extract from the Proposed Drainage Layout drawing indicates the proposed foul sewer from the site boundary to the existing foul manhole within Newcastle Glebe.

The drawing indicates the follows proposed and existing levels for the proposed foul sewer:



Last manhole within site boundary – Cover Level (road level) 83.600 – Invert Level of foul sewer 82.502, Meaning that the bottom of the proposed 225mm dia sewer will be 1.098m below the top of the road surface. Existing manhole within Newcastle Glebe – Cover Level (road level) 83.544 – Invert Level of foul sewer 82.072. Meaning that the bottom of the proposed 225mm dia sewer will be 1.472m below the top of the road surface. In addition, the foul sewer will be laid on a bed of 225mm to 300mm in depth. The thickness of the road infrastructure is 140mm to 180mm bituminous thickness on a subbase of 150mm thickness, overall thickness of 290mm to 330mm.

The above demonstrates that the proposed foul sewer will be below and under the road infrastructure (Taken-in-Charge) and as such will be through the sub-soil lands registered in the ownership of Tenbury Developments Limited.



Extract from Proposed Drainage Layout Drg. No. NAC-CSC-ZZ-Si-Dr-C-0002 CS Consulting Group.

The Letter dated 03/06/2022 from SDCC Roads Maintenance, Land Use, Planning & Transportation Dept submitted with the application stated the following in relation to Foul Sewer System:

*The watermain Network and Foul Sewer System at this location (areas shaded yellow on the attached map) were taken in charge by South Dublin County Council and are maintained by South Dublin County Council under a Service Level Agreement with Irish Water. Ownership of these services now resides with Irish Water under the Water Services Statutory Instruments S.I. No. 13 of 2015.*

Newcastle Glebe Residents accepts that the foul sewer within Newcastle Glebe was Taken-in-Charge by South Dublin County Council, and that the ownership of the foul sewer resides with Irish Water. The NG Observation to the planning authority stated that the Applicant had not demonstrated that the landowner Tenbury Developments Limited did not give their consent to the making of the Application nor to the laying of the proposed foul sewer under the public road.

#### **Consideration of Planning Application Reg. Ref. No. SD 22A/O286 by the Planning Authority.**

The Third-Party Observation on behalf of the Residents of Newcastle Glebe to the Planning Authority pointed out that the Residents were objecting to the removal of the existing boundary wall and the laying of a foul sewer pipe to facilitate the proposed development connecting with an existing foul sewer located within Newcastle Glebe. The Observation also made the following averments:

1. Article 22 (2) (g) of the Planning and Development Regulations 2001-2022 states:  
*Where the applicant is not the legal owner of the land or structure concerned –*  
*(i) the written consent of the owner to make the application, or*  
*(ii) in the case of a proposed development, or part of a proposed development, that is in, on, over or under a public road, written confirmation that the proposed development concerned is to be*



*undertaken by a statutory undertaker having a right or interest to provide services in connection with the proposed development*

2. *The List of Documents submitted with the application do not include the following:*

- *Letter of Consent from the owner of the above north-western strip of land to the making of the application.*
- *Letter of Consent from either the landowner of lands within Newcastle Glebe or the Management Company to the making of the application. South Dublin County Council are not the registered owner of the lands, merely they have the roads and services in charge.*
- *As it is proposed to connect to a foul sewer under a public road, written confirmation that the proposed development concerned is to be undertaken by a statutory undertaker having a right or interest to provide services in connection with the proposed development. The letter produced from SDCC merely advises that the roads sewers and watermains are in charge.*

It would appear that Article 22(2) (g) of the Planning Regulations has not been complied with in full.

The Chief Executive's Report on the Application under the heading Assessment and Permeability noted:

*All streets are designed in accordance with the Street Hierarchy set out in the Accessibility and Movement Strategy of this Plan. It is noted that Objective PN6 requires the provision of a connection between the permitted residential development to the rear of St. Finian's Hall with Newcastle Glebe in the form of an extended vehicular cul-de-sac.*

*The proposed development provides for a vehicular connection to Newcastle Glebe as required by the objective. It is noted that the objective refers to an extended vehicular cul de sac. The proposed development would connect in to the Glebe, however, vehicular permeability to the Main Street is provided and a cul de sac arrangement is not provided. Some concerns are expressed by third parties in relation to the connection. The Planning Authority notes that the LAP was subject to public consultation and the connection is clear in the Plan, both in text and diagrammatically presented. Concerns are raised in relation to the implementation of the vehicular connection and sufficient legal interest. The street in Newcastle Glebe appears to be Taking in Charge, however, third parties have questioned same. Further information required.*

Arising from the above, Additional Information was sought on 18-August-2022, which included:

- Item 2. a). *It is noted that Objective PN6 of the LAP requires the provision of a connection between the rear of St. Finian's Hall (community centre) with Newcastle Glebe in the form of an 'extended vehicular cul-de-sac'. The proposed development provides for a vehicular connection from the subject site to Newcastle Glebe as required by the objective. It is noted that the objective refers to an extended vehicular cul de sac. Vehicular permeability to the Main Street from the Glebe is provided and as such, a cul de sac arrangement is not provided. The applicant is requested to provide an extended vehicular cul de sac arrangement with the Glebe in accordance with Objective PN6 of the LAP. This is likely to require omission of vehicular connection to the Main Street.*
- b). *Concerns are raised in relation to the implementation of the vehicular connection to the Glebe and sufficient legal interest. The street in Newcastle Glebe appears to be Taking in Charge, however, third parties have questioned same. The applicant is required to clarify that sufficient legal interest and relevant consents are in place.*

Agent for the Applicant, in response dated 27<sup>th</sup> February 2023, under Item 2.a) only referred to the connection with Main Street and under Item 2.b) stated:

*It is submitted that the street in Newcastle Glebe is taken in charge and consent was received from SDCC. Please refer to the SDCC Taken in Charge Map and Letter of consent submitted with planning application documents.*

The Newcastle Glebe (NG) Observation clearly set that Newcastle Glebe was Taken-in-Charge. The question raised was, what rights did the Taken-in-Charge confer upon the Applicant to (i) demolish an existing boundary



wall and (ii) to lay a new foul sewer through Newcastle Glebe to connect with an existing foul sewer therein. The letter from SDCC in relation to Taking-in-Charge makes no mention of the wall being in the control of SDCC and makes no mention of consent being given for the laying of the new sewer to connect with the existing foul sewer in charge with SDCC. See Paragraph under the heading Property Rights V Taken-in-Charge, hereunder. As the Additional Information was not declared to be Significant Additional Information, the incorrect perception by the planning authority and the Applicant as regards what the NG Observation set out could not be corrected by way of a further NG Observation.

It should be noted that the Newcastle Local Area Plan lapsed in April 2023, and Objective PN6 requiring a connection between Main Street and Newcastle Glebe has also lapsed. This Objective is not included within the current Development Plan. If the connection was of importance then a similar objection should have been inserted into the Development Plan. The non-provision of the connection can no longer be cited as being contrary to an Objective of any Plan.

The Chief Executive's Report in commenting on the response to Item 2 b). stated:

*The Roads Department has confirmed that the wall is taken in charge. Noted that the access with Newcastle Glebe is no longer proposed as vehicular.*

The Taken-in-Charge Letter/Certificate from Roads Department makes no mention of the wall having been Taken-in Charge. There were 3No. Roads Planning Reports submitted, (i) Application, (ii) Additional Information and (iii) Clarification of Additional Information. The second and third reports are similar as there was only one clarification item for roads comment, 4(e), regarding an autotrack. All three reports made did not include "confirmation that the wall is taken in charge". The three reports are exhibited under the Addendum to these Grounds of Appeal.

The planning authority did not make every effort to full assess and respond appropriately to the concerns raised in the NG Observation supported by documentation from the Property Registration Authority that the Roads (lands thereunder) within Newcastle Glebe are within the registered Ownership of Tenbury Developments Limited. Had the planning authority do so, this Appeal may have been averted.

The Board is requested to note that under Clarification of Additional Information, Item 14 Water Services requested the Applicant to *submit a letter and drawings detailing ownership of land where surface water network discharge pipe is located*. The question arises as to why a similar letter was not required as regard ownership of land where the foul network discharge is proposed. The Applicant submitted the requested documentation under Clarification of Additional Information in respect to the surface water drainage.

Following the decision, the planning authority was pursued to post the Internal Roads Department Planning Reports online as required by regulation. The planning authority advised that three reports were received (i) in the application, (ii) on the additional information and (iii) on clarification of additional information. The reports at (ii) and (iii) are similar. For the purpose of this Appeal Roads Department were queried and in reply stated, "yes the report is similar as there was only one clarification item for roads comment, 4(e) regarding an autotrack". Roads Department were also queried on the averment in the Chief Executive's Order i.e. "Roads Department has confirmed that the wall is taken in charge" and made no comment. Despite the planning authority confirming that "all documentation should be available to view online as requested", only one of the three reports was put up online. The above averment cannot be location on the file.



## Property Rights v Taken-in- Charge.

Both the planning authority and the applicant are under a misperception as regards the Taken-in-Charge Procedure and both displayed no knowledge of the retained property rights of the landowner. In general, the builder/developer/landowner does not lose full control of the property, as ownership of the property does not transfer to the local authority. Also, anyone familiar with the taken-in-charge procedure, would be aware that boundary treatment to roads such as walls or railings are not included as part of the taking in charge procedure. Only areas and services between opposing boundaries are taken-in-charge.

The Observations submitted on behalf of the Residents of Newcastle Glebe raised this matter. The planning authority initially accepted by the planning authority that there was an issue. Additional Information was requested, and the Applicant refused to provide same. The planning authority did not request Clarification of Additional Information in the matter. The planning authority in the making of the Decision to Grant Permission without given serious consideration to the concerns of the Residents of Newcastle Glebe, have rendered themselves liable to judicial review proceedings. For now, the Residents wish to continue to have their concerns addressed by way of this Appeal.

Following the raising of the issue of third-party ownership, the planning authority accepting that a genuine concern had been raised to justify including it in the request for additional information and the Applicant refusing to clarify the matter, planning permission should have been refused in the absence of the necessary consents.

Had the planning authority given serious considerations to the concerns of the residents this appeal may have been averted, the residents would not have been burdened by additional expense and the Applicant would not have a further four-month delay.

An Addendum is attached to these Grounds of Appeal setting out evidence that the roads in Newcastle Glebe have been taken in charge by SDCC, but that the land above and below the road infrastructure is registered to Tenbury Developments Limitation (in liquidation). The estate has been managed by the Newcastle Glebe Management Company for over 12 years and under civil law the Company have possessors title to the land above and below the road infrastructure. The Addendum includes SDCC Taken-in-Charge Policy together with extracts from the policy and appendixes. Nowhere within these documents can reference be found that clearly sets out that boundaries are taken in charge, save a notation above the title block of a 'Sample Drawing Only' indicating the requirements for a Site Layout Plan to be submitted with a taken-charge request. The last item of the notation reads:

***Boundary treatments to roads taken in charge i.e. walls and or railings are not included in and are not part of the taken in charge procedure.***

The Planners and Roads Reports contained within the Chief Executive's Order do not substantiate the bases upon which they assert that the boundary wall in question was taken in charge. The Applicant refused to provide the requested additional information in relation to the wall. The concerns raised by the residents were not given due weight by the planning authority. Resulting in the residents of Newcastle Glebe having been put to unnecessary expense in making this appeal.



## Legislation

### Roads Act, 1993

#### Section 2 Interpretations

"public road" means a public road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority.

"road"

includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and
- (d) any other structure or thing forming part of the road and—
  - (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
  - (ii) prescribed by the Minister;

**Section 11(1) of the Roads Act, 1993** states:

- (a) *A road authority may, by order, declare any road over which a public right of way exists to be a public road, and every such road shall be deemed to be a public road and responsibility for its maintenance shall lie on the road authority.*

**Note:** The roads within Newcastle Glebe are public roads under the control of SDCC and according to the interpretation of "road", boundary walls are not included as being a feature forming part of the road and that infrastructure of the road itself is the road and can be concluded that the sub-soil under the road is not a part of the road.

#### **Planning and Development Regulations, 2001 (as amended).**

Article 22 (2) (g) states:

*Where the applicant is not the legal owner of the land or structure concerned –*

- (i) *the written consent of the owner to make the application, or*
- (ii) *in the case of a proposed development, or part of a proposed development, that is in, on, over or under a public road, written confirmation that the proposed development concerned is to be undertaken by a statutory undertaker having a right or interest to provide services in connection with the proposed development*

**Note:** The Applicant is not the legal owner of the estate boundary wall and has not produced written consent from the owner of the wall to make the application. Such consent would include consent from SDCC as the Applicant alleges the wall has been taken in charge by SDCC.

It is proposed to carry out development under a public road, i.e., the laying of a foul sewer. The application did not include written confirmation that such works would be undertaken by a statutory undertaker having a right or interest to provide services in connection with the development. No statutory undertaker has the right to lay a proposed foul sewer through lands in the ownership of another party, without that party's consent.



## **Planning and Development Act, 2000 (as amended)**

### **Section 3 Development states:**

- 1) *In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

**Note:** The above refers to works 'on', 'in', 'over' or 'under' land'.

### **Section 34(13) states:**

*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*

**Note:** A note was attached to the Decision to Grant Permission advising the Applicant of the above Section 34 (13). The Applicant cannot carry out the demolition of the boundary wall and the laying of the foul sewer solely by reason of a grant of permission. The planning authority had a duty of care to ensure that the Applicant had the appropriate consents, particularly when questions had been raised by third Parties. The planning authority failed in fulfilling their duty by insisting that the necessary consents had been received from the landowner in compliance with Article 22(2)(g) of the Planning and Development Regulations 2001 (as amended). The Board are requested to give weight of this matter within the constraint's relation to property rights, rather than have it decided elsewhere. Once, a third party had raises issues re ownership and consents and where the Applicant refuses to clarify, then permission should have been refused by the planning authority.

### **Section 34 Permission for development.**

Section 34(4)(j) of the Planning and Development Act 2000 (as amended) states:

*Conditions for the maintenance, until taken in charge by the local authority concerned, of roads, open spaces, car parks, sewers, watermains Strength or drains and any other public facility or, where there is an agreement with the local authority in relation to such maintenance conditions for maintenance in accordance with the agreement.*

**Note:** By virtue of the above section planning authorities and An Bord Pleanála are not empowered to attach conditions for to the take-in-charge of boundary walls.

### **Section 180 Taken -in -Charge of Estates.**

Section 180 of the Planning and Development Act, 2000 (as amended) requires planning authorities to commence taken-in-charge of residential estates, taking control of services and public areas being generally the area between opposing boundaries.

*Subject to subsection (7), where a development for which permission is granted under section 34 or under Part IV of the Act of 1963 includes the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, water mains or service connections (within the meaning of the Water Services Act 2007), and the development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject, the authority shall, where requested by the person carrying out the development, or, subject to subsection (3), by the majority of the owners of the houses involved, not later than 6 months after being so requested, initiate the procedures under section 11 of the Roads Act, 1993.*

**Note:** By virtue of the above section boundary walls are not specified as a feature to be taken in charge.



### Commentary on Taken-in-Charge.

"Taken-in-Charge" means that the formal order has been made by the relevant Chief Executive or other designated Official to the effect that the local authority has taken responsibility for the facilities and services referenced in the Public Notice, published in compliance with Section 180 of the Planning & Development Act, 2000 (as amended). Prior to which the developer of the estate was responsible for the provision and maintenance of all roads, footpaths, public areas and services and the bringing of same up to taken-in-charge standard as specified by the local authority. SDCC have a Taken in Charge Policy Document together with Appendices setting out its requirements for the implementation of the taken in charge procedure. The Document and some of the Appendixes are referred to hereunder and included within a separate Addendum Document attached to the Ground of Appeal.

The SDCC Application Check List makes no mention of boundary wall details such as to their location, finish and heights are to be submitted. Under Item 14 of the Check List Boundary Wall Certificate, a letter is required from a Consultant stating all walls within the estate have met the IS 325 standard. The purpose of this letter is to satisfy SDCC that all boundary walls are structurally safe by reason that such walls bound a public road and that they do not present a danger to members of the public.

Once an estate is taken-in-charge, the local authority, receives only the property of the road infrastructure and an undefined depth below the road infrastructure, extending so far as is necessary for the sole purpose of maintaining and preserving the road infrastructure. The depth does not extend for the purpose of laying of any sewers not required for estate itself. The services are vested in the ownership of Irish Water. Members of the public have right of way over public areas.

Under Civil Law, the Developer/Registered Landowner retains property rights to everything above and below the road infrastructure as title does not transfer. SDCC seeks the transfer of title in respect to open space land.

In relation to Newcastle Glebe, the estate was developed by Tenbury Developments Limited, who remain the registered owner of everything above and below the public roads. The estate was brought up to the taken-in-charge standard of SDCC and was formally taken-in-charge pursuant to an executive order. The particulars submitted with the application included a Letter from Roads Maintenance, Lands Use, Planning & Transportation, SDCC, Certificate Ref: TIC/9187/2022. The Letter clearly states that the Roads and Services are in charge of South Dublin County Council. The estate boundary wall which it is proposed to demolish is not specifically mentioned as having been taken-in-charge. In general, SDCC's Policy Document does not mention that boundary walls are taken-in-charge.

SDCC Policy as regards the taken-in-charge of roads states:

*"Public roads including footpaths, street trees, margins, street furniture, underground ducting and generally the area between opposite boundaries".*

Public roads extend to the area between opposing boundaries and do not include the boundary itself.

Accordingly, the Applicant has no legal authority to interfere in any way with the estate boundary wall. The Applicant has not submitted a Letter of Consent from either Tenbury Developments Limited and/or Newcastle Glebe Management Company to the making of the planning application and agreement as regards the demolition of the estate boundary wall.

In relation to the proposed laying of a foul sewer from the site boundary to an existing manhole within Newcastle Glebe (approx. 18m in length), the Application did not include any documentation as regards consent to the making of the planning application and for the carrying of the works. Whereas the necessary documentation was submitted in relation to the laying of a surface water sewer through third-party lands. The planning authority raised no concerns. Both the Applicant and the Planning Authority appear to be under the impression that the Applicant can lay a new foul sewer under the estate road in Newcastle Glebe which has been Taken-in-Charge and connect to an existing manhole which is owned by Irish Water, solely by virtue of that the estate has been taken-in-charge as per Certificate Ref: TIC9187/2022 exhibited above.

Tenbury Developments Limited / Newcastle Glebe Management Company retain their property rights over anything above or below the public roads in Newcastle Glebe. Any works proposed by a third-party such as the



laying of a sewer below the road infrastructure, where such works are not in connection with maintenance or preservation of the public road requires the consent of Tenbury Development Limited.

Under the Public Health Act, 1878 and the Water Services Act 2007 recognises that the sub-soil under a public road could rest with another party and consent of that party is required for the laying of a sewer through the sub-soil under a public road. The landowner is entitled to compensation for the given of consent. The sewer in Newcastle Glebe was constructed prior the commencement of the 2007 Act and therefore the 1878 Act remains applicable to the sewer in Newcastle Glebe. The 2007 Act allows the Minister to make regulations in respect to the procedures and notifications necessary in relation of foul sewers, which do not apply in this instance.

Newcastle Glebe has both estate boundary walls and boundary walls to dwelling where the curtilage of the dwellings is situated to the back of the public footpath/ road. The dwellings are in private ownership in an estate that has been taken-in-charge, is anyone suggesting that a third-party can make a planning application to interfere with a boundary wall to the curtilage of a dwelling without its owner consent. The Applicant in this case is seeking to interfere with a boundary wall without the owner's consent. There is no distinction between estate boundary walls and dwelling boundary walls in the taken-in-charge process, by reason that boundary walls are not taken-in-charge.

The public roads in Newcastle Glebe are taken-in-charge by SDCC. The sub-soil under the road infrastructure is owned by Tenbury Developments Limited, the title of which did not transfer to SDCC. Therefore, the planning authority, An Bord Pleanála and/or Irish Water cannot require the Applicant to lay a sewer through land which the Applicant does not own. The ownership of the land and the foul sewer remain separate. The existing foul sewer existed prior to the Water Services Act, 2007.

#### **Other Matters.**

This is an appeal against the Decision to Grant Permission and therefore the Board will be carrying out an appraisal of the whole of the application. In this regard, the Board are requested to take into consideration the following. The Applicant make three submissions, application, additional information and clarification of additional information. Notwithstanding all of these submissions, internal reporting departments of SDCC are still concerned with aspects of the proposed development and such concerns should have been ironed out prior to the Decision. The Chief Executive's Report highlights the concerns.

#### **Parks Department**

*The report from the Parks Department states "The Public Realm Section has objections in principle to the proposed development on the basis of the significant detrimental impact on trees, hedgerows and biodiversity, the lack of a green infrastructure strategy and lack of integrated SuDS design. The design of the open space is considered to be of poor quality and the applicant has not demonstrated that the play requirements will be met. The proposed development would materially contravene policies and objectives for green infrastructure, biodiversity, sustainable drainage, public open space and play in the County Development Plan and Newcastle Area Plan.*

#### **Water Services Department**

The report from Water Services states "The proposed site does not use SuDS (Sustainable Drainage Systems) to the level that is possible. The surface water drawing does not adhere to the Sustainable Drainage Explanatory Design and Evaluation Guide.

- Surface water is conveyed through the site in pipes underground (until the hydrobrake manhole backs it up into attenuation basin) and this surface water should flow above ground in SuDS such as Swales, open grass routes or other such SuDS.
- Stormtech storage is proposed to attenuation water underground and this is not recommended because it is not a SuDS feature.
- Proposed Swale are too narrow at 750mm the base when the minimum base width required is between 1m and 3m.
- "Lateral Inlet to Kerb Gully" detail provided does not make sense, as gullies are shown to be coming from across the road.
- There is no overflow/exit drainage from swale shown.



*Water services recommend that proposed development be refused because the design has not been shown to comply with the policies and guidelines as outlined in South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide. The surface water drawing does not maximise the use of SuDS for the development and the underground attenuation tanks should not be used to attenuate surface water. Instead, all surface water should be attenuated by means of SuDS.*

#### **Irish Water.**

Irish Water did not refer in any way to the possibility that the Applicant did not have the right to connect to the foul sewer in Newcastle Glebe and other options were considered.

#### **Conclusion.**

The Applicant is relying on the Taken-in-Charge process of the estate as regards authority to implementing proposals to demolish the boundary wall and lay a foul sewer and refused to provide Additional Information as when requested by the planning authority. The planning authority are replying on a report from Roads that "the wall has been taken-in-charge" and are silent as regards the Applicant having the necessary consent as in relation to the laying of the foul sewer. The planning authority were also negligent in not seeking Clarification of Additional Information in respect to concerns of Residents of Newcastle Glebe and when the Applicant refused to supply the requested Additional Information. Extensive research was carried out to be able to demonstrate in these Grounds of Appeal and Addendum that the Taken-in-Charge of Newcastle Glebe does not provide the necessary consents to the Applicant to complete the proposed development.

The public roads in Newcastle Glebe are taken-in-charge by SDCC. There is no evidence that the estate boundary wall in question forms part of the taken-in-charge elements and therefore the Taken-in-Charge alone cannot provide the Applicant with the authority to interfere with said wall. The sub-soil under the road is registered by Tenbury Developments Limited (in liquidation), the title of which did not transfer to SDCC. Therefore, the planning authority, An Bord Pleanála and/or Irish Water cannot require the Applicant to lay a sewer through land which the Applicant does not own. The ownership of the land and the foul sewer remain separate. The existing foul sewer existed prior to the Water Services Act, 2007.


The Planning and Development Act, 2000 (as amended), the Roads Act 1993 and SDCC Policy Taken-in-Charge Document do not reference boundary walls coming within the scope of development to be taken in charge. Boundary walls are not part of a road as road only includes the area between opposite boundaries.

Newcastle Glebe Management Company have possessory title to the registered lands. They alone have the authority in relation to consent or otherwise to the proposal in relation to the boundary wall and the laying of the foul sewer under the estate road infrastructure. Consent has not been given.

The Newcastle Local Area Plan has expired together with its Objective for a vehicular connection with Newcastle Glebe. There is no Objective in the current development plan for such connection. There is no condition attached to any grounding permission requiring that provision be made for any further connection. The onus is on the planning authority and/or An Bord Pleanála to do so in order to avoid ransom strip and the situation that has now arisen.

Parks and Water Services Departments have reservations in respect to aspects of the development.

The Applicant does not have the necessary consents to complete the development as proposed and approved by the Decision to Grant Permission, accordingly the proposed development cannot be considered to be in accordance with the proper planning and sustainable development of the area.

  
James McInerney  
Planning Consultant  
July 2023.



## **Appeal Addendum**

### **Third Party Grounds of Appeal. South Dublin County Council Reg. Ref. No. SD22A/0286.**

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Extract from Property Registration Authority of Ireland Website for Newcastle Glebe

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Third Party Observation from Newcastle Glebe Management Company

Third Party Observation from Solicitors for Newcastle Glebe Management Company

SDCC Certificate/Letter in relation to Taken in Charge

SDCC Manager's Order grounding Taken in Charge

SDCC Roads Planning Report on Application

SDCC Roads Planning Report on Additional Information

SDCC Roads Planning Report on Clarification of Additional Information

SDCC Taken in Charge Process

SDCC Page 3 of Taken in Charge Policy

SDCC Title Block on Sample Map for Taken in Charge

SDCC Procedure for transfer of title of open space to the Council

SDCC Taken in Charge (TIC) Application Check List

SDCC Sample Drawing (Site Layout Plan) for Taken in Charge

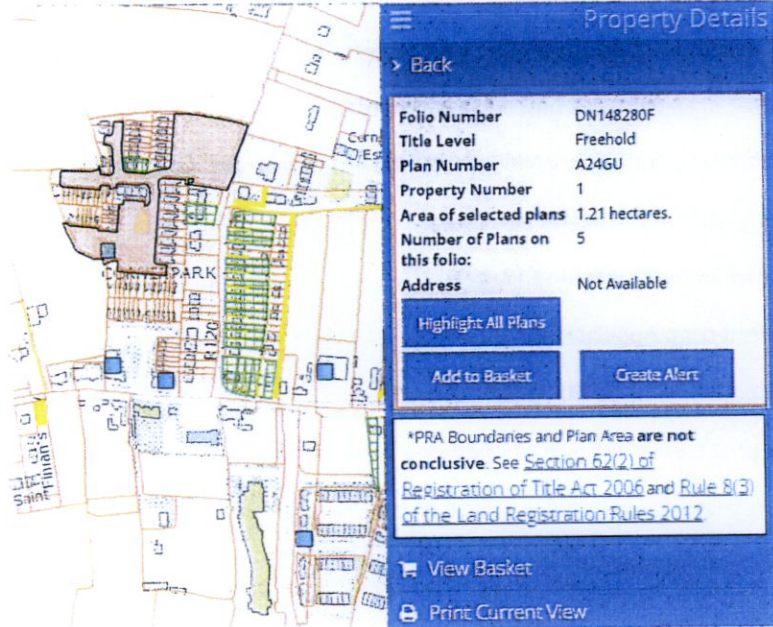
SDCC Taken in Charge Policy

Land Registry Sealed and Certified Copy Filio (& Filed Plan).



**Extract from Property Registration Authority of Ireland Website for Newcastle Glebe**

The area shadowed is registered in the ownership of Tenbury Developments Limited. The Land Registry Sealed and Certified Copy Folio & Filed Plan) is attached to this Appeal.



Extract from Property Registration Authority Website for Newcastle Glebe

**Land Registry**

County Dublin

Folio 148280F

**Part 2 - Ownership**

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	03-APR-2001 Tenbury Developments Limited (Limited Liability Company) of D2001DN009661X 46, Temple Road, Dartry, Dublin 6 is full owner.

Extract from Page 5 Folio 148280F

Note: Even though the Residents of Newcastle Glebe Observation, brought the matter of the above Property Folio to the attention of the planning authority, the planning authority made no reference to the fact that a third party was the registered owner of land included within the site boundary and did not seek letters of consent to the making of the application and the carrying out of works therein. The planning authority took the view that such consent letters were not required by virtue of the estate having been taken in charge.



For ease of Reference copy of Third-Party Observation from Newcastle Glebe Management Company is reproduced hereunder.



Unit 5 The Maieston, Santry Cross,  
Dublin 11 D11W938  
T 01 816 3334  
[info@accessproperty.ie](mailto:info@accessproperty.ie)  
[www.accessproperty.ie](http://www.accessproperty.ie)

South Dublin County Council  
County Hall,  
Tallaght  
Dublin 24  
D24 A3XC

20<sup>th</sup> July 2022

Reference No: SD22A/0286

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

**Name of the person or body making the submission or observation:** Newcastle Glebe Management Company CLG, C/o Access Property Services, Unit 5 The Maieston, Santry Cross, Dublin 11

Dear Sir / Madam,

We are the Managing Agents who are contracted to Newcastle Glebe Management Company CLG. On their behalf we would like to strongly object to the above lodged planning permission SD22A/0286

We have not been informed of any planned construction on the above. Nobody communicated or informed us by any medium and we certainly have had no requests to remove our boundary wall in Newcastle Glebe. Its not within their rights to interfere with our property nor was our permission sought or any discussion entered into regarding same.

In fact they entered our property and erected a notice on our boundary wall.

Newcastle Glebe have operated and maintained the common areas for the development since the development was completed, over 15 years ago.

Please do not hesitate to contact us if you have any queries.

Kind Regards

Brian Phelan

For and on behalf of Newcastle Glebe Management Company CLG

PROPERTY MANAGEMENT • REPAIRS • MAINTENANCE • FACILITY MANAGEMENT • PROJECTS • CONSULTANCY • MANAGEMENT OF COMMONS  
Reg. No. 20760 (2021) Company Registration Number: 42435 (incorporated in Dublin Ireland)  
Access Property Services is a registered business name: 47219 Management Ltd. Registered Office: Unit 5 The Maieston, Santry Cross, Dublin 11. EIR: 01816 3334



For Ease of Reference copy of Third-Party Observation submitted by Rafferty Jameson Solicitors on behalf  
Newcastle Glebe Management Company is reproduced hereunder.

RAFFERTY JAMESON SOLICITORS

Our Ref: NGMC0236  
Contact: Anthony Rafferty  
Direct Phone: [REDACTED]  
Direct Email: [REDACTED]

Planning Department  
South Dublin County Council  
County Hall  
Tallaght  
Dublin 24

25 July 2022

Re: Planning Application for Permission sought for development consisting of demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works at Main Street, Newcastle, Dublin for Deane and Deane Ltd (the Applicant). Register Reference No. SD22A/0236  
Our Client: Newcastle Glebe Management Company (NGMC)

Dear Sirs

We confirm that we are instructed by the above client in relation to the above planning application.

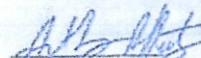
NGMC is the management company for Newcastle Glebe Estate. Our client strongly objects to this planning application for the creation of a vehicular and pedestrian entrance through Newcastle Glebe Estate. The Applicant is seeking to demolish a wall and create a vehicular and pedestrian entrance through our client's property. The Applicant has never consulted or sought permission from our client to do this. Our client does not consent to the demolishing of the wall to create a new entrance through Newcastle Glebe Estate. The Applicant has no right to create an entrance to their property via our client's property. The Applicant also has no right to access their property via our client's property.

This planning application is a blatant breach of third-party proprietary rights. Permission may be granted for this development but same does not confer a right to interfere with third-party proprietary rights. The residents of Newcastle Glebe Estate have constitutional rights and legal rights acquired under the terms of their long-term leases. This planning application would cause them serious personal and financial implications if granted. It would turn a quiet cul de sac into a busy vehicular entrance thereby endangering the lives of all the residents, especially the children who live and play there. It would also devalue the market value of their properties. The proposed development is not in accordance with proper planning and sustainable development for the area.

Rafferty Jameson Solicitors  
27 Upper Pembroke Street  
Dublin, D02 X341  
Tel: +353 012543749  
Email: ara@rjso.com  
VAT No: [REDACTED]

We look forward to hearing from you.

Yours faithfully

  
Anthony Rafferty  
Rafferty Jameson Solicitors



For ease of reference certificate/letter dated 03/06/2022 from SDCC Roads Maintenance, Land Use, Planning and Transportation is reproduced hereunder.



Correspondence to Roads Maintenance, Land Use, Planning & Transportation

Molior Construction Ltd  
Unit 12 Sandyford Hall Shopping Centre,  
Sandyford, D18 K229

Certificate Ref: TIC/9187/2022  
Your Ref.:  
Date: 03/06/2022

**Re: Main Street, Newcastle / Glebe, Newcastle, County Dublin**

Dear Sir/Madam,

In reply to your recent enquiry in connection with the above location, I wish to certify that:

The Roads and Services as shown coloured yellow on the attached Taken in Charge map (ref: TIC/9187/2022) are in charge of South Dublin County Council. Areas shaded blank/gray are not in charge of South Dublin County Council.

The Watermains Network and Foul Sewer System at this location (areas shaded yellow on the attached map) were taken in charge by South Dublin County Council and are maintained by South Dublin County Council under a Service Level Agreement with Irish Water. Ownership of these services now resides with Irish Water under the Water Services Statutory Instruments S.I. No. 13 of 2015.

Please see attached receipt for €88.00.

Yours faithfully,

SENIOR EXECUTIVE OFFICER

South Dublin County Council  
County Hall, Talaght,  
Dublin 24, D24 YNN5

Tel: +353 1 4149395  
Email: [info@southdublincc.ie](mailto:info@southdublincc.ie)

**Note:** Above Letter from Roads Maintenance, Land Use, Planning & Transportation refers to Roads and Services having been Taken-in-Charge and makes no mention of estate boundary wall(s) having been Taken-in-Charge by SDCC. The letter does not include any statement giving consent to the making of the application and laying of foul sewer through third party lands and cannot be considered to be a "Report from Roads Department confirming that the wall is taken-in-charge". A Roads Report is a separate type of document on a planning file reporting on the application.



Manager's Order for the Taken-in Charge of Newcastle Glebe acquired for the purposes of this Appeal.

R/150/13

**COMHAIRLE CONTAE ÁTHA CLIATH THEAS**

**Record of Executive Business and Manager's Orders**

**Re: Taking in charge of The Glebe, Newcastle**

**Developer: Maplewood Developments Ltd.**

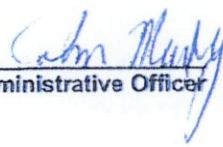
A request to have The Glebe, Newcastle taken in charge was made to South Dublin County Council by Maplewood Developments Ltd.

An inspection has been carried out on the roads (including footpaths and grass margins), services and public lighting and the sum of €39,500.00 was retained from the bond for the satisfactory completion of the list of works for taking-in-charge and the completion of the taking in charge drawings.

The Senior Engineer, Building & Development Control Section now recommends The Glebe, Newcastle be taken in charge.

Drawing No: BC 1395 showing roads (including footpaths and grass margins) coloured yellow is submitted herewith.

I recommend that statutory notice be given of South Dublin County Council's intention to consider the making of a declaration that the roads set out in the schedule overleaf be public roads in accordance with the Roads Act, 1993.

  
Administrative Officer

**ORDER:**

Publication of statutory notice of South Dublin County Council's intention to consider the making of a declaration that the roads as set out in the schedule overleaf be public roads is hereby approved.

**NOTE:**

The above Order refers to an inspection having been carried out on the roads (including footpaths and grass margins), services and public lighting and a recommendation that The Glebe, Newcastle be taken in charge.

There is no mention of boundary walls.



## Roads Department Planning Report on Application.

### Roads Department – Planning Report



Register Reference: SD22A/0286 Date: 13-Jul-2022  
Development: Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works.  
Location: Main Street, Newcastle, Dublin  
Applicant: Deane and Deane Ltd.  
App. Type: Permission  
Planning Officer: SARAH WATSON  
Date Recd: 24-Jun-2022  
Decision Due Date: 18-Aug-2022

Prior to commencement of any works in the public domain, and in order to comply with The Roads Act 1993 Section 13 Paragraph 10, a Road Opening Licence must be secured from South Dublin County Council, Roads Maintenance Department.

#### Description

The construction of 30 no. dwellings on a site of the main street in Newcastle.

#### Access & Roads Layout:

The development has two vehicle access and an additional pedestrian access. The internal roads are link streets and homezones of 5.0m, 5.5m and 6.0m widths. The link road has parallel parking spaces and perpendicular spaces with 6.0m reversing space behind. The development has two vehicular access locations and an additional pedestrian access. The link road through the development to neighbouring Glebe development matches the layout from the 2012 Newcastle LAP. The link to Newcastle Glebe was proposed in a planning application dating back to 2000, shown in Figure 1.

Details of the access to the Main Street have been provided and show visibility lines in both directions. Although the applicant has not demonstrated how parked vehicles in the existing parking bays on the left-hand side will affect the visibility. The layout does not identify how vehicles entering from the main Street will access the development, additional information is required to demonstrate how this will be achieved, i.e., turning lane, yellow box etc.

The applicant has submitted a traffic assessment statement, detailing that the development will have a less than threshold impact on the surrounding road network. Although the existing figures for the surrounding network have not been provided. It can only be assumed the development will have a below impact on the local area. The applicant should provide a traffic impact assessment detailing surrounding roads including the access from the Glebe to Pearmount Road and include future developments on lands to the south of the Newcastle Main Street.

Signed: Cashin Murphy Judith Murphy 07/07/2022

Endorsed: \_\_\_\_\_ DATE: \_\_\_\_\_



Figure 7: Road layout from SDOBA 15/19  
Source: Graham Kerridge Architects, 2019  
DATE



The development has 2.0m wide footpaths throughout. The main link street has provided for on street parking but does not provide cycle facilities. The applicant should demonstrate separate cycling provision as per the most up to date cycle manual and provide any connections for the Cycle South Dublin project in the area.

Permeability:

The applicant has not provided details of the proposed connection to the Glebe Square Development, the existing boundary wall treatment is required. The applicant should provide an elevation detailing this vehicle access location.

A stage one roads safety audit should also be conducted.



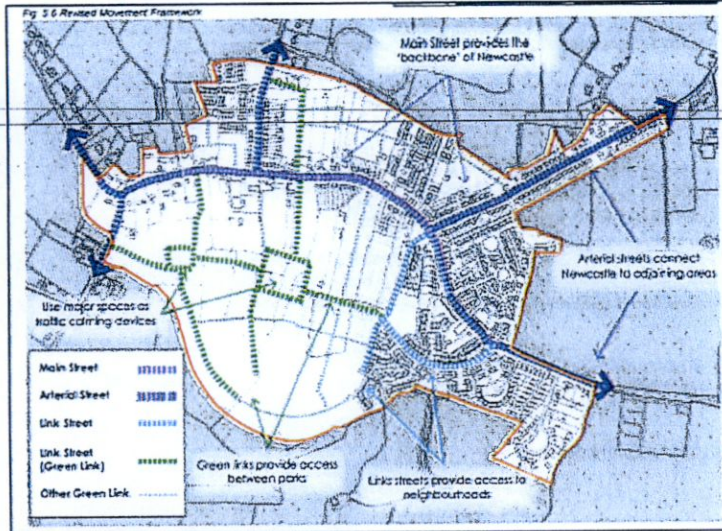


Figure 2 Road's layout of 2012 LAP for Newcastle

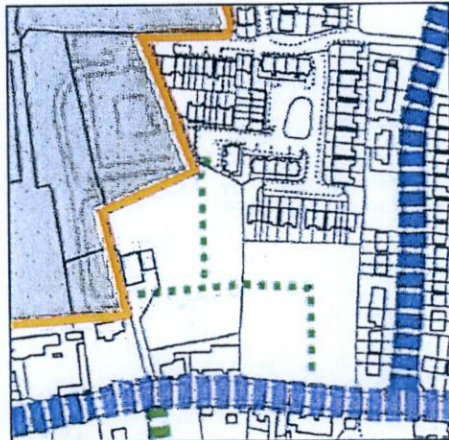


Figure 3 Road's layout from LAP 2012

Signet: Caroline Murphy-Jackson 20/07/2023

Endorser: \_\_\_\_\_

DATE: \_\_\_\_\_



The pedestrian link to the east of the development is described as "potential" in the submission the applicant should confirm if this link is to be provided. If the link is to be provided, then the applicant should ensure a footpath is provided to the back of the parking spaces.

Car Parking:

Car parking is mostly provided in off curtilage locations in banks. The parking allocation drawing notes the parking as private and visitor, but the taking in charge map provided identifies the parking as public. The applicant is required to demonstrate if the parking is to be private or public.

The amount of parking provided is 55no. spaces. The development location has limited public transport options, with access to low frequency bus services. The rate of parking would be within Zone 1 of the development plan, requiring the maximum allowable parking of

2 x 2 bed = 1.5 x 2 = 3 spaces  
28 x 3 bed = 28 x 3 = 56 spaces

59 spaces.

The amount proposed is lower than the max. allowable.

Bicycle Parking:

No provision for bicycle parking has been proposed.

Taking in Charge:

A taking in charge map has been provided. The drawing shows the parking spaces to be offered for public ownership. If this is correct than details of the permeable paving are required showing a concrete strip between every 3 parking bays or 6.0m length of paving, to allow the replacement of the paving in manageable sections.

The applicant has provided a construction and demolition waste management plan and waste management plan, both are acceptable, and a more detailed plan will be required prior to commencement.

The applicant has submitted a Autotrack detailing fire tender and refuse vehicle access. The autotrack identifies a turning location at the north of the development, to allow vehicles enter and exit through the vehicle access at the Main Street to the south.

---

Signed: Graham Murphy, Julian Murphy 26/07/2023

Endorsed: \_\_\_\_\_

DATE



Roads recommend that additional information be requested from the applicant:

1. Prior to commencement a Public Lighting Design for the development must be submitted and agreed by the Public Lighting team of SDCC.
2. Please submit a stage one Road Safety Audit
3. Please submit a revised layout of not less than 1:100 scale, showing accurate visibility splay with 2.4 meters set back, at a 1.05 meter height from ground level and 49 meters sight lines in both directions from the entrance. The visibility shall consider the public parking along the Main Street Newcastle.
4. A revised layout of not less than 1:100 scale, showing boundary walls at vehicle access points limited to a maximum height of 0.9m, and any boundary pillars limited to a maximum height of 1.2m, to improve forward visibility for vehicles.
5. A revised layout of not less than 1:200 scale detailing the permeable paving to be taking in charge, showing a concrete retaining strip between at least three parking bays or 6.0m.
6. A revised parking arrangement highlighting if the parking bays are to be private or public.
7. A traffic assessment detailing the results of analysis of the existing road network capacity, to ensure the development is under the threshold for further analysis. And an analysis detailing the junction capacity of the Newcastle Glebe/Pearmount Road junction, the junction at Main Street/Pearmount Road and the Junction of Athgoe Road/R405, the analysis should include any recent developments to the south of Main Street Newcastle.
8. The applicant shall provide a segregated cycling along the proposed link street, in accordance with the National Cycle Manual.
9. The applicant shall also confirm with Cycle South Dublin any connections to proposed infrastructure in the area.

Signed: Graham Murray, Planning Manager 07/10/23

Endorsed: \_\_\_\_\_

DATE

**NOTE:**

No mention of boundary wall having been taken in charge.



## Roads Department Planning Report on Additional Information

### Roads Department - Planning Report



Register Reference: SD22/A/28631 Date: 13-Jul-2022  
Development: Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Giebe Square, Newcastle and all associated and ancillary site development works.  
Location: Main Street, Newcastle, Dublin  
Applicant: Deane and Deane Ltd.  
App. Type: Permission  
Planning Officer: SARAH WATSON  
Date Recd: 24-Jun-2022  
Decision Due Date: 18-Aug-2022

Prior to commencement of any works in the public domain, and in order to comply with The Roads Act, 1993 Section 13 Paragraph 1G, a Road Opening License must be secured from South Dublin County Council, Roads Maintenance Department.

#### Description

The construction of 30 no. dwellings on a site of the main street in Newcastle.

Signed: Christine Munnis, Assistant Director, Planning

Dated: \_\_\_\_\_



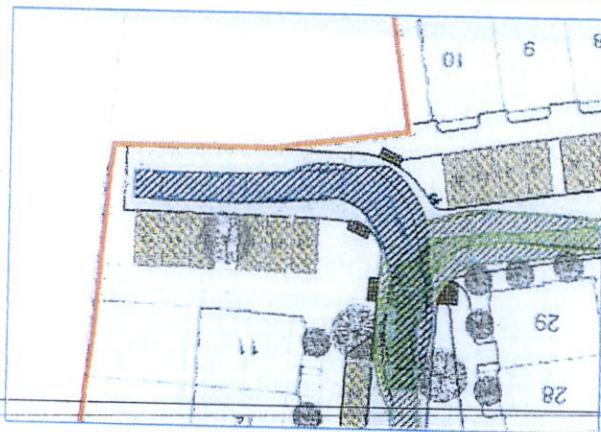


Roads Department - Planning Report

Additional Information Requested by SDC

All item 4 (e) The swept path analysis (CS Consulting drawing NCA-CSC-ZZ-510A-001) does not include access to the roadway north of the Community centre, which we expect will be required to facilitate the transfer and refuse vehicles serving the community centre extension in the future and requires confirmation by the applicant.

Applicant Submitted Response in Additional Information:



Roads Department Assessment:

An audit track has been provided detailing the turning required for a refuse truck and the order that is accepted to the roads department but should be assessed by the Architects department as to their requirements for the community centre.

Approved: [Signature] Date: [Date]



No Roads objections subject to the following conditions:

1. The boundary walls and gates at vehicle access points shall be limited to a maximum height of 0.9m, and any boundary pillars shall be limited to a maximum height of 1.2m, in order to improve forward visibility for vehicles.
2. Prior to commencement of development, a revised layout of not less than 1:200 scale detailing the permeable paving to be taking in charge, showing a concrete retaining curb between visitor spaces and numbered residents' spaces.
3. Prior to commencement of development, the applicant shall also confirm with Cycle South Dublin any connections to proposed cycle infrastructure in the area.
4. EV charging shall be provided in all residential, mixed use and commercial developments and shall comprise a minimum of 25% of the total parking spaces provided. The remainder of the parking spaces shall be constructed to be capable of accommodating future charging points as outlined in SDCC CDP section 12.7.5
5. The applicant shall provide 5% of vehicular parking spaces for mobility impaired users.

---

Signed: Colleen Murray, Acting Manager

Dated: \_\_\_\_\_

**NOTE:**

No mention that the boundary wall has been taken in charge.



## Roads Planning Report on Clarification of Additional Information.

### Roads Department – Planning Report



---

Register Reference: SD22A/0286cai      Date: 13-Jul-2022  
Development: Demolition of 2 sheds and the construction of 30 dwellings; 1 vehicular and pedestrian link with Main Street, Newcastle; vehicle and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works.

---

Location: Main Street, Newcastle, Dublin  
Applicant: Deane and Deane Ltd.  
App. Type: Permission  
Planning Officer: SARAH WATSON  
Date Recd: 24-Jun-2022  
Decision Due Date: 18-Aug-2022

---

Prior to commencement of any works in the public domain, and in order to comply with The Roads Act 1993 Section 13 Paragraph 10, a Road Opening Licence must be secured from South Dublin County Council, Roads Maintenance Department.

#### Description

The construction of 30 no. dwellings on a site of the main street in Newcastle.

---

Signed: Graham Moran, Public Works 20/07/2022

Endorsed: \_\_\_\_\_

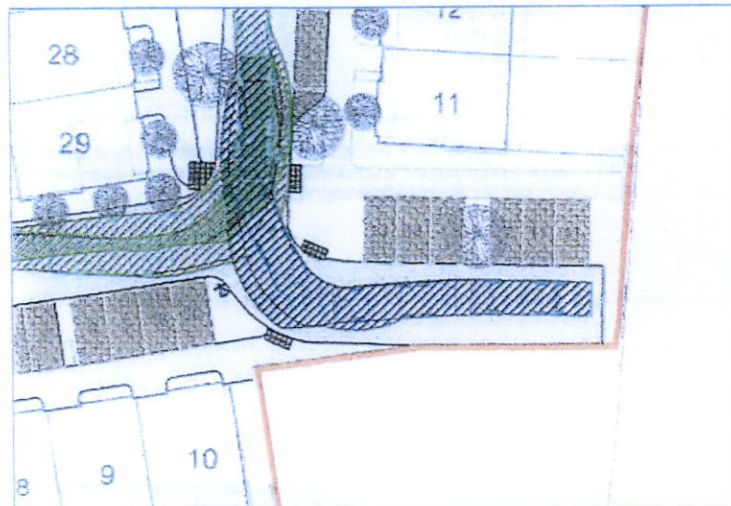
Date: \_\_\_\_\_



**Additional Information Requested by SDCC:**

At item 4 (e) The swept path analysis (CS Consulting drawing NCA-CSC-ZZ-SI-DR-C-0016 ) does not include access to the roadway north of the Community centre, which we expect will be required to facilitate fire tender and refuse vehicles serving the community centre extension in the future and requires clarification by the applicant.

**Applicant Submitted Response in Additional Information:**



**Roads Department Assessment:**

An auto track has been provided detailing the turning required for a refuse truck and fire tender. This is acceptable to the roads department but should be assessed by the Architects department as to their requirements for the community centre.

Signed: Graham Murphy, Planning Manager, SDCC

Endorsed: \_\_\_\_\_

DATE: \_\_\_\_\_



No Roads objections subject to the following conditions:

1. The boundary walls and gates at vehicle access points shall be limited to a maximum height of 0.9m, and any boundary pillars shall be limited to a maximum height of 1.2m, in order to improve forward visibility for vehicles.
2. Prior to commencement of development, a revised layout of not less than 1:200 scale detailing the permeable paving to be taking in charge, showing a concrete retaining strip between visitor spaces and numbered residents' spaces.
3. Prior to commencement of development, the applicant shall also confirm with Cycle South Dublin any connections to proposed cycle infrastructure in the area.
4. EV charging shall be provided in all residential, mixed use and commercial developments and shall comprise a minimum of 20% of the total parking spaces provided. The remainder of the parking spaces shall be constructed to be capable of accommodating future charging points as outlined in SDCC CDP section 12.7.5
5. The applicant shall provide 5% of vehicular parking spaces for mobility impaired users.

Signed: Graham Moran - Planning Manager, 24.07.2023

Dated: \_\_\_\_\_

**Note:**

No mention of boundary wall having been taken in charge.

This Report is similar to Report on Additional Information.

## Extract from the Planning Authority (SDCC) Website in respect to Taken in Charge Process.

[Home](#) > [Services](#) > [Planning](#) > [Commencement and Completion](#) > [Completion](#) > [Taking in Charge Process](#)

Planning ▼

Planning Information  
Leaflets

Online Planning

Development Plan ▶

Planning Applications ▶

City Edge Project

Residential Zoned Land Tax

COVID-19 Arrangements

Commencement and  
Completion ▼

Commencing Planning

Guide to the Building Control ▶

Construction Products  
Regulation

Completion ▼

**Taking in Charge Process**

Taking in Charge Policy-  
Standards

## Taking in Charge Process

### Taking in charge application process

When a residential development is completed in accordance with all the conditions and particulars of the planning permission, the developer may make a written request to the Planning Department to have the estate taken in charge (roads and services). The application may be made using the Councils Taking in charge application form. (Please see accompanying advice on application requirements and specifications for drawings)

The developer will also be required to submit a letter of compliance from a Consulting Engineer stating that all Civil Engineering works have been carried out in accordance with the drawings and specification. If no drawings and specification exist, i.e. they were never submitted as part of the planning process, then the Consulting Engineer will be required to certify and state the standard to which all works have been constructed. A copy of the Consulting Engineers professional insurance indemnity certificate is also required.

Where required the developer will provide the required personnel to assist the local authority staff in checking the information supplied on the "as constructed drawings" or inspecting the site as required. Where it is apparent that a developer, despite guidance provided, has offered services that are not to standard, the costs of inspection etc by Council staff to clarify works required to meet the taking in charge standard, may be charged to the developers security.

Further requirements of the taking in charge process are outlined in the documents below and in the Councils Taking in Charge Policy.

Prior to taking in charge of services developers should note that consideration may be given to reduction/re allocation of part of the security provided in the event that evidence of taking in charge standards is produced and in this regard the taking in charge application requirements should be consulted

Should all requirements be met a recommendation is then made by the Building Control Section to have the roads and services taken in charge. The statutory procedure for taking in charge is then put in place by the Roads Department, in accordance with Section 11 of the Roads Act 1993.

Email: [tic@sduublincoco.ie](mailto:tic@sduublincoco.ie)

### Note:

The above is an item explaining the Taken in Charge Process available on the planning authority website. It refers to the making of a request to have an estate taken in charge (roads and services).

According to the above only roads and services are taken in charge and no mention is made of the taken in charge of boundary walls.



## **1. Taking in Charge Policy: Overview**

### **1.1 Legislative framework**

Section 180 of the Planning and Development Act 2000 (as amended) requires planning authorities to commence taking in charge procedures in relation to residential developments, finished or unfinished, where certain conditions have been met. Section 34(4) (i) of the Act provides the legal basis for a planning authority to attach to a planning permission "conditions for the maintenance or management of the proposed development (including the establishment of a company or the appointment of a person or body of persons to carry out such maintenance or management)".

Key elements of the new framework are as follows:

- Statement of the facilities to be taken in charge by the authority
- Measures to ensure the satisfactory completion of residential [or other use] developments by developers
- Protocol to be followed in response to a request for taking in charge
- Planning conditions relating to management arrangements
- Dealing with requests in relation to older residential estates

## **2. Taking in Charge**

### **2.1 Facilities to be taken in charge**

South Dublin County Councils taking in charge policy involves taking control of the following services and public areas associated with a particular development:

- Public roads including footpaths, street trees; margins, street furniture, under ground ducting and generally the area between opposite boundaries
- Unallocated surface parking areas provided no gate or barrier has been erected
- Public lighting
- Water Mains including sluice valves, air valves and scour valves, hydrants, associated chambers, reservoirs, treatment plants, protection zones and other sundry items
- Foul and storm water drainage (including manholes, or other sundry items), Wastewater treatment plants and associated buffer zones, attenuation systems and outfall pipes to existing network.
- Public open spaces
- Playgrounds, where these are required by condition of a planning permission as facilities for public use (not for exclusive use of development subject of permission)

Page 3 of 25

#### **Note:**

The above is page 3 of SDCC Taken in Charge Policy document.

First bullet point under 2.1 Facilities to be taken in charge refers to public roads as including generally the area between opposite boundaries and therefore does not include the boundary itself. This is in line with the definition of 'road' under the Roads Act, 1993. Boundary walls are not specified as a feature that is taken-in-charge.

## Appendix (9) SDCC TIC

SDCC Title Block of Sample as Constructed Drawing required to be submitted with all applications for Taken-in-Charge.

<p><b>NOTE</b>                  THIS DRAWING DOES NOT CONSTITUTE A RECOMMENDATION TO HAVE THE ESTATE TAKEN IN CHARGE.                  THIS MAP REFERS TO THE TAKEN INTO CHARGE ONLY OF THE ROADS AND SERVICES AS INDICATED IN COLOUR.                  ALL FOUL AND SURFACE WATER SEWERS ARE 225mm DIA UNLESS OTHERWISE STATED. SCALE DIMENSIONS NOT TO BE USED.                  LENGTH OF ROADS ARE AS ON ATTACHED ROAD SCHEDULE.                  BOUNDARY TREATMENTS TO ROADS TAKEN IN CHARGE i.e. WALLS AND / OR RAILINGS ARE NOT INCLUDED IN AND ARE NOT PART OF THE TAKEN IN CHARGE PROCEDURE.</p>																				
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Note at top of title block enlarged.

Note: The last two lines of the title block reads:

*Boundary treatment to roads taken in charge i.e., walls/or railings are not included and are not part of the taken-in-charge procedure.*

The date of the sample drawing is June 2007.



**Procedure for Transfer of title of open space lands to Council in accordance with Planning Act 2000.**

**Required from Developer:**

The developer shall write a formal request letter addressing the Environment Department, Public Realm Planning Section, requesting to have the land taken-in-charge.

Full address to type on the letter:

Senior Executive Parks Superintendent,  
Public Realm Planning and Projects Team,  
Environment Water and Climate Change Department,  
South Dublin County Council,  
Tallaght,  
Dublin 24.

This letter should be accompanied by the following five items in one package:

- (1) an accurate map to Land Registry Requirements( i.e Ordnance Survey map to scale of 1:1000) with lands to be transferred outlined in red thereon, also associated Folio numbers to be written on this map
- (2) evidence of the Vendor's title i.e. copy of Land Registry Folio or copy of Deeds if unregistered land etc.,
- (3) A separate letter of confirmation that the lands being transferred as outlined on the maps are contained within the relevant folios and/ or Deeds.
- (4) Draft Deed of Transfer (with proof of ownership and folio numbers attached)
- (5) As Constructed Drawings (showing all services – particularly where they traverse the open spaces)

**Note:** This document demonstrates that there is a procedure for the transfer of ownership of open space lands to the local authority, there is no procedure for the transfer of ownership of road lands to the local authority. Ownership of road lands are as registered with the Property Registration Authority of Ireland.

## SDCC Taking in Charge (TIC) Application Checklist

If a Developer wishes to have their Development considered for TIC, they must submit the following information/documentation to the SDCC TIC Section:

1. Completed & Signed SDCC TIC Application Form formally requesting the TIC of the Development

### DRAWINGS

2. TIC Drawing highlighting:
  - The areas to be offered for TIC (in yellow)
  - The areas to remain with the Management Company shown hatched (if applicable)
3. As-Constructed Drawing No.1 – Drainage. To include:
  - Foul & surface lines
  - Foul & surface schedule detailing:
    - Manhole locations (Eastings/Northings)
    - Manhole reference numbers\*
    - Pipe diameter, length, gradient
    - Cover levels & Invert levels (Malin Head datum)
  - Water main layout to include pipe sizes, hydrants, valves, stop-taps, etc.
  - Details of attenuation systems (including hydro-brakes) to be maintained by SDCC
  - Details of pumping stations to be maintained by SDCC

*\*Only 'Manhole reference number' text to be displayed on Drawing No.1 (Eastings/Northings/Length/Grade/Etc to be shown on schedule only)*

4. As-Constructed Drawing No.2 – Public Lighting/Utilities. To include:
  - Lantern locations, mini-pillars, ducting
  - Gas lines, valves, etc.
  - Electrical cabling, manholes, ducting etc.
  - Cable TV/Broadband manholes, ducting, etc.

### REPORTS

5. Post-repair CCTV Survey & Report for all foul and storm sewers within the Development
6. Manhole Report for every manhole within the Development
7. Pollution & Cross-Connection Control Report from SDCC Environmental Services Section (indicating compliance with Planning Permission & that the SDCC TIC Standard has been met)



8. **Public Lighting Report** from SIDCC Public Lighting (indicating compliance with Planning Permission & that the SIDCC TIC Standard has been met)
9. **Parks/Open Spaces Report** from SIDCC Public Realm Section (indicating compliance with Planning Permission & that the SIDCC TIC Standard has been met)

---

10. **Completed Irish Water Memorandum of Understanding (MOU)**

11. **Wayleaves Report** (where applicable) to include:
  - Comprehensive legal text clearly documenting details of the Wayleave
  - Accompanying drawing clearly showing area/extents of wayleaves
  - A wayleave in favour of SIDCC over the 2 metre service strip in Cul De Sacs without footpaths
12. **Road Core Test Report:** Cores to be taken at 60 – 70 m centres at opposite sides of road. Locations to be agreed in advance with SIDCC TIC Section
13. **Contact Details** for Site Representative in order to organise manhole inspections
14. **Boundary Walls Certification:** Letter from Consultant stating all walls within the estate have met the IS 325 standard
15. **Fire Hydrant Report:**
  - Verification that all units are within 48m of a Fire Hydrant
  - Verification of minimum hydrant flow rate is exceeded

**Additional Notes:**

- Following the submission and approval of the required information/ documentation as listed above, site visits would then be arranged  
During these visits, SIDCC TIC Section would expect to find only minor defects within the Development, and these would be identified  
A snag-list would then be compiled by the Consultant, and actioned by the Contractor
- Class A Engineering brick with minimum compressive strength of 70N/mm<sup>2</sup>, must be used in the construction build-up for manhole frames and gullies:
  - Between 1-3 courses of brick must be used
  - Frame cannot be set directly on top of 'biscuit'
  - Note: Concrete block, stock brick, hollow brick, etc do not meet the required SIDCC TIC specification
- Developers are advised to have all CCTV and manhole surveys completed and all defects arising remedied, in advance of carrying out wearing course operations on affected roads.

**Note:**

The above check list does not refer to supply of any information in respect to boundary wall such as their location etc. Under Item 14 Boundary Walls Certification a letter from consultant stating all walls within the estate have met the IS 325 standard.

  
James McInerney  
Planning Consultant  
July 2023



Comhairle Contae  
Átha Cliath Theas  
**South Dublin County Council**

**SOUTH DUBLIN COUNTY COUNCIL**

**TAKING IN CHARGE POLICY**

<b>Revision</b>	<b>Date</b>	<b>Initial</b>
0	October 2010	WP
1	October 2017	JC
2	June 2018	WP



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2. Taking in Charge
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  - 4.3 Sample protocol
5. Planning conditions relating to management arrangements
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  - 6.3 Estates satisfactorily completed
  - 6.4 List for estates not completed satisfactorily
  - 6.5 Action in relation to uncompleted estates
  - 6.6 Remedial works by the planning authority
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### Appendices

1. Example of good inspection practice
2. Guidance, Standards etc
3. Sample Bond Agreement
4. Taking in Charge Checklist
5. Standards, Codes and Requirements
6. Roads Minimum Standards
7. COP for Chamber & Gully Top Installations
8. Construction Product Regulations



## **1. Taking in Charge Policy: Overview**

### **1.1 Legislative framework**

Section 180 of the Planning and Development Act 2000 (as amended) requires planning authorities to commence taking in charge procedures in relation to residential developments, finished or unfinished, where certain conditions have been met. Section 34(4) (i) of the Act provides the legal basis for a planning authority to attach to a planning permission "conditions for the maintenance or management of the proposed development (including the establishment of a company or the appointment of a person or body of persons to carry out such maintenance or management)".

Key elements of the new framework are as follows:

- Statement of the facilities to be taken in charge by the authority
- Measures to ensure the satisfactory completion of residential [or other use] developments by developers
- Protocol to be followed in response to a request for taking in charge
- Planning conditions relating to management arrangements
- Dealing with requests in relation to older residential estates

## **2. Taking in Charge**

### **2.1 Facilities to be taken in charge**

South Dublin County Councils taking in charge policy involves taking control of the following services and public areas associated with a particular development:

- Public roads including footpaths, street trees; margins, street furniture, under ground ducting and generally the area between opposite boundaries
- Unallocated surface parking areas provided no gate or barrier has been erected
- Public lighting
- Water Mains including sluice valves, air valves and scour valves, hydrants, associated chambers, reservoirs, treatment plants, protection zones and other sundry items
- Foul and storm water drainage (including manholes, or other sundry items), Wastewater treatment plants and associated buffer zones, attenuation systems and outfall pipes to existing network.
- Public open spaces
- Playgrounds, where these are required by condition of a planning permission as facilities for public use (not for exclusive use of development subject of permission)



### **3. Measures to ensure satisfactory completion of residential [or other use] developments**

#### **3.1 General**

South Dublin County Council will ensure that developers complete residential/ or other use developments to taking in charge standard within the duration of the planning permission (see sections 3.2 – 3.7). This will involve a comprehensive and integrated approach to dealing with the planning process for residential/ or other use development, to include a number of key elements as set out in this section

#### **3.2 Adoption of standards for external works**

It is essential that public roads, footpaths, services and open spaces in residential/ or other use developments are finished by the developer to a standard acceptable to South Dublin County Council for taking in charge and long term maintenance. Appendices to the policy document set out South Dublin County Council's construction and design standards

#### **3.3 Application of standards**

All residential/ or other use developments must at a minimum comply with the standards adopted by South Dublin County Council

Standards as detailed in Appendix 5 cover:

- The construction of roads, footpaths, public lighting, walkways, grass verges /margins, ducting, street furniture etc
- The installation of drainage services and water mains, including a specification of the regime of testing to which these services must conform
- The location of services provided and maintained by other service providers (telephone, cable television, broadband services etc.) in relation to those provided and maintained by the authority
- The quality of planting and seeding of landscaped areas, required treatment of public boundaries such as walls and fences, as well as specifications for particular elements in landscaped areas, such as play equipment, where these are to be provided

#### **3.4 Early identification of the areas to be taken in charge**

Applications for development that may be offered for taking in charge should delineate the area that would potentially fall to be taken in charge on a site layout map or in the case of development to be controlled by a management company that part of the approved development. A condition will be imposed on all development proposals to be granted permission, that before any development commences that the applicant submit a plan for the agreement of the Planning Authority that clearly delineates that part of the approved development to be offered for taking in charge and/or in the case of



development to be controlled by a management company that part of the approved development. This plan must also take into account any revisions required by any other condition of the development. It is envisaged that, generally, certain core services will always be taken in charge and South Dublin County Council will ensure that the design of the approved development will facilitate this by separating the areas/facilities that will be taken in charge from those that will not. Sewers, water-mains & public lighting should not be located under landscaping (other than grass), allocated parking areas, play areas etc. that will not be taken in charge.

Where a proposed development is not to be offered for taking in charge and especially where a gated type development is proposed, it will be an express requirement of the Council that the areas of the development located in the public domain [including the access, any road widening that has taken place, any roundabout or other such junction arrangement and including any associated drainage, public lighting and other associated services] shall be completed to the required standards before any part or section of the development is occupied. The standards and requirements outlined in this document pertain to development to be offered for taking in charge *and* development to be controlled by a management agent/company.

### **3.5 Appropriate planning conditions**

Section 34 of the Planning and Development Act 2000 provides the legislative basis for attaching conditions to planning permissions. Appropriate conditions will be attached to grants of permission for residential/ or other use development in relation to:

- The giving of adequate financial security (S.34(4)(g)) and the length of time the security must remain in place
- The facilitation of inspections by the planning authority
- The phasing of the development, if appropriate (S.34(4)(h))
- The completion of the development in accordance with specified standards
- The evidence to be produced by the developer to demonstrate that the residential/ or other use development has been completed to the appropriate standards (see section 4.2) and the time period for the production of such evidence
- The maintenance by the developer of the residential/or other use development until taking in charge
- The vesting in the authority by the developer, upon taking in charge, of the areas to be taken in charge



### ***Conditions in relation to financial security/bond***

In the case of development, planning conditions will require the giving of sufficient security prior to commencement of development. South Dublin County Council will seek to ensure it is in a position to draw down the security in cases where a developer fails to satisfactorily complete a residential/or other use development, or phase of a development, within the specified period.

Conditions requiring a bond or security will be applied to developments to be taken in charge and developments not to be taken in charge.

Where a development is completed in accordance with the planning permission and the standards set out in this protocol, the security will be released, subsequent to the taking in charge process being satisfactorily complied with. In the case of development not to be taken in charge where such a development is completed in accordance with the planning permission and the standards set out in this protocol the security will be released.

In the event that the development is not in compliance with the required standards as outlined in this document or as required by applicable regulations and standards, the bond/security will be retained in proportion to the value of the outstanding works.

It is a matter for the planning authority to determine both the level of the security and the type of security (e.g. the lodgment of a bond from a financial institution - e.g. bank, insurance company, building society - a cash lodgment or a letter of guarantee from the Construction Industry Federation) that will be required for each development permitted, and what such security provides for. The amount of the security, and the terms on which it is required to be given, must enable South Dublin County Council, without cost to itself, to complete the necessary services (including roads, footpaths, water mains, sewers, lighting and open space etc.) to a satisfactory standard in the event of default by the developer and to provide for any risk liabilities of the Council arising from a developer not adhering to the terms of a permission or completing a development satisfactorily. South Dublin County Council will also ensure that, when using time-limited bonds, the bond is of sufficient duration to allow them time to inspect the development after the expiration of permission or such other time period as may be conditioned in a permission, and still call in the bond if necessary. The local authority will extend time-limited bonds to the extent that an adequate bond is in place at all times in developments where completion works are ongoing.

A security condition must also provide for the recalculation of the amount specified in the condition by reference to the Tender Cost Index (other indices in use by the authority) if the development to which the permission relates is not commenced within a specified period after the granting of the permission. The bond obtained should be applied to carry out any outstanding work where needed to ensure that the development is completed to a satisfactory standard.



Attached as an example at appendix 3 is a sample wording for a bond from a financial institution based on one used by South Dublin County Council.

### **Conditions in relation to phasing of the development**

South Dublin County Council may attach a condition regarding the phasing of the development in order to ensure that residents / owners or occupiers do not have to live in uncompleted developments for lengthy periods.

In devising any phasing arrangement planning authorities will ensure that main sewers, surface water drainage systems, main distributor roads, water mains, public lighting etc., are completed at an appropriate stage so that the first and each subsequent phase will, on completion, be fully serviced and independent in the event of other phases not proceeding or the permission expiring.

Where a development is to be carried out in phases, in the case of drainage specifically, the drainage network will only be made live for that part of the development that is under construction or has been constructed i.e. where drainage services are required. Manholes will be constructed at the intersection of the different phases. The inlet pipe for the next phase may be built into this manhole however the line shall be sealed with concrete at the manhole. When the developer wishes to commence the next phase, the Drainage Maintenance Section shall be notified and a new sewer connection shall be applied for in order to "connect" the next phase that is about to be constructed.

### **3.6 Inspection of construction**

Ensuring that residential/ or other use developments are completed in accordance with the planning permission is an essential part of South Dublin County Council's comprehensive taking in charge policy.

The construction of the development may be regularly inspected by South Dublin County Council to ensure satisfactory completion in accordance with the permission. South Dublin County Council must be satisfied that, when the developer has ceased construction or notified the planning authority that construction is complete, or after the planning permission has expired, that the development is properly completed in line with the planning permission and, where it is not properly completed, to take early and effective enforcement action or retain the bond/security required to achieve completion to the required standards.

### **3.7 Enforcement action**

Enforcement action will be initiated upon receipt of a formal complaint, and pursued if expedient in the case of developments that have not been completed in accordance with the terms of the permission.



#### 4. Responding to a request for Taking in Charge

##### 4.1 Procedure/protocol

A procedure exists for the taking in charge of a development in response to a request from a developer. The protocol adopted sets out each step in the taking in charge process and accompanying time frames. The taking in charge protocol also specifies the documentation/evidence that will be required from the developer to show that the development is satisfactorily completed: a sample list of acceptable evidence is attached at appendix 5.

##### 4.2 Request for Standard Information

Upon receipt of a request for a development to be taken in charge, the local authority will issue the Developer with a copy of a standard letter detailing the information required for taking in charge. The letter will include a sample drawing in PDF/J-PEG format showing details, Conventions and the standard required by the Local Authority.

The developer may also access this information via internet links to the Roads Forward Planning and Building Control section of South Dublin County Council website (<http://planning.southdublin.ie>).

3 no. standard forms are available to download:

1. A standard Taking in Charge request form (TIC Form 1)
2. A standard letter outlining the information required on "as constructed" drawings for Taking in Charge (TIC Form 2)
3. A typical example drawing in PDF format to illustrate the standard and the layout type which is required for taking in charge. (TIC Form 3)

The Developer will **provide the required personnel** to assist the local authority staff in checking the information supplied on the "as-constructed drawings".

The Developer will also be required to submit a **letter of compliance** from a **Consulting Engineer** stating that all Civil Engineering works have been carried out in accordance with the drawings and specification. If no drawings and specification exist, i.e. they were never submitted as part of the planning process, then the Consulting Engineer will be required to certify and state the standard to which all works have been constructed.

A copy of the Consulting Engineers professional indemnity certificate is also required.



#### **4.3 Sample protocol. Example**

(i) Within 2 weeks from receipt of the request for taking in charge, the Roads Forward Planning and Building Control (RFP&BC) Department will acknowledge receipt of the request and the "as constructed drawings" and any way leaves submitted. These drawings must be an accurate representation of the position of all site services and fixtures. The council will not be providing a checking service and all information supplied will inform the TIC drawings. Inaccuracy may lead to objections and ultimately re-submission of TIC applications at considerable expense to the developer.

(ii) Within 12 weeks of receipt of the request for taking in charge, the RFP & BC department will in conjunction with the developer, carry out a comprehensive inspection of the development or phase of development; and notify the developer in writing of all outstanding issues remaining to be addressed in relation to the satisfactory completion of the development.

(iii) The developer will within 12 weeks of receipt of details of outstanding issues from the RFP & BC department, arrange for completion of the said works, and notify the authority when works are completed. If works cannot be carried out within that period the developer must notify the authority as to when the works will be completed.

(iv) The authority will, within 10 weeks of being notified of completion of the works at (iii), arrange for final inspection of the development to determine the satisfactory completion of the said outstanding issues as identified at (ii).

(v) Upon final inspection of the development or phase of the development and satisfactory completion of the works, the roads authority will proceed to take the development or phase of the development in charge, under the provisions of Section 11(i) of the Roads Act, 1993 and in compliance with Section 180 of the Planning and Development Act 2000. All reasonable efforts shall be utilised to ensure that formal procedures are completed for the taking in charge process with minimum delay. On completion of the formal process the planning authority will release that element of the security lodged to secure completion of the works.

(vi) The developer will vest in the local authority (at no cost to the authority) all public areas, including open spaces, which have been designated for taking in charge.



## **5. Planning conditions relating to management arrangements.**

### **5.1 Traditional housing estates**

South Dublin County will not require management companies for traditional housing estates (that is estates of houses with individual private gardens) except in the most exceptional circumstances, e.g. to maintain a specific facility in that estate which is for residents use only (such as a private playground) or in the case of holiday homes.

### **5.2 Multi-unit structures**

Management companies are normally necessary for multi-unit structures (i.e. apartments and/or apartments and duplex houses) of four dwellings or more. In such developments management companies are necessary to maintain:

- *shared exteriors* of buildings: e.g. external walls and roofs;
- *shared internal areas*: e.g. stairways, corridors, lifts and lobbies etc.

Subject to further legislation in this area, provision for property management arrangements (e.g. the establishment and operation of a management company) for developments containing multi-unit structures is made in the legal documentation underpinning the development and the sale of units.

South Dublin County Council will attach a condition in relation to management company/other management arrangements in the case of such structures.

### **5.3 Other instances where it may be appropriate to condition management arrangements**

The circumstances where South Dublin County Council may attach a planning condition requiring the establishment of a management company may include the following:

(a) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain *external private shared facilities* that are exclusive to the development (e.g. *boiler houses, switch rooms, bin storage areas communal private gardens/private open spaces, private playgrounds*), where a management company is considered essential having regard to the nature and scale of such facilities.

(b) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain facilities which though not necessarily inaccessible to the general public, *are not required to be taken in charge, in accordance with this document*, e.g. facilities such as highly landscaped open spaces, allocated car park spaces.



In the case of (a) and (b) above South Dublin County Council may consider whether a management company would be necessary having regard to the extent of the facilities to be maintained and the extent of the maintenance that will be required.

(c) To maintain *holiday home developments*, that is, residential/ or other use developments where planning permission was granted, on the basis that the residential units are holiday homes, or residential developments used entirely for short-term letting.

## **6. Dealing with requests relating to older estates**

### **6.1 General**

The adoption and proactive implementation of a taking in charge policy based on the framework set out in this document, in relation to residential/ or other use developments to be built in the future, will ensure that they are completed in accordance with the planning permission within the lifetime of the permission, or, if they are not, that early enforcement action is taken or the bond is called in, so that the necessary works are carried out promptly. Also, as the prompt production of documents/evidence by the developer to show that the residential/ or other use developments is completed properly will be a condition of the planning permission, there should be no delays in the production of such documentation in the future. Accordingly, in the future the planning authority should be in a position to take in charge residential/ or other use developments more efficiently upon requests to do so.

### **6.2 Assessing/categorising requests**

In relation to those requests for taking in charge estates currently on hand where the planning permission has expired, South Dublin County Council will endeavour to assess the status of such estates. These will generally fall into the following categories:

- Estates which have been completed to taking in charge standard but not yet taken in charge
- Estates which have not been completed in accordance with the terms of the permission and where enforcement action/calling in the bond is still possible
- Estates which have not been completed in accordance with the terms of the permission and enforcement action was not taken within the specified period
- Estates which have not been completed in accordance with the terms of the permission and enforcement action was taken, but was unsuccessful

New requests for taking in charge of estates must be promptly assessed and then dealt with in accordance with the procedures set out below.



### **6.3 Estates satisfactorily completed**

Where an estate is inspected and certified as being completed in accordance with the terms of the planning permission, it will be taken in charge on foot of a request to do so, not later than 6 months from the date of the request.

### **6.4 List for estates not completed satisfactorily**

A list will be drawn up of requests from residents for the taking in charge of uncompleted estates, taking into account such factors as the date of application, the condition of the estate and the length of time it has been left unfinished. New requests for the taking in charge of unfinished estates will be added to the priority list, as appropriate.

All unfinished estates which are the subject of a request to be taken in charge will be kept on this list, including estates where it may be possible to have the estate completed at the expense of the developer, through enforcement action or calling in the bond so that these estates remain on the priority list for remedial works by the planning authority in the event that enforcement action or calling in the bond fails.

### **6.5 Action in relation to uncompleted estates**

Any of the actions already referred to that are still possible in terms of getting the estate completed other than at the expense of the planning authority will be pursued as a priority.

### **6.6 Remedial works by the planning authority**

In accordance with section 180(2) of the Planning and Development Act 2000 and the guidance set out in this document, unfinished estates will have to be taken in charge where the majority of qualified electors residing in the development so request and it follows that where enforcement action or calling in the bond is not possible, or has been unsuccessful, the authority will ultimately have to complete such developments to taking in charge standard subject to the availability of sufficient funding from local authority resources.

### **6.7 Monitoring and review.**

As part of the overall review and update of the local government service indicators, a new indicator in relation to the taking in charge of estates has been introduced.

This provides a benchmark for data in 2009 and subsequent years for monitoring the taking in charge process, and in particular the priority being accorded by individual local authorities to the taking in charge of unfinished or legacy estates.

### **6.8 Other exceptional items**



From time to time exceptional items arise to be Taken in Charge. Such items could include a section of road, a sewer or drain, a park, an attenuation area, a road or pedestrian bridge amongst others. In certain cases, no Bond or other form of security may exist and it may fall on the council to bring the item to Taking in Charge standard at its own expense. In such cases a detailed report will be provided in order that full costs can be determined and inform the council's decision on whether or not to proceed with Taking in Charge procedures.

#### **Appendix 1 – Example of good inspection practice**

The following procedure for inspecting the construction of residential/or other use developments has been adopted by South Dublin County Council.

##### **Example**

- (i) On receipt of the Commencement Notice a Taking in Charge file is opened for each residential/ or other use development;
- (ii) The commencement notice and all requests for inspections and other correspondence arising from the process are formally acknowledged;
- (iii) A calendar of inspections, tied to the projected completion of the development, including such phasing as may be conditioned in the Grant of Permission or agreed by the planning authority, is set out in the Taking in Charge file at the outset;
- (iv) The record of such inspections and/or testing is held on the Taking in Charge file;
- (v) Failure to adhere to programmes, to notify the authority in relation to inspections and testing or other such breaches is referred for Enforcement Action commencing with the issuing of the statutory Warning Notice, copies of which are held in the Taking in Charge file;
- (vi) The record of such Final Inspections and/or Testing is kept on file and the file is retained by the authority for future reference.

#### **Appendix 2 – Guidance, Standards etc.**

All relevant current best practice guidance and relevant codes and standards related to this policy document include

- Guidelines on Quality Housing for Sustainable Communities (March 2007);
- Guidelines for Planning Authorities on Design Standards for New Apartments (September 2007);



- Updated Residential Density Guidelines (Draft Guidelines on Sustainable Residential Development in Urban Areas currently available for public consultation); and
- Guidance in relation to a framework policy for the taking in charge of residential developments by planning authorities (February 2008).
- Current Building Regulations and Building Control Legislation
- The Specification for the Laying of Water Mains (current edition)
- Bye-Laws for the Management of water Services and the Conservation of Drinking Water 2004
- Recommendations for Site Development Works for Housing Areas – Department of Environment and Local Government (1998)
- Traffic Management Guidelines (latest edition)
- Provision of cycle facilities National manual for Urban Areas
- Traffic Signs Manual (latest edition)
- Guidelines and Tender Documentation for Road Marking Materials(latest edition)
- South Dublin County Councils 'Access Audit Brief''
- Latest edition of the WRC (Water Research Council) Sewerage Rehabilitation Manual
- Greater Dublin Regional Code of Practice for Drainage Works (latest edition)
- EN13201:2015 – Road Lighting
- BS5489: 2013 – Code of practice for the design of road lighting (Lighting of roads and public amenity areas)
- South Dublin County Council Public Lighting Specification (latest edition)

### **Appendix 3 – Sample Bond Agreement**

KNOW ALL MEN BY THESE PRESENTS that we:

\_\_\_\_\_ of \_\_\_\_\_ hereinafter called "the Developer" and

\_\_\_\_\_ (hereinafter called "the Surety") are jointly and severally bound unto **THE COUNTY COUNCIL OF THE COUNTY OF SOUTH DUBLIN** (hereinafter called "the Planning authority") in the sum of € to be paid to the Planning authority its Successors and Assigns jointly and severally by these presents.  
**SEALED** this day of 2009.



**WHEREAS THE** Developer has received Planning Permission (planning Register Reference No. refers), a certified copy of which is annexed hereto, for the development of lands for house building at \_\_\_\_\_ and the planning permission has required security to be lodged with the Planning Authority for the carrying out and completion of the development in accordance with the said permission.

**NOW** the condition of the said Bond is that if the Developer shall carry out and complete the said development in accordance with the said permission or if on default by the Developer the Surety shall pay to the Planning authority the sum of €\_\_\_\_\_ then this Bond shall be null and void.

But otherwise it shall remain in full force and virtue until the local authority certifies the permitted development to be completed satisfactorily and in compliance with the planning permission referred to above and without prejudice to its own rights under the said Permission the Planning authority shall insofar as may be lawful permit the surety to perform the conditions and provisions of the said Permission which the Developer shall have failed to perform or observe.

No liability shall attach to the Surety under this Bond in consequence of any delay or damage directly or indirectly due or arising out of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), Civil War, rebellion, revolution, insurrection or military or usurped power.

**THIS BOND** provides that all monies which become due and payable by the Surety under the Bond shall be payable and paid in the Republic of Ireland.

**IN WITNESS WHEREOF** the Developer has hereunto affixed its Common Seal and the Surety has caused this instrument of writing to be signed by its Secretary or Acting Secretary and one of its Directors and its Corporate Seal to be hereunto affixed the day and year first above written.

**CORPORATE SEAL** of (Developers)  
was hereunto affixed in the presence of:

-----  
DIRECTOR

-----  
SECRETARY Dated the day of 2008  
**CORPORATE SEAL** of (Surety)  
was hereunto affixed in the presence of:

-----  
DIRECTOR

-----  
SECRETARY  
Dated the day of 2009



#### **Appendix 4 - Taking in Charge Checklist**

Before consideration can be given to a request for Taking in Charge the following documentation should be submitted:

- 'As Constructed' drawings [Geo correct to Ordinance Survey (OSI), National co-ordinates for location of manholes, hydrants, sluice valves and air valves etc. provided] in Autocad format on disc and hard copy as required. These drawings must show clearly the development, including, water (coloured blue), drainage F/S (coloured red) and S/W (coloured green) and their connection points to the existing services. Public lighting and other utility services are also to be included on the "as constructed" drawings.
- Confirmation by the Architect/Engineer responsible for the development that the works have been completed in accordance with the Planning Permission granted and the current Building Regulations.
- Ordinance Survey (OS) Place maps of appropriate scale, such maps to include folio numbers of lands to be transferred.

#### **Formal taking in charge Checklist**

**Prior to accepting a development for Taking in Charge, the requirements of the following must be inspected and assessed for compliance. Compliance is assessed in accordance with specific codes / standards and requirements as identified in the Taking in Charge Policy and updates thereto. These relate to;**

- Building Standards
- Public lighting
- Roads and footpaths
- Watermains
- Surface Water Sewers
- Foul Sewers
- Open Spaces

#### **Checklist:**

- Is the development an authorised development?
- Is the development constructed in accordance with the planning permission granted?
- Are all development contributions paid in full?
- Are all connection fees paid in full?
- Has a certificate of compliance with planning permission granted been submitted by a suitably qualified person, who holds professional indemnity insurance?
- Is there a management company associated with the development of an area associated with the development?



- Is the Housing Estate Name Agreed with South Dublin County Council in accordance with proper protocol i.e. planning permission provided?
- Has the developer submitted the official translations of the proposed estate / road names together with appropriate digital images clearly showing all such signage in situ?
- Has the Developer submitted a formal request- "Application to have Development taken in charge by South Dublin County Council"?
- Is the application form certified by a suitably qualified person, who holds professional indemnity insurance?
- Has the Developer submitted a copy of the Safety File certified by the Project Supervisor Design Stage, who holds professional indemnity insurance?
- Is there a bond or security lodged with the Planning Authority which will not be released until the satisfactory completion of the works?
- Is there a requirement with regard to wayleaves?
- Has the Developer submitted evidence to the Council that all necessary wayleaves for services are reserved forever in the transfer documentation to house purchasers?
- Has adequate provision been made for access to wayleaves for inspection or maintenance?
- Can the access to wayleaves be kept free of development for inspection or maintenance purposes?
- Should the use or development of land within a wayleave be restricted and any development or change of use be required to be subject to planning permission?
- Has the developer submitted an electronic copy of "as constructed in plan" drawings of the development to the Council?
- Has completed condition survey of the pavement, footpaths, cycle ways and road crossings been submitted?
- Is any necessary fire certification in place?
- Do the drawings indicate the following information:
  - The estate boundary depicted in red
  - open spaces coloured green
  - all roads, footpaths
  - public lights
  - The house numbers clearly identifiable
  - The road nameplates and locations detailed
  - Name Plate at housing estate entrance
  - The details and location of road markings and signage including any traffic calming interventions
  - Road Gully location details
  - Watermains, including sizes and materials, and location of all associated plant, valves, hydrants etc.
  - Foul Sewers, including sizes and materials and location of all associated plant, manholes, AJs, etc
  - Surface Water Sewers including sizes and materials and locations of all plant, tanks, swales, manholes, etc.
  - CCTV Surveys and reports



- Certified Results of strength, pressure and air tests carried out on gravity and pressure sewers and watermains
- The invert and cover levels of all manholes to Malin Head Ordnance Datum, shown in table form off the area of the plan layout map, priority given to the main drainage.
- The gradients of all sewer sections indicated on the drawings
- Telecom ducts/poles, junction boxes
- ESB ducts/poles, junction boxes
- Cablelink ducts and all manholes.

***For office Use only***

Has General inspection by Local Authority Inspectors been carried out in respect of:

- Public lighting.
- Roads and footpaths.
- Watermains.
- Surface Water Sewers.
- Foul Sewers.
- Open Spaces.
- Other services etc
- Is a return inspection required by Local Authority Inspectors in respect of:
  - Public lighting.
  - Roads and footpaths.
  - Watermains.
  - Surface Water Sewers.
  - Foul Sewers.
  - Open Spaces.
- Has appropriate fee been deducted from bond/security for return inspection?
- Fee Amount.
- Have items found to be incomplete or not up to the required standard, on previous inspection been corrected by the Developer at his own expense.
- Final inspection where taking in charge can be recommended.
- Is the estate satisfactory in all respects of the previous inspections,
- No fee required.
- Is the Developer in a position to transfer or convey to South Dublin County Council, at his expense, all of the land contained in the planning permission affected by this taking in charge.



## Appendix 5 - Standards, Codes and Requirements

### **Sample list of evidence to be produced by the developer to demonstrate completion of estate to the appropriate standards.**

Drawings/plans etc referred to should be provided in electronic format only.

- Evidence that all necessary way leaves for services are reserved forever in the transfer documentation to house purchasers.
- Copies of "as constructed" drawings (scale 1: 1000) of the development shall be submitted to the Council. The drawings shall indicate the following information:
  - The estate boundary depicted in red, open spaces coloured green, all roads, footpaths and public lights.
  - All services including water mains, valves, hydrants, sewers, road gullies, Telecom ducts/poles, ESB ducts/poles, Public Lighting ducts/poles, Cable TV ducts and all manholes. The invert and cover levels of all manholes shall be indicated relative to Malin Head Ordnance Datum. The gradients of all sewer sections shall be indicated on the drawings.
- Test results duly certified showing output in litres per minute from all fire hydrants in the development
- A CCTV survey/manhole survey completed at the developer's expense, of the collection systems as conditioned in the relevant planning permission. The sewers to be surveyed to be thoroughly cleaned out first and the CCTV Survey to be carried out using a camera which is capable of measuring distances from one manhole to another. The CCTV Survey report also to include a summary of any defects in the systems to be corrected by the Developer at his own expense.
- A drainage layout plan of as-constructed sewers shall be submitted in electronic format showing a detailed survey of each manhole, sewer structure and a digitised layout of the as-constructed housing estate. The manhole survey and digitised layout of the estate shall be prepared to national grid co-ordinates. The invert and cover levels of the manholes shall be indicated relative to Malin Ordnance datum.

Note: the foregoing is issued for guidance only. In certain cases it will be necessary to agree with the planning authority, prior to the commencement of the development, the full details to be supplied by the developer. Certain additional legal agreements may also be required, including for example wayleaves and adequate provision for access to wayleaves for inspection and maintenance or the imposing of limitations on the use or development of land within a wayleave.



**Specification and Completion Standards for:  
Roads, hard surface construction, water, drainage, public lighting  
and open space.**

Road and hard surface construction and completion standards and public lighting requirements shall be to the following guidelines/standards or equivalent best practice.

**ROADS, FOOTPATHS**

The roads and footpaths shall be taken in charge in conjunction with watermains, sewers and open spaces.

- No road or footpath will be taken in charge unless all underground infrastructure is inspected and passed i.e. all utility services inspected, tested, passed and fully operational for all the existing and future dwellings in the area.(Reason: to ensure that the lifespan of the road is not reduced by subsequent road openings to rectify services).
- Roads shall be constructed in accordance with Appendix 6 of this policy, and if not covered by Appendix 6, then with Section 2 of "Recommendations for Site Development Works for Housing Areas", with the exception of Section 2.24 (Surface Dressing) as surface dressing will not be accepted as a surfacing layer in Housing Estates.
- Footpaths shall be constructed in accordance with Section 2 of "Recommendations for Site Development Works for Housing Areas" (Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01 – 6613111)
- All pavement joints shall be properly designed, constructed and sealed with an approved bitumen seal.
- Road and footpath construction shall address and include for the needs of vulnerable and disabled road users. There shall be no steps in footpath construction. The Design and construction shall satisfy the requirements set out in the "Traffic Management Guidelines" Department of Environment, Department of Transport & DTO. (Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01 – 6613111.
- Cycle facilities shall be provided for in accordance with the "Provision of cycle facilities National manual for Urban Areas" Department of Environment, DTO. (Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01 – 6613111.
- Road Marking and Signing shall comply with the "Traffic Signs Manual" Department of Environment. (Available from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2 – Tel: 01 – 6613111.
- All road markings shall be the permanent road markings as specified in the Dept of Environment manual "Guidelines and



Tender Documentation for Road Marking Materials" (pink book),  
The Local Authority reserves the right to withhold an agreed sum of money to test the road markings after the prescribed time.

- Timber post and rail fencing shall comply with the requirements set out in IS435 (Parts 1-3) or equivalent specification. Other roadside boundaries shall be provided in accordance with the principal of forgiving roadsides. (Reason: to reduce injuries in the event of a collision with the roadside boundary).
- A Post-Construction Road User Audit shall be submitted as part of the taking in charge process. This audit shall be carried out by a competent independent person who holds professional indemnity insurance up to €500,000 for the purpose of signing such forms in accordance with South Dublin County Councils 'Access Audit Brief'. The purpose of the audit is to ensure that the scheme is designed in accordance with the council's policy for walking, cycling and mobility/sensory impaired road users along with private and public transport road users.
- All manhole covers and frames in public property shall comply with Standard I.S. /EN 124:1994 and Loading Class D400 or equivalent specification – See Appendix 7. The manhole covers shall be constructed using an approved bitumen flexible fixing system.
- All ironwork in the hard pavement network shall be constructed using an approved bitumen flexible fixing system.
- A condition survey of the pavement, footpaths, cycle ways and road crossings with the list of defects having been identified and certification by a qualified competent person that lists of remedial measures as agreed with South Dublin County Council Transportation Department have been carried out should accompany the taking in charge application.
- Falling Weight Deflectometer (FWD) Tests to determine the strength of sub-grade and permanent layers for roads showing major signs of deterioration together with certification that the list of remedial works as agreed with South Dublin County Council, Roads Forward Planning and Building Control Department have been carried out, shall form part of the taking in charge procedure.
- South Dublin County Council may require the carrying out of core tests in conjunction with the FWD tests or as an alternative. Type of tests required shall be agreed in advance of the taking in charge process.
- All road gully ratings shall be of an approved lockable type to Standard I.S. /EN 124:1994 and Loading or equivalent specification.



## **DRAINAGE**

All **Storm** Drainage shall be in accordance with the Greater Dublin Regional Code of Practice for drainage works (latest edition).

All **Foul** Drainage shall be in accordance with the Irish Water Code of Practice for Wastewater Infrastructure and Wastewater Infrastructure Standard Details (latest editions).

## **TAKING IN CHARGE/POST CONSTRUCTION CERTIFICATION.**

Only drainage infrastructure which has been constructed to the required standard will be "taken in charge". All defects identified during post construction surveys will have to be rectified at the Developers expense before the infrastructure is "taken in charge".

1. All drainage works are to be constructed to the requirements of the relevant Code of Practice, and any additional requirements of the relevant Authority
2. On completion of construction works, all sewers shall be thoroughly cleansed, ensuring that no construction material reaches the public sewerage system. They shall be maintained in a clean and serviceable condition, prior to them being taken in charge
3. A condition survey shall be carried out, at the Developer's expense, on all main pipelines to the requirement of the Local Sanitary Authority. This is to include a CCTV survey and a written report as specified in the latest edition of the WRC (Water Research Council) Sewerage Rehabilitation Manual.
4. Detailed "as-constructed" drainage layouts, both hard copy and digital copy, in an approved format, are to be submitted by the Developer to the Local Sanitary Authority for written approval. The as constructed package must include the following;
  - 4.1. Manhole's Easting and Northing co-ordinates cover and invert level, upstream and downstream pipe diameter, material and direction of flow.
  - 4.2. The layout should be accurately positioned (+/- 300mm relative to local detail) on the latest published version of the ordnance survey 1:1000 series.
  - 4.3. All dimensions shall be metric.
  - 4.4. All levels must be related to Ordnance Survey Datum, Malin Head, to an accuracy of +/- 25mm and stating which benchmark was used.
  - 4.5. A list of the National Grid Co-ordinates (accurate to +/- 300mm) for the manholes should be supplied.
5. Drawings shall be prepared to the format shown in Chapter 5 of the Greater Dublin Regional Drainage Code of Practice.
6. South Dublin County Council may require quality control checks to be carried out on site, to verify the "as-constructed" package, under the supervision of the Local Sanitary Authority.



## **WATER**

The Code of Practice and Specification for the laying of watermains can be found on the Irish Water website

(<https://www.water.ie/connections/Code-of-Practice-for-Water-Supply.pdf>)

- New watermains and connections are only permitted after Irish Water are satisfied that they are laid and tested in accordance with specification and bye-laws, and that pressure, chlorination and bacteriological tests have been carried out and approved. The Developer shall furnish a certificate that the development has been carried out in accordance with the latest revision of these documents.
- The water service connection to each property e.g. house, shall be taken in charge to within 225mm outside of the boundary of private property, and a stop cock / water service control unit should be located just outside this point.
- All watermains, valves, stopcocks and fire hydrants are to be located in public footpath or roadway, insofar as possible. A separate stopcock or shut-off valve shall be fitted within each house.
- The Developer shall liaise with Irish Water 'Connections & Developer Services' in advance in relation to pumps or specialist connections. Full details of any pumps provided, including specification and manufacturers manuals. Full detail of control panels and system
- The Developer shall furnish evidence to Irish Water that all necessary wayleaves for watermains and services are in place and that access to wayleaves for inspection and maintenance has been provided for, and that such access shall be kept free of any development
- The Developer shall indicate restrictions, if any, imposed on the use or development of land within a wayleave, that have been or are to be imposed on the owners or occupiers of land within such wayleaves
- The developer shall submit all water drawings/plans in digital format to adhere to the following:
  - A single plan drawing is submitted per development, on Compact Disc
  - All drawings to be in DXF (Data Exchange File) CAD format
  - Water Pipes & Water Plant to be on a separate layer



- All Drawings to be geo-coordinated & Scaled to the Ordinance Survey Ireland Irish National Grid
- There should be no reference files (Xref) attached to the submitted drawings
- All Drawings to be in Vector format with no attached rasters.
- Estate and road names to be contained on the drawings (if available), &. appropriately located
- No. of Individual Dwelling units within each specific development to be indicated on the drawings
- All supplied media to be scanned & confirmed virus free

#### **PUBLIC LIGHTING**

- Copy of written approval of original design submission and written approval of any changes
- 'As constructed' geo referenced CAD drawing in soft format showing the following information:
  - Street Names
  - House numbers
  - Individually numbered column locations. The icon scale should be such that set back can be accurately assessed
  - Ducting locations
  - Cable access chambers
  - Individually numbered micro pillar locations
  - ESB cabinet locations
  - Individually numbered single line circuit diagrams

Private areas not to be taken in charge shall be hatched and identified. Failure to provide this information in this format will result in delays in the inspection process and ultimately non release of MPRN numbers and refusal to take in charge of the lighting infrastructure.



### **OPEN SPACES**

The development and landscaping of open spaces shall be carried out in accordance with the planning permission granted and the attached specification.

- The developer/Landscape Architect shall submit a Certificate of Effective Completion of Landscape Works and that they are in accordance with the lodged plans and particulars.
- A defects maintenance period of 24 months shall commence from the date of the Certificate.
- The developer may be requested as part of the taking in charge process, to dig trial holes at his own expense at specific locations chosen by the local authority to confirm that there is no unauthorised disposal of waste on the site.
- On completion of the defects maintenance period and any remedial works considered necessary, the developer shall commence the taking-in charge process by:
  - submitting as constructed drawings of the open space areas to be taken in charge.
  - submitting O.S. Place maps of appropriate scale, such maps to include folio numbers of lands to be transferred.
  - submitting a Draft Deed of Transfer for the lands to be transferred.
- The lodged documents will be checked and verified by the Development and Law Departments.
- On confirmation from both Departments that the documents are in order, the Parks and Landscape Services Department shall assume responsibility for the maintenance and upkeep of the open spaces.
- The Development/Law Departments to complete the land transfer process and register the lands in the Council's ownership within one year of taking in charge.

**Open Space/Landscaping Specifications/Standards:**  
Guidelines for Open Space Development and Taking in Charge





**The Property Registration Authority**  
**An tÚdarás Clárúcháin Maoine**

**Land Registry Sealed and Certified Copy Folio (& Filed Plan)**

James  
Mc Inerney  
39 Kilheale Heights  
Kilheale Manor  
Kill  
County Kildare W91 R28R

**This page forms part of the official document. Do not detach.**

**Folio Number:** DN148280F  
**Application Number:** C2023LR005640T  
**Your Reference:** .

This document comprises an office copy of the Land Registry record for the above mentioned folio/filed plan as of the date appearing.

Details of **dealings pending** (if any) on the enclosed folio/filed plan are listed in the **Schedule** below.

An officer duly authorised by the Property Registration Authority.

**Schedule**

**Notes:**

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.



## Land Registry

County Dublin

Folio 148280F

### Register of Ownership of Freehold Land

#### Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	Description	Official Notes
1	<p style="text-align: center;">For parts transferred see Part 1(B)</p> <p>The property shown coloured Red as plan(s)  A24GU, BB71W, BB71Y, BB710, BB712, BB713, BB714, BB715, BB716, BB717, BB719, BB72A, BB72B, BB72C, BB72D, BB72E, BB72G, BB72H, BB72J, BB72K, BB72M, BB72N, BB72P, BB72Q, BB72R, , BB72U, BB72V, BB72W, BB72X, BB72Y, BB720, BB721, BB723, BB724, BB725, BB726, BB727, BB728, BB729, BB73A, BB73B, BB73C, BB73D, BB73E, BB73G, BB73H, BB73J, BB73M, BB73N, BB73Q, BB73R, BB73T, BB73U, BB73V, BB73W, BB73X, BB73Y, BB730, BB731, BB732, BB733, BB734, BD6CW, BD6C1 on the Registry Map, situate in the townland of NEWCASTLE NORTH , in the barony of NEWCASTLE , in the Electoral Division of NEWCASTLE .</p> <p>THE REGISTRATION DOES NOT EXTEND TO MINES AND MINERALS</p> <p>Sssdpoint B1K11 added under D2008DN040508W  Plans BD6CW, BD6C1 added to folio under Dlg.  No.D2006DN016913W</p>	<p>From Folio DN9063F</p>



## Land Registry

County Dublin

Folio 148280F

## Part 1(B) - Property

## Parts Transferred

No.	Prop No:	Instrument:	Date:	Area (Hectares) :	Plan:	Folio No:
1	1	D2006DN046162W	12-SEP-2006		BB73P	DN171104F
2	1	D2006DN036414R	27-JUL-2006		BB71X	DN171106F
3	1	D2006DN054678W	24-OCT-2006		BB73K	DN171807F
4	1	D2006DN059346A	16-NOV-2006		BB72W	DN172154F
5	1	D2006DN061066K	27-NOV-2006		BB72H	DN172157F
6	1	D2006DN059574N	20-NOV-2006		BB73E	DN172159F
7	1	D2006DN052087Q	26-OCT-2006		BB730	DN172162F
8	1	D2006DN055690W	26-OCT-2006		BB72V	DN172164F
9	1	D2006DN064265G	11-DEC-2006		BB73T	DN172412F
10	1	D2006DN055190C	27-OCT-2006		BB72M	DN172438F
11	1	D2006DN062634C	06-DEC-2006		BB719	DN172623F
12	1	D2007DN005915Y	31-JAN-2007		BB729	DN173057F
13	1	D2007DN014687J	13-MAR-2007		BB726	DN173110F
14	1	D2007DN017475M	29-MAR-2007		BB73C	DN173921F
15	1	D2007DN052851R	04-OCT-2007		BB72U	DN175009F
16	1	D2006DN065099R	14-DEC-2006		BB720	DN175123F
17	1	D2007DN054799T	17-OCT-2007		BB715	DN175124F
18	1	D2007DN006733Y	01-FEB-2007		BB72P	DN175125F
19	1	D2007DN015966U	22-MAR-2007		BB728	DN175127F
20	1	D2007DN019842A	13-APR-2007		BB73H	DN175128F
21	1	D2007DN043636J	21-AUG-2007		BB724	DN175133F
22	1	D2006DN065946J	21-DEC-2006		BB72B	DN175134F
23	1	D2007DN051606X	02-OCT-2007		BB71Y	DN175135F



## Land Registry

County Dublin

Folio 148280F

24	1	D2006DN062512R	01-DEC-2006	BB72X	DN175132F
25	1	D2007DN052100B	05-OCT-2007	BB73A	DN175137F
26	1	D2006DN057645A	10-NOV-2006	BB72J	DN175138F
27	1	D2006DN057408M	06-NOV-2006	BB73N	DN175139F
28	1	D2006DN044888A	06-SEP-2006	BB73W	DN175141F
29	1	D2007DN057335X	25-OCT-2007	BB73R	DN175143F
30	1	D2006DN056459V	01-NOV-2006	BB733	DN175144F
31	1	D2007DN043404R	14-AUG-2007	BB73Y	DN175145F
32	1	D2007DN044809T	27-AUG-2007	BB721	DN175148F
33	1	D2006DN052442P	13-OCT-2006	BB73X	DN175150F
34	1	D2007DN007658M	13-FEB-2007	BB723	DN175158F
35	1	D2007DN065894B	30-NOV-2007	BB72G	DN175160F
36	1	D2006DN056139D	03-NOV-2006	BB72Q	DN175161F
37	1	D2006DN046145V	12-SEP-2006	BB73J	DN175166F
38	1	D2006DN058516V	14-NOV-2006	BB72R	DN175389F
39	1	D2006DN050105M	10-OCT-2006	BB731	DN175497F
40	1	D2006DN053546C	18-OCT-2006	BB73V	DN175621F
41	1	D2007DN004023K	17-JAN-2007	BB732	DN175622F
42	1	D2007DN001882P	06-FEB-2007	BB717	DN175624F
43	1	D2007DN013788J	07-MAR-2007	BB73G	DN175626F
44	1	D2007DN020369G	13-APR-2007	BB73B	DN175627F
45	1	D2008DN009878V	14-FEB-2008	BB725	DN175634F
46	1	D2008DN012216B	29-FEB-2008	BB73D	DN175635F
47	1	D2006DN064090A	12-DEC-2006	BB73M	DN175637F
48	1	D2007DN060348A	06-NOV-2007	BB72K	DN175679F



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49	1	D2007DN064644B	27-NOV-2007	BB72C	DN175790F
50	1	D2006DN063247Y	08-DEC-2006	BB73U	DN175795F
51	1	D2006DN051221V	12-OCT-2006	BB72Y	DN175796F
52	1	D2007DN016708D	21-MAR-2007	BB727	DN175820F
53	1	D2007DN029429V	12-JUN-2007	BB72E	DN176038F
54	1	D2007DN009038U	13-FEB-2007	BB73Q	DN176169F
55	1	D2007DN007389J	08-FEB-2007	BB72N	DN178977F
56	1	D2008DN046350W	15-SEP-2008	BB713	DN179189F
57	1	D2008DN050191B	03-OCT-2008	BB72A	DN180729F
58	1	D2008DN051806R	08-OCT-2008	BB711	DN180730F
59	1	D2008DN056940X	07-NOV-2008	BB72D	DN180734F
60	1	D2008DN051811N	08-OCT-2008	BB710	DN181935F
61	1	D2008DN063075U	22-DEC-2008	BB712	DN181939F
62	1	D2008DN040508W	12-AUG-2008	B1K17	DN181942F
63	1	D2009LR002807T	09-JAN-2009	BB71W	DN182235F
64	1	D2011LR071932J	23-JUN-2011	BB716	DN191554F
65	1	D2012LR144600C	30-NOV-2012	BB72T	DN197270F
66	1	D2021LR031614H	05-MAR-2021	BB714	DN239530F



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Part 2 - Ownership

Title ABSOLUTE

No. The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965

1 03-APR-2001 Tenbury Developments Limited (Limited Liability Company) of  
D2001DN009661X 46, Temple Road, Dartry, Dublin 6 is full owner.

~~2 23 JUN 2011 -PATRICK FITZGERALD of 10 The Glebe Square, Newcastle, County  
D2011LR071932J Dublin and SANDRA FITZGERALD of 10 The Glebe Square,  
Newcastle, County Dublin are full owners.~~

~~Note: Ownership entry engrossed in error, see Inst. No.  
Q2012LR006556H.~~

Cancelled

Q2012LR006556H

27-APR-2012



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## Part 3 - Burdens and Notices of Burdens

No.	Particulars
1	<p><del>THE PROPERTY IS SUBJECT TO THE PROVISIONS PROHIBITING LETTING, SUBLETTING OR SUBDIVISION SPECIFIED IN SECTION 12 OF THE LAND ACT, 1965, AND TO THE PROVISIONS RESTRICTING THE VESTING OF INTEREST SPECIFIED IN SECTION 45 OF THE SAID ACT IN SO FAR AS THE SAID PROVISIONS AFFECT SAME.</del></p> <p style="text-align: center;">Cancelled <span style="float: right;">D2006DN046162W 12-SEP-2006</span></p>
2	<p>The property is subject to such of the rights, covenants and conditions (if any) relating to the use and enjoyment thereof made between Tenbury Developments Limited of the one part and the registered owners of the new folios specified in Part 1B of this Folio 148280F.</p>
3	<p>The property is subject to such of the rights, covenants and conditions and leases of easements (if any) relating to the use and enjoyment thereof made between Tenbury Developments Limited of the one part and the registered owners of the new folios specified in Part 1B of this Folio 148280F.</p>
4	<p><del>05-APR-2006 D2006DN016913W</del></p> <p><del>Charge for present and future advances repayable with interest.  ** (Maximum Duty €630 paid) ** ALLIED IRISH BANKS plc is owner of this charge. Note: This charge affects only the parts of the property shown as Plans BB73E, BB73G, BB73H, BB73J, BB73K, BB73M, BB73N, BB73P, BB73Q, BB73R, BB73T, BB73U, BB73V, BB73W, BB73X, BB73Y, BB73Z, BB731, BB732, BB733, BD6CW, BD6C1 on the Registry Maps (O.S. 21/5, 3324/D1, 3387/B)</del></p> <p style="text-align: center;"><del>NOTE: This charge does not affect the parts of the property referred to in Deeds of Lease registered at entry no's: 18,</del></p> <p style="text-align: center;">Cancelled <span style="float: right;">D2011LR077029M 24-JUN-2011</span></p>
5	<p>06-JUN-2007 D2007DN029864P</p> <p>Lease dated the 26-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to CHRISTY KELLY, BREDA KELLY of the part of the property herein edged Red and numbered BK9M4 on the plan thereof on the Registry Map MSB 293, Map 1, together with the rights specified therein.</p>



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		<p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN121829L.</p>
6	02-JUL-2008 D2008DN033366K	<p>Lease dated the 06-MAY-2008 from TENBURY DEVELOPMENTS LIMITED to STEPHEN MURRAY, GRAINNE MCCALL of the part of the property herein edged red and numbered BVMC9 on the plan thereof on the Registry Map 1MSB 293, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN125783L.</p> <p>Note: This burden is discharged form the charge registered at entry no.4</p>
7	02-JUL-2008 D2008DN033367M	<p>Lease dated the 06-MAY-2008 from TENBURY DEVELOPMENTS LIMITED to STEPHEN MURRAY, GRAINNE MCCALL of the part of the property herein edged red and numbered BVMQ1 on the plan thereof on the Registry Map 1 MSB 293, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2008 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN125786L.</p> <p>Note: This burden is discharged form the charge registered at entry no.4</p>
8	13-MAR-2007 D2007DN014964M	<p>Lease dated the 16-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to VIRGINIA CONROY of the part of the property herein edged green and numbered B1DBT on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN128435L.</p>
9	29-NOV-2007 D2007DN065599W	<p>Lease dated the 27-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to ENDA HUGHES of the part of the property herein edged red and numbered B1DE3 on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p>



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10	10-APR-2008 D2008DN019765R	<p>Note: The title to this Lease is registered on Folio DN128452L.</p> <p>Lease dated the 02-OCT-2007 from TENBURY DEVELOPMENTS LIMITED to ANNA PAVLIDES, HEIDEE MARTIN of the part of the property herein edged red and numbered B1EMM on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN128466L.</p>
11	16-OCT-2007 D2007DN054889U	<p>Lease dated the 24-SEP-2007 from TENBURY DEVELOPMENTS LIMITED to PAMELA DUNNE of the part of the property herein edged red and numbered B1DEU on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN128450L.</p> <p>Note: This burden is released from the Charge registered at Entry No.4.</p>
12	02-JUL-2008 D2008DN033365J	<p>Lease dated the 06-MAY-2008 from TENBURY DEVELOPMENTS LIMITED to STEPHEN MURRAY, GRAINNE MCCALL of the part of the property herein edged red and numbered B1KT0 on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the lease.</p> <p>Note: The title to this Lease is registered on Folio DN128527L.</p> <p>Note: This burden is released from the Charge registered at Entry No. 4.</p>
13	27-FEB-2007 D2007DN012298N	<p>Lease dated the 26-JAN-2007 from TENBURY DEVELOPMENTS LIMITED to DAVID HICKEY, LORRAINE O'CONNOR of the part of the property herein edged red and numbered B1C8U on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein.</p> <p>Term: 900 years from 01-JAN-2006 at the rent as specified in the</p>



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<p>14</p>	<p>02-JUL-2008 D2008DN033368N</p>	<p>lease. Note: The title to this Lease is registered on Folio DN128419L.</p> <p>Lease dated the 06-MAY-2008 from TENBURY DEVELOPMENTS LIMITED to STEPHEN MURRAY, GRAINNE MCCALL of the part of the property herein edged red and numbered B1KVM on the plan thereof on the Registry Map MSB Book 293, Map 1, together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN128537L. Note: This burden is released from the Charge registered at Entry No.4.</p>
<p>15</p>	<p>07-MAR-2007 D2007DN010787T</p>	<p>Lease dated the 30-JAN-2007 from TENBURY DEVELOPMENTS LIMITED to MARIA LONG of the part of the property herein edged red and numbered B1C61 on the plan thereof on the Registry Map MSB Book 293 Map 1, together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN128404L.</p>
<p>16</p>	<p>02-APR-2007 D2007DN018377Q</p>	<p>Lease dated the 20-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to LINDA COONEY of the part of the property herein edged red and numbered B1DD6 on the plan thereof on the Registry Map MSB Book 293, Map 1 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN128444L. 1 Note: This burden is released from the Charge registered at Entry No.4.</p>
<p>17</p>	<p>09-FEB-2007 D2007DN008331R</p>	<p>Lease dated the 26-JAN-2007 from TENBURY DEVELOPMENTS LIMITED to DANIELLE MCSORLEY, GERARD O'CONNOR of the part of the property herein edged RED and numbered BUBE2 on the plan thereof on the Registry Map M.S.B Book 293 Map 1 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the</p>



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<p>18</p> <p>11-MAY-2007 D2007DN025394H</p>	<p>lease. Note: The title to this Lease is registered on Folio DN125381L.</p> <p>Lease dated the 05-APR-2007 from TENBURY DEVELOPMENTS LIMITED to SAMUEL FARRELL of the part of the property herein edged Red and numbered B6XW3 on the plan thereof on the Registry Map, MSB Book 293, Map 1, together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the yearly rent as specified in Instrument No. Note: The title to this Lease is registered on Folio DN134616L. NOTE : This burden is discharged from the charge registered at entry no.4.</p>
<p>19</p> <p>18-JAN-2008 D2008DN003524M</p>	<p>Lease dated the 13-SEP-2007 from TENBURY DEVELOPMENTS LIMITED to PAMELA STAGG and JAMES GROGAN of the part of the property no.1 herein edged red and numbered BW1UT on the plan thereof on the Registry Map MSB Book 298, Map 1 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN126113L.</p>
<p>20</p> <p>30-APR-2007 D2007DN022738X</p>	<p>Lease dated the 02-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to TREVOR MCGARR, LOUISE MAGUIRE of the part of the property herein edged red and numbered CHDY2 on the plan thereof on the Registry Map MSB Book 293, Map 1 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN139306L.</p>
<p>21</p> <p>19-NOV-2007 D2007DN062127W</p>	<p>Lease dated the 28-JUN-2007 from TENBURY DEVELOPMENTS LIMITED to SIOBHAN SWEENEY, DEREK CONNOLLY of the part of the property herein edged red and numbered CGQK2 on the plan thereof on the Registry Map MSB Book 293, Map 1 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN138873L.</p>



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22	10-MAR-2009 D2009LR050917V	Lease dated the 24-FEB-2007 from TENBURY DEVELOPMENTS LIMITED to STEPHANIE BRADSHAW of the part of the property herein edged RED and numbered CGQQ5 on the plan thereof on the Registry Map 1 MSB 293, together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN138878L. 1 Note: This burden is discharged form the charge registered at entry no.4
23	10-JAN-2008 D2008DN001383H	Lease dated the 02-NOV-2007 from TENBURY DEVELOPMENTS LIMITED to CIARAN CULLEN, LYNDSEY CONROY of the part of the property herein edged RED and numbered BVMV6 on the plan thereof on the Registry Map 1, MSB 293 together with the rights specified therein. Term: 900 years from 01-JAN-2006 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN125790L.
24	16-JUL-2009 D2009LR131293J	Lease dated the 01-JAN-2006 from TENBURY DEVELOPMENTS LIMITED to WAYNE DALY, LAURA FLEMING of the part of the property herein edged red and numbered CGQU3 on the plan thereof on the Registry Map MSB Book 293 Map 1 together with the rights specified therein. Term: 900 years from 26-JUN-2009 at the rent as specified in the lease. Note: The title to this Lease is registered on Folio DN138884L.