



An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report ABP-310912-21**

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#### **Strategic Housing Development**

336 no. residential units (245 no. houses, 91 no. apartments/duplexes), crèche and associated site works.

#### **Location**

Ballymany, Newbridge, Co. Kildare.  
([www.ballymanyshd.ie](http://www.ballymanyshd.ie))

#### **Planning Authority**

Kildare County Council

#### **Applicant**

Briargate Developments Newbridge Limited.

#### **Prescribed Bodies**

Irish Water  
Department of Culture, Heritage and the Gaeltacht  
Kildare County Childcare Committee

**Observer(s)**

None received.

**Date of Site Inspection**

13<sup>th</sup> October 2021

**Inspector**

Rachel Gleave O'Connor

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## 1.0 Introduction

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The subject site is located approx. 1.5km south west of Newbridge Town Centre and approx. 650m north east of the M7 Motorway interchange (Junction 12) with Ballymany Road (R445).
- 2.2. The site is a greenfield site, with a stated gross site area of 11.42ha. It forms part of a larger landholding and represents future phases to a previously permitted development to the south of the subject site. Phase 1 of that development is currently under construction. The levels on the site have been altered which has result in lower lying lands along the eastern site boundary, adjoining 'The Elms' residential estate.
- 2.3. The site is bound to the north in part by the Strandhouse Road and in part by the rear boundary walls of detached dwellings which front onto Strandhouse Road, to the south by lands within the ownership of the prospective applicant and currently under construction as Phase 1 of the development and to the east by 'The Elms' which is an established residential estate. To the west the site is bound by lands within the ownership of the applicant which have planning permission for a proposed distributor road, linking Ballymany Road to Strandhouse Road. On the opposite side of the proposed distributor road is Ballymany Stud. There is significant tree coverage along the western boundary, which comprises the settlement boundary for Newbridge.
- 2.4. There is an archaeological feature in the north west portion of the site.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development comprises the following:

- Construction of 336 no. residential units consisting of 245 no. houses, 27 no. apartments and 64 no. duplexes;
- The 245 no. houses comprises 2 storey, detached, semi-detached and terraced units to include:-
  - 17 no. 2 bed houses;
  - 184 no. 3 bed houses;
  - 44 no. 4 bed houses
- The 27 no. apartments are located in a part 3 storey and part 4 storey building and include:-
  - 13 no. 1 bed units;
  - 13 no. 2 bed units;
  - 1 no. 3 bed unit;
- The 64 no. duplexes are located across 6 no. 2 to 3 storey buildings and include:-
  - 32 no. 1 bed units;
  - 16 no. 2 bed units;
  - 16 no. 3 bed units;
- A 2 storey creche;
- Car parking, bicycle parking, internal roads, services infrastructure, bin stores and bicycle stores;
- Footpath improvements along Standhouse Road;
- Landscaping, open spaces, play areas, boundary treatment and public lighting;
- All associated site works and services.

## Key Figures

<b>Site Area</b>	11.42 ha (of which 9.61 ha is developable area)
<b>No. of units</b>	336
<b>Density</b>	35 uph
<b>Plot Ratio</b>	0.3
<b>Height</b>	2 to 4 storey
<b>Dual Aspect</b>	77% (of apartments)
<b>Open Space</b>	Public open space 17,626sqm (15.4%)
<b>Part V</b>	33 no. units (9.8%)
<b>Vehicular Access</b>	From Ballymany Road / R445 to the south – currently under construction as part of associated phase 1 development.
<b>Car Parking</b>	617
<b>Bicycle Parking</b>	48 no. visitor spaces 28 no. for apartments 64 no. for duplexes 6 no. for creche
<b>Creche</b>	616sqm

<b>Housing Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>No. of Apartments</b>	13	13	1	-	27
<b>No. of Duplexes</b>	32	16	16	-	64

<b>No. of Houses</b>	-	17	184	44	245
<b>Total (%)</b>	45 (13.39%)	46 (13.69%)	201 (59.82%)	44 (13.09%)	336

3.2. The development is described in statutory notices as consisting of ‘*future phases of a residential development of which Phase 1 (54 no. units and Link Road) is currently under construction on foot of planning ref. 16/658 (ABP ref. PL09.249038), which provided for 280 dwelling units, creche, nursing home and Link Road. The overall development will provide 390 no. units and creche on completion.*’

## 4.0 Planning History

### 4.1. Application Site

4.2. 06/547 – Planning permission granted for 196 dwellings and creche on a site of 15.44 ha. The development consists of 76 no. two storey three bedroom with study detached dwellings (type A); 64 no. two storey three bedroom with study detached dwellings (type B); 38 no. two and a half storey four bedroom with study detached dwellings (type C); 18 no. two storey four bedroom with study detached dwellings (type D); single storey creche (196sqm) with set down area and car parking; 670m of distributor road with junction/access arrangements at Ballymany Road (R445); 3no. access/egress from the distributor road; pedestrian access to stand house road, all internal roads, landscaping, boundary treatments, footpaths, public lighting, car parking; rerouting and undergrounding of 2 no. 38KV ESB lines and removal of 10KV ESB lines; all associated site services and site development works including the removal of soil, sand gravel and material off site. The application is accompanied by an Environmental Impact Statement. Note – 190 Units were granted following the submission of revised drawings.

4.3. 08/1468 – Permission granted to the applicant for development consisting of varying condition no. 2(i)(ii) of Reg Ref 06/547 in order to commence Phase 1: comprising the removal of soil/material.

4.4. 12/615 – Extension of duration granted to 06/547. Permission extended until 01/04/18.

16/658 – Permission refused by KCC and granted on appeal to ABP for mixed-use development comprising a total of 220 no. dwelling houses; a single storey creche facility (307sqm) and a 120 bedroom nursing home facility 2 storeys in height. The proposed development also provides for construction of a section of a new link road along the western part of the site incorporating a new signalised junction off Standhouse Road in accordance with SRO 5 of the Newbridge Local Area Plan 2013-2019. A new vehicular access serving the proposed nursing home is also proposed off Standhouse Road. It is also proposed to provide a new vehicular access off Ballymany Road (R445) to the south. A new pumping station is proposed in the north-western part of site. The proposed development will also provide for all site development works including alterations to ground levels and the removal and/or re-use of existing stockpiled material on site; the construction of crib (retaining) walls; the rerouting and undergrounding of overhead cables; internal access roads, car parking, footpaths, cycle paths, open space, public lighting, landscaping, 2 no. electricity sub-stations, services and boundary treatments. An Environmental Impact Statement (EIS) was submitted to the Planning Authority with the application. Permission refused by the Planning Authority for two reasons, in summary, relating to the achievement of the R445 Ballymany Road which formed a key transport objective in the Newbridge Local Area Plan 2013-2019 and potential interference with the free flow of traffic, leading to unsafe turning movements at this junction to the endangerment of public safety by reason of a traffic hazard; and the absence of certainty in regard to the extent of archaeology impacts. The application was appealed to An Bord Pleanála (ABP) (PL09.249038) and **granted**, with an increase in residential unit numbers to 280 no. at appeal stage increasing the overall density to 21.71 uph.

4.5. 19/710 – Permission refused by KCC and ABP for amendments to the initial phase of the development granted under Ref. 16/658 (referenced above) for construction of 71 no. dwellings in lieu of 33 no. dwellings and a creche. Internal alterations to the permitted road layout; vehicular access from the R445 (as permitted), landscaping, boundary treatments and all associated site works and services. Permission refused by ABP (305410-19) for the following reason:



1. The site of the proposed development is located on residentially zoned (Objective C2) and serviced lands within the boundary of Newbridge Town, and in close proximity to a range of established community facilities and services and in a location (Larger Town – Outer Suburban) where paragraphs 5.11 of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities issued by the Department of Environment, Housing and Local Government in May 2009 states that the greatest efficiency in land usage will be achieved by providing net residential densities in the general range of 35-50 units per hectare and where development at net densities less than 30 units per hectare should generally be discouraged in the interests of land efficiency. Compliance with the density provisions of these guidelines is supported by Section 4.5 of the Kildare County Development Plan, 2017-2023 and Policies LD01 and LD03 of the same plan which states that it is policy to ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure and makes efficient use of zoned lands and that it is policy to require higher residential densities at appropriate locations as set out in the Sustainable Residential Development in Urban Areas Guidelines. Notwithstanding the specific density provisions of the Newbridge Local Area Plan, 2013-2019 (extended until 2021) which indicates a maximum density of 15 units per hectare on lands zoned Objective C2, it is considered that the proposed development of 22.6 units per hectare and the impact of the proposed amendment on the density of the overall residential development of the appeal site and adjoining lands to the north which would increase to approximately 24.3 units per hectare, would therefore result in a form of development which would result in an inefficient use of scarce zoned and serviced lands, and which would be contrary to the provisions of the Guidelines and the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.6. 20/1307 – Amendments to the creche facility permitted under Ref. 16/658 to provide for the construction of a larger 2 storey creche facility with increased capacity from 47 no. childcare spaces to 76 no. childcare spaces; with associated outdoor play area, car parking area for 13 cars and bicycle parking stands for 10 bikes on-site and

3-parallel drop-off car spaces adjacent to the entrance on the housing estate road frontage; all associated boundary treatments, site landscaping and site development works. Application withdrawn.

- 4.7. UD5491 – Enforcement Notice Served – non-compliance with planning permission. Possible processing of materials on site. The Enforcement Notice was withdrawn in February 2019 as the schedule of measures attached to the enforcement notice had been satisfactorily addressed.
- 4.8. Quarry Registration 261A: Quarry QRA – 23 – 002 – The Planning Authority decided that in accordance with Section 261A(5) that the development of the quarry commenced after the 3<sup>rd</sup> of July 2008 and would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out. The Planning Authority subsequently issued the quarry/owner/operator with an Enforcement Notice under section 261A(5)(a) requiring the cessation of the unauthorised quarry development and the taking of such steps as the planning authority conditioned appropriate. The works subsequently ceased on the site and machinery was removed.
- 4.9. Surrounding the Site
- 4.10. Opposite current application site, Ballymany, Newbridge, Kildare SHD application ABP ref. 311040-21 for demolition of buildings on site, construction of 204 no. residential units (98 no. houses, 106 no. duplexes/apartments), creche and associated site works. Due for decision 25<sup>th</sup> November 2021.

## 5.0 Section 5 Pre Application Consultation

- 5.1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 8<sup>th</sup> October 2020 in respect of a proposed development of 348 no. residential units.

Copies of the record of the meeting and the inspector's report are on this file. In the Notice of Pre-Application Consultation Opinion dated 15<sup>th</sup> January 2021 ABP Ref. ABP-308498-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment to constitute a reasonable basis for an application for

strategic housing development to An Bord Pleanála. It was noted that further consideration/amendment of documentation as it related to the proposed design and layout; open space; and access arrangements. Specific information was also requested.

## 5.2. **Applicant's Statement**

5.3. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

### 5.4. Design and Layout

5.5. Amended layout, with additional open space towards Ballymany Road, relocation of approved creche to the centre and an enlarged facility to provide community uses. The number of units is reduced along the southern section of the Link Road and a increased set back to the Phase 1 units. Design amendments include materials to compliment Phase 1. Connectivity between the houses accessed from the Link Road and the adjacent Phase 1 is not possible due to a level change between the sites.

### 5.6. Open Space

5.7. Scheme has been amended to include reduced car parking. Engagement has been carried out with the Parks Department in Kildare County Council prior to submission in relation to the proposals for open space. Homezones have been introduced and topography of the site considered. Landscape Drawings and Report provide further details.

### 5.8. Transportation Arrangements

5.9. The Link Road is not a distributor road. Amendments including introduction of 4 short cul-de-sac junctions. Refer to drawings including ref.D1920-MAL-00-XX-C-033 for further details of the strategy and hierarchy of streets.

5.10. Specific information is also submitted and the response to each item is described in the Response to An Bord Pleanála Opinion report.

## 6.0 **Relevant Planning Policy**

### 6.1. **National Policy**

6.1.1. The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities.

6.1.2. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the ‘Sustainable Residential Development Guidelines’).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the ‘Apartment Guidelines’).
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

## **6.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**

6.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

6.2.2. Newbridge is identified as having a strong interrelationship of services, employment and education with Naas (pages 30 & 80). Newbridge is also identified as one of a number of towns that have a good level of local employment, services and amenities, which serve not just their resident populations but a wider catchment area (page 36).

6.2.3. Strategic connections are identified in the RSES, including the Strategic Grand Canal Greenway from the Docklands through the southern inner suburbs to Naas, Newbridge and Kildare joining the Barrow Way at Athy with potential to link to Cork.

6.2.4. Newbridge is also identified as a Level 2 Major Town Centre & County (Principal) Town Centre in Table 6.1 ‘Retail Hierarchy for the Region’ in the RSES.

6.2.5. A Local Transport Plan will be made for Newbridge (page 188).

## **6.3. Local Policy**

- 6.3.1. The Kildare County Development Plan 2017-2023 including variation no.1.
- 6.3.2. Kildare County Council adopted a Variation (Variation No. 1) of the Kildare County Development Plan 2017-2023 on 9th June 2020. The adopted variation responds to the recent changes in national and regional policy, namely the publication of Project Ireland 2040: National Planning Framework (NPF), The Implementation Roadmap for the National Planning Framework and the Eastern and Midland Regional Assembly (EMRA), and the Regional Spatial and Economic Strategy (RSES-EMRA).
- 6.3.3. Table 3.3 sets out the Settlement Strategy Population and Housing Unit Allocation 2016-2023. Newbridge is allocated a dwelling target of 699 dwellings to 2023.
- 6.3.4. Table 4.2 describes indicative density levels, including a general density parameter of 30-50 uph on Outer Suburban / 'Greenfield' locations for New Residential Development.
- 6.3.5. Section 2.7 sets out the Preferred Development Strategy and the focus is on achieving *inter alia*
- Critical mass in the Metropolitan Area Strategic Plan (MASP) area (Maynooth, Leixlip, Celbridge, Kilcock) and in the Key Towns of Naas and Maynooth;
  - Measured growth with emphasis on economic growth in the towns identified as Self-Sustaining Growth Towns and Self-Sustaining Towns as per Table 2.2; Newbridge is defined as a Self-Sustaining Growth Town.
  - Establishing a hierarchy of smaller rural settlements to develop rural centres capable of providing a range of services and employment to their local populations;
- 6.3.6. Section 2.8 sets out Population and Housing Growth. It is noted that, taking the higher range for each year, the county population is projected to increase by 31,500 persons to 2026 with an additional 12,500 to the year 2031. Accounting for an additional 25% headroom, this equates to a dwellings target of 6,023 units to 2023 and 14,060 units to 2026.
- 6.3.7. Section 2.9 considers the distribution of Growth and Housing Land Capacity Distribution of Growth. It is stated that the capacity of settlements in Kildare to accommodate the level of growth envisaged by the NPF and to deliver sustainable communities that are well served by social and physical infrastructure will need to be carefully considered as part of the Local Area Plan process for the relevant towns. In

relation to Self-Sustaining Growth Towns, Newbridge, Leixlip, Kildare and Athy have been designated as Self-Sustaining Growth Towns. The RSES define these towns as those with a moderate level of jobs and services, which adequately cater for the people of its service catchment with good transport links and capacity for continued commensurate growth.

6.3.8. Policy CS 1 - Provide new housing provision in accordance with the County Settlement Hierarchy.

6.3.9. Policy CS 2 - Direct appropriate levels of growth into the designated growth towns as designated in the Settlement Strategy.

6.3.10. Policy CS 4 - Deliver sustainable compact urban areas through the regeneration of towns and villages through a plan-led approach which requires delivery of a least 30% of all new homes that are targeted in these settlements to be within their existing built up footprint.

6.3.11. Section 3.3 sets out the Settlement Hierarchy – This is designed to underpin decisions regarding the location and scale of new developments such as housing, employment creation and social and physical infrastructure provision.

6.3.12. Section 3.6 Development Capacity states that sufficient land is zoned to cater for the housing demands of the county up to 2023 and beyond, some Towns, Villages and Settlements have surplus capacity relative to the Core Strategy allocation and some have a shortfall. The zoning surpluses and shortfall will be reviewed through the relevant land use plans.

6.3.13. Volume 1 of the Kildare County Development Plan 2017-2023

6.3.14. Chapter 4 – Housing – including Table 4.1 Guidance on appropriate locations for new residential development/Table 4.2 Indicative Density Levels.

6.3.15. Chapter 6 relates to Transport/Chapter 7 Infrastructure/Chapter 11 Social, Community & Cultural Development/Chapter 13 Natural Heritage & Green Infrastructure/Chapter 14 Landscape, Recreation & Amenity/Chapter 15 Urban Design/Chapter 17 Development Management Standards.

6.3.16. Table 17.9 sets out car parking standards.

6.3.17. Newbridge Local Area Plan 2013-2019 (extended to 2021)

6.3.18. The site is located on lands zoned C2, New Residential, within the Newbridge Local Area Plan. The objective of lands zoned C is 'To provide for new residential development.' The subject site has a specific objective which states that a 'maximum density of 15 units per hectare will apply'.

6.3.19. Table 11: Indicative Residential Densities states that 'Outer Suburban / Greenfield, Generally new residential zoning areas' have a general density parameter of 30-50 units per ha.

6.3.20. The following policies and objectives are considered in particular:

6.3.21. HL 1: To ensure that the density and design of development respects the character of the existing and historic town in terms of structure, pattern, scale, design and materials with adequate provision of open space.

6.3.22. HL 3: To encourage appropriate densities for new housing development in different locations in the town while recognising the need to protect existing residential communities and the established character of the area.

6.3.23. HL 5: To require applications for residential developments over 20 units, to demonstrate the provision of an appropriate mix of dwelling types having regard to the following:

- The nature of the existing housing stock and existing social mix in the area;
- The desirability of providing for mixed communities;
- The provision of a range of housing types and tenures;
- The need to provide a choice of housing, suitable for all age groups and persons at different stages of the life cycle;
- The need to cater for special needs groups.

6.3.24. HL 6: To restrict apartment developments generally to town centre locations or suitably located sites adjoining public transport connections. Apartments will not be permitted where there is an over concentration of this type of development. Higher density schemes will only be considered where they exhibit a high architectural design standard creating an attractive and sustainable living environment. Duplex units shall not generally be permitted.



- 6.3.25.HL 7: To facilitate and co-operate in the provision of community facilities in tandem with residential development including, in particular, local services, schools, creches and other education and childcare facilities, including youth facilities.
- 6.3.26.HL 8: To require applications for residential developments over 25 units, to demonstrate how the proposed increase in population will be accommodated in terms of education provision.
- 6.3.27.GMO 2: That all development proposals would promote walking and cycling modes in Newbridge by ensuring consistency with the relevant measures contained in Chapter 9 of the Draft Transportation Strategy for the Greater Dublin Area 2011-2030 (or as amended) during the period of this plan.
- 6.3.28.GMO 10: To ensure that all works in Newbridge accord with the principles as set out in the Design Manual for Urban Roads and Streets (DMURS), (2013).
- 6.3.29.SRO 5: To seek the construction of the following transport links, subject to environmental and conservation considerations, as identified on Maps 2 and 7 and to preserve these routes free from development: b) A link from the L7042 Green Road (C) to the L7037 Standhouse Road (E), including a new junction with the R445 Ballymany Road (D).

## **7.0 Statement of Consistency**

- 7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines and the Development Plan and I have had regard to same. A Statement of Material Contravention also accompanies the application with respect to the proposed residential density, apartments, height and parking which are matters contrary to the Development Plan.

## **8.0 Third Party Submissions**

- 8.1. No third party submissions received. I note that the chief executive report submitted by Kildare County Council references a single third party submission on the application. This however is an observation that was submitted in relation to a

different SHD application in Kildare, and it does not relate to the current application for consideration in this report. As such, I can confirm that there were no third party submissions received in relation to file ref.310912-21.

## 9.0 Planning Authority Submission

- 9.1. Kildare County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:
- 9.2. Principle of Development: generally acceptable.
- 9.3. Density: There is a site specific objective which applies to the subject site stating that 'a maximum density of 15 units per hectare will apply'. The proposed density is 35 units per hectare. It is considered that this increase in density is inappropriate at this location on the edge of Newbridge Town, in an area that is remote from public transport. Note policy HL6 of the Newbridge Local Area Plan 2013-2019 which restricts the location of apartment development to the town centre.
- 9.4. Plot Ratio: in accordance with the standards outlined in the Kildare County Development Plan.
- 9.5. Public Open Space: The Planning Authority have concerns regarding the usability of the area of open space formed of a narrow area between the link road and the western boundary. Section 17.4.7 of the Development Plan outlines that 'narrow tracts of land (less than 10m) or pieces of land left over after planning are not acceptable.' Also safety concerns due to lack of natural surveillance over all parts of this open space area. If this section is discounted then there is only 13.6% of open space provided, which is less than the minimum 15% requirement in the Plan. Large portions of the open space are considered periphery and incidental rather than planned and functional areas. Open space compromised due to underground drainage systems. Areas do not contain SUDS/Nature based solutions and are over reliant on underground attenuation areas.
- 9.6. Part V Provision: The proposed pepper-potting is acceptable. Note that storage space in house types B1, C1, C3, C5 and DU1 do not meet the required standard.

Council's preference is for maisonette type own door units with garden space at ground level, not duplex units. Ownership, use and management concerns regarding spaces. Request that the bathroom in unit DU3 include bath or wet room. Balcony and canopy to unit DU01 restricts head height to 2.2m. Ground floor ceiling height of 1 bed duplex should be increased to 2.7m. En-suite bathrooms could be altered to provide storage.

- 9.7. Creche: exceeds child space requirement.
- 9.8. Water services: no objection, recommend conditions requiring revised SUDS design.
- 9.9. Access, Permeability and Car Parking: Number of accesses from the Link Road considered to be excessive and a maximum of 6 junctions should be provided instead. There is a shortfall of 65 car parking spaces compared to Development Plan standards. Concern regarding reduced provision of vehicular parking for duplex units.
- 9.10. Residential Standards: note that storage and ceiling height does not meet apartment standards for some units.
- 9.11. Qualitative Assessment: The proposed development does not comply with all 12 criteria in the Urban Design Manual: A Best Practice Guide.
- 9.12. Recommendation: That An Bord Pleanála refuse permission for the proposed development for the reasons set out below:
  1. The site is zoned C2 under the Newbridge Local Area Plan 2013-2019 (extended to 2021) which states that a maximum density of 15 units per hectare will apply. Section 4.3 of the Regional Spatial and Economic Strategy (RSES) states that 'higher densities in core strategies should be applied to higher order settlements such as Dublin City, Regional Growth Centres and Key Towns. However, there should be a graded reduction in residential densities for Self-Sustaining Growth Towns, Self-Sustaining Towns, towns and villages that are commensurate to the existing built environment.' Having regard to Newbridge's status as a Self-Sustaining Growth Town along with the peripheral location of the site along the settlement edge, it is considered that the density and number of residential units proposed would be contrary to the site specific zoning objective and Section 4.3 of the RSES. Furthermore, in all

types of rural settlements, rural town living requires a proportionate and tailored approach to residential development. This means that it is necessary to tailor the scale, design and layout of housing in rural towns to ensure that a suburban or high density urban approach is not applied to a rural setting and that development responds to the character, scale and density of the town (National Planning Framework). Having regard to the foregoing the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The 'Urban Design Manual – a Best Practice Guide' issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout and fails to provide a hierarchy or high quality usable open spaces. The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

9.13. Having regard to the foregoing and to the objection in principle to the proposed development, the Planning Authority considers it inappropriate, in the circumstances, to provide suggested conditions. Conditions are recommended in departmental reports.

9.14. **Planning Authority Internal Departmental Reports**

9.15. Housing Section

9.16. Detailed comments regarding the proposed units as noted above. Costs to be further considered when the mix, design, and location of units have been agreed.

9.17. Parks Section

9.18. The landscape and tree proposals are considered to be acceptable, conditions concerning arboricultural works / tree retention and supervision of works by arboricultural consultant, clearance of vegetation outside of bird breeding season,

detail of landscape design with works overseen by landscape architect, inclusion of root barriers, detail of landscape materials / surfacing, public lighting, seating, boundary treatments, play areas and outdoor fitness equipment.

9.19. Fire Service

9.20. No objection, subject to 6 conditions concerning fire safety certification, access for fire service vehicles, electrical works to standards, fire alarm systems, water availability and fire hydrants.

9.21. Environment Section

9.22. No objection, conditions recommended concerning discharges from the site, noise control, storage during construction, spoil and waste storage / disposal, mitigation during construction and surface water management.

9.23. Elected Members

9.24. A summary of the views of elected members as expressed in the Kildare-Newbridge Municipal District Meeting at the meeting on 9<sup>th</sup> September is included in the Chief Executive Report and summarised below.

- Several Cllrs noted that the density is too high for a peripheral location in Newbridge, 1 no. Cllr considered that the density was reasonable;
- Concerns regarding the ability of the site to facilitate the surface water attenuation;
- Concern regarding lack of car parking spaces throughout;
- Playground proposed appears substandard;
- No public vehicle charging points;
- Cycle storage proposed is substandard and should be entirely enclosed to ensure security;
- Concerns regarding figures provided within the social infrastructure audit in relation to school spaces;
- Better linkages required along Standhouse Road;
- Apartment unit should be centrally located. Some concerns regarding the height of 4 storeys near Standhouse Road which is more rural in nature;

- Creche may be better positioned to the north of the site where the apartment building is proposed to ensure a better flow of traffic.
- Queries regarding how the public open space was calculated. Concerns regarding the reliance of the open space provided in Phase 1 to provide adequate open space provision of the entire development.
- Highlighted that a number of the 2-bed apartments do not meet the required residential standards.
- Noted that the Newbridge Local Area Plan 2013-2019 should be updated as it is now outdated.

## 10.0 Prescribed Bodies

### 10.1. Irish Water

A confirmation of feasibility for connection(s) to the Irish Water network(s) issued, subject to the following:

In respect of Water: In order to accommodate the proposed connection to Irish Water network at the Premises, the following upgrade works are required:

- Connection main – Approx. 10m of new 200mm ID pipe main to be laid to connect the site development (see yellow sections below) to the new 200mm ID main. Bulk meter to be installed on the connection main.
- New main – Approx. 700m of new 200mm ID pipe main to replace 3" uPVC main.

Irish Water currently does not have any plans to extend its water network in this area therefore the applicant will be required to fund these upgrades/works as part of a connection agreement with Irish Water.

Design Acceptance: The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of their propose development site and has been issued a Statement of Design Acceptance for the development.

Therefore, Irish Water respectfully requests the board conditions any grant as follows;

1. The applicant must sign a connection agreement with Irish Water prior to any works commencing and connecting to our network
2. All development is to be carried out in compliance with Irish Water Standards codes and practices.
3. Irish Water does not permit build over of its assets and the separation distances as per Irish Waters Standards Codes and Practices which must be achieved.
  - a) Where any proposals by the applicant to build over or divert existing water or wastewater services subsequently occurs the applicant shall submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to progression of works.

#### 10.2. Department of Housing, Local Government and Heritage

Archaeology: The submitted proposals are acceptable with conditions recommended. The Department agrees with the recommendation made in the archaeological assessment report, that all topsoil removal in the northern end of the development site should be carried out subject to archaeological supervision. Recommend preservation in situ with measures to ensure appropriate preservation. Measures to secure archaeological monitoring are also recommended.

Nature Conservation: The Department considers that likely impacts of this development include changes to groundwater recharge and groundwater contamination with pollutants. ABP should ensure that the current groundwater recharge from this site to the fen's groundwater catchment is maintained. The development is located within a regionally important aquifer. Groundwater aquifer is extremely vulnerable to contamination during both construction and operational phases. ABP should ensure that the proposed development layout and mitigation measures contained in the NIS are adequate.

### 11.0 **Assessment**

11.1. The planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Density

- Height and Design
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Material Contravention
- Planning Authority's Reasons for Refusal
- Other Issues

## 11.2. Principle of Development

### 11.2.1. Land use zoning

11.2.2. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I also note the Government's new Housing for All Plan which identifies the need to increase housing supply as a critical action. The subject site is zoned 'C' New Residential 'to provide for new residential development' under the Newbridge Local Area Plan 2013-2019 (extended to 22<sup>nd</sup> December 2021), forming part of the Kildare County Development Plan 2017-2023. A specific objective is also described for lands 'C2' within which the subject site lies, for a maximum density of 15 units per hectare. Residential is therefore the primary use for which the lands are zoned for, with creche use also stated to be a permitted in principle use on 'C' New Residential lands.

11.2.3. The principle of residential development on the site is therefore consistent with national policy and land use zoning under the Plan, the principle of development has also previously been established in a planning consent for the site (ABP ref. PL09.249038, PA ref. 16/658).

11.2.4. The Planning Authority have confirmed that they consider the principle of the proposed development to be generally acceptable, albeit highlighting matters that they consider warrant a refusal of the application, which I address throughout this report and in detail in section 11.9 below.

### 11.2.5. Apartment development



11.2.6. Objective HL 6 of the Local Area Plan restricts apartment developments generally to town centre locations or suitably located sites adjoining public transport connections and seeks to prevent an overconcentration of this type of development. The proposed development includes apartment development and is not located within a town centre location. The application documents confirm that the nearest bus stops to the subject site are located on The Crescent, Green Road, Athgarvan Road and Main Street. The closest of these bus stops is around a 10 to 15 minute walk from the subject site and they do not serve what would be considered high frequency bus routes. The Planning Authority also state that the site is classed as a Greenfield Edge Development site as stated in Table 15.1 of the Kildare County Development Plan where 'Apartments will not normally be permitted.'

11.2.7. I note National Policy Objective 35 of the NPF which supports increased residential density in settlements through a range of measures, including increased building height. The NPF states to meet targets described under that Project Ireland 2040 National Plan, a significant and sustained increase in urban housing output and apartment type development in particular, is required to avoid urban sprawl. I also note that the Apartment Guidelines support this approach and classifies the type of locations that might be considered suitable for apartment type housing. This includes 'Peripheral and / or Less Accessible Urban Locations' which are identified as suitable for residential development that includes a minority of apartments at low-medium densities. The guidelines state at paragraph 2.5 that '*...apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages.*'

11.2.8. In my view, National Planning Policy and Guidance supports the inclusion of apartment development in urban locations, including outside of town centre areas. The mix of housing types proposed includes 27 no. apartments and 64 no. duplexes, equating to 27% of the overall development. The remainder of the residential units being formed of self-contained housing and making up the predominant form of housing proposed. The character of residential areas surrounding the site is dominated by self-contained housing units, with a lack of apartment type housing. Therefore, I consider the proposed development to represent a more diverse housing mix that contributes to greater housing choice in the area and responds to the National Planning Policy approach to compact growth. The applicant has included a Statement

of Material Contravention in relation to this matter, which I consider further in section 11.8 below.

### 11.3. Density

11.3.1. The subject site is zoned for new residential development as part of C2 lands. I also note that the Newbridge Local Area Plan contains a site specific objective for the C2 lands within which the subject site is situated, stating that a maximum density of 15 units per hectare will apply. The Planning Authority has recommended that the application be refused, in part, as a result of the density proposed.

11.3.2. The proposed development comprises 336 units on a 9.61ha site (net developable area of 11.42ha total area), equating to a density of 35 units/ha. The proposed density is therefore a material contravention of the Local Area Plan. I address material contraventions in the application further in section 11.8 below, while in this section of my report I address the suitability of the subject site for the proposed density.

11.3.3. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' 2018, 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

11.3.4. The subject site is zoned for residential development and located on the periphery of existing residential estates in Newbridge, an area categorised as a Self-Sustaining Growth Town in the County Development Plan. The subject site is approximately a 15 minute walk into the centre of Newbridge and there are footpaths to facilitate pedestrian access. The subject site is also served by public transport, with bus routes in proximity to the site as described in section 11.2 above. The site is approximately a 10 minute cycle or 30 minute walk to Newbridge Train Station, however I note a lack of existing cycle infrastructure along routes between the site and the station.

11.3.5. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines, Newbridge can be considered a larger town. The guidelines state that for outer suburban / greenfield sites on the periphery of larger towns, which in my opinion would include the subject site, densities to a range of 35-50 dwellings per hectare will be appropriate. I also note that table 11 of the Newbridge LAP indicates a general density parameter of 30-50 units per hectare (uph) for 'Outer Suburban/Greenfield Generally new residential zoning areas' and the subject site is zoned for new residential.

11.3.6. In light of the foregoing, the characteristics of the site, including the short walking distance to the centre of Newbridge, the availability of bus serves, and the guidance contained in the Sustainable Residential Development Guidelines as referenced above, I consider the proposed density of 35 units per hectare to be acceptable for the for this SHD application, situated on the edge of Newbridge.

11.3.7. In relation to the wider site area within the applicant's landownership, I note the previous refusal in relation to the low density and inefficient use of land. The density for that application (PA ref.19/710, ABP ref.305410-19) was 24.3 uph, with a total of 314 units. The site redline boundary area for this current SHD application differs to that previous application. The previously refused application had a developable site area for the purposes of density calculations of circa 12.9ha. The site redline boundary area is reduced in the current SHD application, with a developable site area for density calculations of 9.16ha. As a result, an increase in density might be expected. The applicant has described this current application as forming 'future phases' of that previous consent (under PA ref. 16/658 / ABP ref. 305410-19) with 'Phase 1' already constructed to the south of the current application site area, and within the applicant's blueline area. Phase 1 incorporates 54 units, which in addition to the 336 units proposed in this application, would total 390 units across a total developable area of 12.9ha. This equates to a density of 30.23 uph across the entire landownership area.

11.3.8. I am cognisant of the Local Area Plan stipulations regarding policy for this site, however, in my view, that restriction is at odds with the National and Regional approach that I have identified above. Newbridge is a town identified in the RSES as having strong interrelationship of services, employment and education with Naas, and Newbridge is highlighted in the RSES as having good levels of local employment, services and amenities. A density of 35 uph is therefore acceptable in my view, for the

current SHD application submitted based upon the redline site area. In consideration of the wider development area within the applicant's landownership, the density of 30 uph would not reflect the 35-50 uph range set out in the Sustainable Residential Development Section 28 Guidelines. However, the application description as detailed in site notices does not describe this current application as an amendment to that overall scheme, but as 'future phases', therefore, my assessment is limited to the application submitted before me in terms of an assessment of the proposed density. As a result, I am satisfied that the proposed SHD development with a density of 35 uph is acceptable.

#### 11.4. Height and Design

11.4.1. I note that the Planning Authority has suggested that the application be refused, in part, due to poor design.

11.4.2. The proposed development comprises 2 storey, 3 storey and part 3 / part 4 storey residential buildings. The predominate existing built character of the area surrounding the site is 1-2 storeys in height. The site is also situated adjacent to existing agricultural fields and greenfield areas. As such, the proposed 3 and 4 storey heights will be a departure from the existing visual character of the immediate area. Section 17.2.1 of The County Development Plan states that appropriate building height will be determined by the prevailing heights in the area, proximity to housing and formation of cohesive streetscape pattern. As a result, the applicant has submitted a Material Contravention Statement which addresses the proposed height of the development in contrast to the established prevailing building height in the area. I address the matter of material contraventions in section 11.8 below in more detail, while in this section I assess the proposed height and design in light of planning policy.

11.4.3. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. I note SPPR 4 in the guidelines in relation to greenfield or edge of city/town locations, which states that a greater mix of building height and typologies should be sought, and avoidance of mono-type building typologies. Paragraph 1.9 states that *'these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled*

*with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.* I also note national policy in Project Ireland 2040 National Planning Framework, and particularly objective 35 concerning increased residential density in settlements.

11.4.4. Development management criteria are also described in section 3.2 of the Building Height Guidelines to inform an assessment of appropriate heights. SPPR 3 requires that an applicant for planning permission sets out how a development proposal complies with criteria in section 3.2, and where a planning authority or An Bord Pleanála concur with this, a development may be approved even where specific objectives of the relevant development plan or local area plan may indicate otherwise. The applicant has not provided a specific assessment of the proposal against the criteria in section 3.2 of the building height guidelines, however I set out my own assessment against the criteria below.

11.4.5. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I have described in sections 11.2 and 11.3 above the public transport accessibility of the site and I am content that the scale of development, and modest increase in scale in limited parts of the site, is appropriate and reflective of the site accessibility. The second criterion relates to the character of the area in which the development is located. As set out above, the prevailing height of the area is 1-2 storey, while the proposed development includes heights in excess of this, the predominant character of the proposed development is 2 storey and at those points closest to existing dwellings, the proposed development includes 2 storey housing. As such, I am content that the proposal responds appropriately to the character of the area.

11.4.6. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), the proposal is comprised of a residential housing estate and therefore reflects the established residential character to the east. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), this is described in detail in the submitted design statement with the application. The materials and housing design are fairly typical in appearance and reflective of the established brick-built and render finish to the built environment surrounding the site. The proposed layout responds to

the established residential estates to the east of the site, with rear gardens backing onto those existing rear garden areas. The arrangement of the streets through the site has a clear hierarchal arrangement and rational form in my opinion. Open space areas are included throughout the site extent, with good passive surveillance across areas. I note that the Planning Authority suggests that areas to the west are not overlooked sufficiently, however this comment appears to relate to the narrow linear grass area adjacent to the main 'link road' serving the site, which is not designed to be an area to dwell in for extended periods in my view. In terms of connections, the approved 'link road' is the main route through the site as permitted in PA ref. 16/658. Connection to the residential area 'The Elms' to the east is not possible due to the street arrangement for that estate.

11.4.7. The proposed development will provide increased diversification of housing typology in the area which is currently predominately self-contained dwelling houses. The incorporation of apartments and duplexes on the site will therefore be a positive contribution to the mix of typologies in the area (a 3.2 criterion). Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing, I discuss this in detail below in sections 11.5 and 11.6 of this report. The submission of specific assessments is also referenced in the guidelines and reports sufficient to assess a development of the scale proposed have been submitted. I note the applicant's documents that have informed my assessment, including (but not limited to) the submitted design statement, verified views / CGIs, daylight and sunlight report, ecological impact assessment and NIS.

11.4.8. I note the previous planning consent on the site under (PA ref. 16/658) which included as part of the amended scheme approved, 3 and 4 storey apartments and duplex blocks. As such, there is precedence for approval of this scale on the application site. I also consider that the proposed 3 and 4 storey heights are modest in scale, and that the application proposal includes a transition in height towards neighbouring residential estates, with 2 storey housing situated on those boundaries closest to existing dwellings. The proposed development is largely formed of 2 storey dwellings with a range of housing types, and with both detached, semi-detached and terrace forms. The proposed 3 and 4 storey blocks contributes to the variety in housing

types and are appropriate in my view, given the specific characteristics of this site and the surrounding area.

11.4.9.I note that the County Development Plan states that residential amenity in transitional areas should be protected, through the avoidance of abrupt transitions in scale and use at the boundary of adjoining land use zones. While the site may be considered ‘transitional’ as it is situated between greenfield/agricultural areas and established residential estates, I consider the proposed scale and mix of heights between 1 and 4 storeys, to be appropriate for the site.

## 11.5. Neighbouring Residential Amenity

### 11.5.1. Daylight, Sunlight and Overshadowing

11.5.2.The Building Height Guidelines seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified. The applicant has submitted a Daylight and Sunlight Report with the application which considers the impact upon surrounding existing dwellings that are proximate enough to the site to warrant analysis. There is no assessment submitted in relation to the potential impact upon the daylight, sunlight and overshadowing conditions upon dwellings under construction in the Phase 1 site within the applicant’s landownership, however I have considered the details of the proposed development and undertaken my own evaluation below.

11.5.3.The Building Research Establishments (BRE) ‘Site Layout Planning for Daylight and Sunlight – A guide to good practice’ describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

11.5.4.“*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.*”

11.5.5.The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining

an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

11.5.6. The BRE guidelines state that in relation to daylight to existing buildings:

*“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...”* (para. 2.2.4)

11.5.7. In relation to existing properties that could potentially be impacted, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) to less than 27%, or where this is the case, not more than 0.8 times its former value. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property ‘is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.’ Therefore, the preservation of a minimum VSC of 27% and reductions no more than 0.8 times the former value, illustrate acceptable daylight conditions to existing properties. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more than one quarter APSH, including at least 5% of APSH in the winter months between 21<sup>st</sup> September and 21<sup>st</sup> March, then the room should still receive enough sunlight. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21<sup>st</sup> March.

11.5.8. In relation to the submitted analysis, this relates to the existing surrounding dwellings and the submitted report details that all tested windows and garden spaces in The Elms, Millfield and Laneveiw, meet BRE minimum target levels for VSC, APSH and overshadowing.

11.5.9. In relation to properties under construction in the Phase 1 site, I have carried out my own assessment of potential impact. Where the proposed development has blocks of 3 or 4 storey in height, these are not situated close enough to dwellings under construction in Phase 1, to perceptibly impact daylight or sunlight levels. The proposed



development has a 2 storey height where it is closest to the Phase 1 boundary. Proposed dwellings also have sufficient separation to the Phase 1 properties and therefore, no analysis of the impact of the Phase 1 properties is required in my view. This is because any potential impact would be negligible and can be ruled out without further testing as per para.2.2.4 of the BRE guidelines. Given the 2 storey height of proposed houses closest to boundaries with existing residential areas, I am confident that the Phase 1 dwellings are situated a sufficient distance away, or have an orientation or window arrangement, that when considered alongside the arrangement of the proposed development, would not experience any, or significant, loss of light / increased overshadowing.

11.5.10. Overall, I am content that daylight, sunlight and overshadowing impact from the proposed development upon both existing properties and Phase 1 properties will be within an acceptable range for the area and not significantly harmful. I have applied the guidance within the BRE guidelines and associated BS 17037:2018 in my assessment of this issue, and particularly in light of the guidelines own assertions that numerical targets should be applied flexibly (para.1.6) and that natural light is only one of many factors in site layout design (para.1.6).

11.5.11. While I note the lack of a submitted assessment specifically in relation to potential impact upon properties under construction in Phase 1 with the application, I am satisfied that this does not have a material bearing on my assessment, and potential daylight/sunlight impacts upon existing residents in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, that as a result of the separation distance to existing dwellings, the low rise height of the proposed development at those points closest to Phase 1 dwellings, the location of windows and the orientation of these structures, impacts upon daylight and sunlight would not be significantly harmful. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight impact upon future occupiers of Phase 1, and this is reflected in the scale and layout of the proposal.

11.5.12. I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the proposed

development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied.

#### 11.5.13. Overlooking

11.5.14. Section 17.2.4 'Overlooking' of the County Development Plan states that in general, a minimum distance of 22m between opposing above-ground floor level windows is required for habitable rooms. In the proposed development, separation distances to surrounding existing dwellings, exceed 22m in all cases. In relation to separation to the properties under construction on the Phase 1 lands, the proposed development is arranged so that wherever proximities are less than 21m, it is a side to back elevation arrangement and not a back to back arrangement. Side elevations have limited windows and generally serve non-habitable areas. House type E in the proposed development situated on the south western portion of the site adjacent to the Phase 1 lands, includes a side elevation window to the living area, but this is a secondary window to the room at ground floor level and therefore would not generate overlooking concerns.

11.5.15. Section 17.2.4 also states that a separation distance of 35m will normally be required in the case of overlooking living rooms windows and balconies at upper levels. The proposed development conforms with this standard.

11.5.16. The Development Plan also states that adequate separation distance will be required for buildings overlooking school playgrounds or other sensitive uses. To the north east of the site there are playing fields associated with a school. The proposed development is arranged with 2 storey housing along this edge, and reflects the established arrangement of housing to the boundaries of this playing field area. I am satisfied that there is no adverse impact upon the use of the playing field as a result of the proposed development.

11.5.17. In general, the backdrop to properties bounding the subject site will alter, with some increased perceived overlooking of rear garden areas, however such impact is inevitable as part of the efficient development of a zoned greenfield site for housing. This impact will be reflective of normal back-to-back housing arrangements for residential estates and will not be significantly harmful in my view. Overall, I am satisfied that the proposed development does not result in undue overlooking or harmful impacts upon the privacy of adjacent residential properties.

#### 11.6. **Proposed Residential Standards**

#### 11.6.1. Daylight, Sunlight and Overshadowing

11.6.2. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

11.6.3. A Daylight and Sunlight Report has been submitted with the application and describes the performance of the development against BRE guidelines in relation to daylight and sunlight. BRE guidelines describe ADF targets of 2% for kitchens, 1.5% to living rooms and 1% to bedrooms. The analysis demonstrates that all units comply with BRE minimum target daylight levels.

11.6.4. In relation to sunlight, analysis has been provided in accordance with the BRE guidelines on Annual Probable Sunlight Hours (APSH). The APSH modelling involves assessment of the level of sunlight that reaches the main livingroom window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The analysis for the proposed development has assessed all windows in the development and not just living room windows. It shows that 61 of the 91 units analysed (being the apartments and duplexes only) have a living room window facing within 90 degrees due south, and 50 of these 61 windows meet the BRE numerical target. The submitted analysis also notes that a number of the apartments with north facing living rooms have south facing bedrooms.

11.6.5. The majority of living rooms within the proposal that require assessment, will meet BRE standards. It is also worth noting factors that can contribute to limiting the overall sunlight performance of a proposed development, including the position of a window beneath a balcony, which invariably means that sunlight levels will be reduced. The Apartments Guidelines ask that balcony areas adjoin living rooms to ensure amenity space has a functional relationship with living space and it is recognised that the balconies serve an essential amenity function for a residential development.

11.6.6. Overall, I consider that the level of sunlight received to windows in the proposed development is acceptable, and I also note that sunlight is not a specific criterion under section 3.2 of the Building Height Guidelines.

11.6.7. In relation to overshadowing of amenity areas, the analysis demonstrates that at least 50% of the proposed communal amenity areas will receive a minimum of 2 hours sunlight on 21<sup>st</sup> March, complying with BRE target levels. The analysis also shows that not all of the proposed private garden areas will satisfy the minimum BRE numerical target. In this sense I note paragraph 3.3.3 of the BRE guidelines, which states that the availability of sunlight should be checked to gardens – being the main back garden of a house. Therefore, the private amenity spaces to the proposed duplex and apartment units would not normally require assessment. For these types of accommodation, the BRE overshadowing guidance is most applicable to the communal spaces within the proposed development and not the private amenity areas proposed.

11.6.8. In relation to the houses proposed, there are some that will not achieve the BRE minimum target levels in respect of the overshadowing of private garden areas, however I am satisfied that the overall performance of the proposed development in this regard, and that where gardens do not meet the target, this is a consequence of the orientation and layout of the development, rather than associated with the proposed building form. I am satisfied that the layout is an appropriate response to the site and to dictate a layout response solely in relation to the sun lighting of proposed garden areas would not be a rational approach for this development in my view. I am therefore satisfied that the proposed development provides sufficient communal amenity for future residents that will not be unduly overshadowed.

11.6.9. Overall, I am satisfied that the proposed development will experience acceptable daylight, sunlight and overshadowing conditions and that it does accord with methodology described in the BRE guidelines, albeit, in recognition that this guidance is flexible and requires a reasoned judgement to be made on all aspects of design.

#### 11.6.10. Dual Aspect

11.6.11. In the proposed development 77% of the apartment units proposed are dual aspect, complying with minimum planning policy requirements.

#### 11.6.12. Internal Space Standards

11.6.13. Generally, the floor areas for all the proposed houses, apartments and duplexes conform with the minimum standards described in the County Development Plan and Apartment Guidelines as applicable. There are storage areas within some house types that do not conform with the relevant standard but given the overall floorspace area

provided within these houses, I am satisfied that adequate amenity is provided. I note that the Planning Authority has raised concern regarding the floor to ceiling height of the 1 bed duplex unit type proposed in the development, however this is not a SPPR within the Apartment Guidelines, and a minimum 2.4m height is proposed as suggested in the guidelines. I also note that the duplex units are within a relatively low rise block – i.e. 2 or 3 storeys, so therefore the potential for overshadowing of the ground floor level is limited to that of a typical low rise dwelling. Therefore, the guideline requirements are less applicable in that sense.

#### 11.6.14. Private Amenity Space

11.6.15. All units have private amenity space in accordance with minimum planning policy requirements described in both the development management standards of the Development Plan (table 17.5) and the Apartment Guidelines, as applicable.

11.6.16. I note that the Planning Authority raises concern that some of the proposed duplex units have Shared private amenity space. I note three duplex unit types proposed with private amenity space as follows: type 1 has a ground floor terrace for the ground floor units and first floor balcony for the units over first and second floor; type 2 has a ground floor terrace for the ground floor unit and a first floor terrace for the first floor unit; and type 3 has a large garden area for the ground floor unit and first floor terrace for the first floor unit. A boundary line to separate the ground floor gardens for type 3 is shown in the proposed masterplan drawing, but this line is not reflected in the landscape masterplan drawing. I am satisfied that it is intended that all units have private amenity space, however further detail of boundary treatment is required, and could be sought by condition in the event that the Board determined to grant planning consent.

11.6.17. I note the Planning Authority concern that amenity areas along the eastern edge of the site are unusable due to the topography of that area. From my visit to the site, I observed the significant change in levels between across the site and to the boundaries to the north and east. However, the proposed site works include levelling off within the site and this will create a more regular topography along the eastern edge of the site. Where significant changes in level are still exhibited, an open space area is proposed, with a tiered arrangement in the landscape towards its eastern edge. I am therefore satisfied with the usability of private amenity areas shown.

#### 11.6.18. Communal and Public Open Space

11.6.19. The Planning Authority have raised concerns regarding the quality and usability of open space areas proposed and recommend that the application be refused, in part, as a result of a failure to provide high quality, usable, open spaces. The Planning Authority also state that the quantum of open space is unacceptable as they have discounted the provision of open space along the western boundary which they suggest is unusable, and therefore calculate the proposed provision of open space to be 13.6% of the site area.

11.6.20. The Apartment Guidelines describes the quantum of public communal amenity space to be provided, and the proposed development incorporates public open space that exceed this. Section 17.4.7 of the Development Plan states in relation to public open space for residential development in greenfield areas, that 15% of the total site area should be provided.

11.6.21. The proposed development includes a total of 17,065sqm (1.7ha) of public open space, equating to 15% of the gross site area of 11.42ha. The applicant also notes that the adjacent Phase 1 development includes 11,269sqm of public open space, which if considered in addition to the current application, amounts to a total open space provision of 2.88ha and 25% over the total landownership extent.

11.6.22. In relation to the open space provided along the western edge, I note that the development management standards within the County Development state that narrow tracts of land are not acceptable to form part of open space provision. The open space along the western edge of the site forms more of a tree planted grass verge to the link road through the site, and would not comprise an area where people would dwell as might be expected in open space areas. Houses along this edge would also provide indirect overlooking. I agree with the Planning Authority that this section does not form usable open space area. However, I do not agree with the Planning Authority that this amounts to sufficient reason to refuse the application.

11.6.23. In my opinion, the overall provision of public open space in the proposed development is acceptable and is situated throughout the site area to be easily accessible to future residents. Where there are level changes, this has been incorporated into the design of the landscape. There are two equipped play areas in different open spaces and significant tree planting proposed. The proposed provision also compliments the public open space that will be delivered as part of the Phase 1 development to the

south, which is formed of a larger 'active' open space area. The requirement for 15% open space under the Development Plan is a standard, and not a policy requirement, therefore in my view, flexibility is possible in assessing whether a development conforms with this standard. I also note that the requirement for open space is reduced to 10% for sites that are not in greenfield areas. The proposed development site is on the edge of the existing settlement, on a site which has planning consent for redevelopment and appears as a construction site currently, therefore while technically a 'greenfield' site, the character of the site is generally urban in this sense. The site is zoned for residential development and has a density that reflects an efficient use of the site according to the site characteristics, therefore a reduction in density and associated increase in open space would not be the correct solution or the proposal in my view.

11.6.24. Overall, I am satisfied with the proposed quantum and appearance of the landscape and open space areas proposed as part of the proposed development.

11.6.25. Mix

11.6.26. The housing mix comprises circa 13% 1 bed, 2 beds and 4 beds respectively, as well as 60% 2 beds. In my opinion, the proposed mix of housing types and sizes supports a variety of household types and sizes in accordance with County Development Plan and National planning policy requirements.

11.6.27. Privacy

11.6.28. The distance between windows to the rear of proposed houses is a minimum of 22m in all cases, ensuring adequate separation and associated privacy. Some closer adjacencies are demonstrated between the rear and side of proposed dwellings, but there is no conflict in window arrangement and therefore adequate privacy is maintained. The proposed duplex units have a minimum of 20m, which I consider to be appropriate for this housing typology.

## 11.7. **Traffic and Transport**

11.7.1. The application includes a Traffic and Transport Assessment (including reference to DMURS), Road Safety Audit and Outline Travel Plan. The Planning Authority's Transport Department have indicated concern regarding the access arrangements from the proposed link road, a shortage in car parking and reduced provision of parking

for duplex units which it concludes to be an endangerment to public health by reason of traffic hazard.

#### 11.7.2. Traffic

11.7.3. The submitted Traffic and Transport Assessment demonstrates that the proposed development does not significantly impact traffic flows. Standhouse Road is predicted to operate within capacity with the development in place up to year 2039. Ballymany Road is identified as currently operating over capacity; however, the proposed development would have a negligible impact, accounting for less than 4% of the traffic flow there. Junction capacity was assessed as operating within capacity with the development in place up to the year 2039, except for the Morristown Road Signalised Junction which is already operating over capacity. The proposed development would have a negligible impact on that junction. The submitted assessment takes into account the cumulative impact of adjacent development, including a potential scenario that includes the planned SHD development to the south of the subject site, that has not yet been determined (ABP SHD Ref. 311040-21 Ballymany, Newbridge). Overall I am satisfied that the proposed development would have a negligible impact upon traffic in the area.

#### 11.7.4. Access

11.7.5. All sightlines for proposed access points conform with DMURS. I note the Planning Authority's Transportation Departments request that the number of accesses from the Link Road be reduced to 6, from the current proposal of 10 access points. I do not think that this is necessary, as the proposed development shows 4 of the accesses to be homezone areas and serving a limited number of dwellings in each case. While ordinarily the number of cul-de-sac areas should be limited, the required Link Road necessitates this arrangement, the alternative would be convoluted for residents and increase traffic loading within the internal streets. A dedicated cycle route is also provided along the Link Road and pedestrian footpaths are included throughout the development. I am therefore satisfied with the proposed access arrangements.

#### 11.7.6. Car Parking

11.7.7. The Planning Authority's Transport Department has raised concern regarding the car parking proposed which it considers to be insufficient in number. I note that the applicant identifies a shortfall when compared to parking standards in the Development



Plan and has submitted a Material Contravention Statement which includes reference to this matter. I consider matters of material contravention in section 11.8 below.

11.7.8. The table below is an extract from the submitted traffic and transport assessment describing the proposed car parking provision compared to parking standards in the Development Plan.

Type	Ratio	Proposed	Required
Creche	0.5 per staff + 1 per 4 children	21	34
Houses	2 per unit	477	490
Duplexes	1.5 per unit	78	96
Apartments	1.5 per unit	34	41
Visitor Parking	0.25 per apartment unit	7	7
Total		617	668

11.7.9. The above table indicates that there is a shortfall of 51 car parking spaces when comparing the proposed development with parking standards in the Development Plan. However, I note that the Planning Authority considers there to be a shortfall of 65 car parking spaces.

11.7.10. In relation to the proposed creche, I note the inclusion of a set down area which reduces the need for more spaces and accounts for the intermittent drop-off and pick-up times that will be associated with visitors to that use. It is also expected that many users will be located within the development itself and will therefore walk rather than drive to the creche, which I consider to be a reasonable assumption.

11.7.11. All houses in the proposed development have at least one car parking space, with the vast majority having 2 spaces. While the proportion of spaces for the duplex and apartment units proposed does not reflect Development Management Standards in the County Plan, the approach is in keeping with the Apartment Guidelines which advises that car parking should be reduced in appropriate locations. As set out in section 11.2 and 11.3 above, the subject site is a reasonable walking distance to both the town centre

and bus stops. The applicant also describes that the most recent census data (2016) for Newbridge indicates that approximately 28.8% of commuters travel to work, school or college on foot or by bicycle, bus/coach and rail.

11.7.12. In light of the foregoing, I do not consider the shortfall in car parking spaces for the proposed development to be significant, based upon the shortfall identified by either the applicant or Planning Authority, and I'm satisfied that adequate space is provided to serve the needs of the development, particularly in light of the proximity to the town centre and availability of public transport.

#### 11.7.13. Bicycle Parking

11.7.14. There are 28 cycle spaces proposed as part of the apartment block situated within a dedicated cycle store, as well as 64 cycle spaces associated with duplex units located in individual stores at the front of units, and 48 cycle stands for visitors in public areas. I am satisfied that adequate provision of cycle storage is included within the proposed development.

### 11.8. **Material Contravention**

11.8.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subject to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.

11.8.2. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.

11.8.3. The applicant has submitted a Statement of Material Contravention with the application identifying a number of potential areas that may be considered material

contraventions of the Development Plan. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b) of the Act. I set out my assessment of the application in relation to this below.

11.8.4. The proposed development is identified by the applicant as materially contravening the following objectives in the Kildare County Development Plan 2013-2019 and Newbridge Local Area Plan (extended to 2021):

- i) Density: The Newbridge Local Area Plan (extended to 2021) has a specific objective for the zoned C2 lands of which the subject site forms a part of, to a maximum 15 units per hectare. The proposed development has a density of 35 units per hectare.
- ii) Apartment / Duplex Units: The Newbridge Local Area Plan has a specific policy to restrict apartment development generally to town centre locations or suitably located sites adjoining public transport connections, and it is noted that duplex units shall not generally be permitted. The proposal includes both apartment and duplex units on a site defined as an outer suburban / greenfield location.
- iii) Height: The Development Plan has general development standards for building heights which indicates that the appropriate maximum or minimum height of any building will be determined by the prevailing building height in the surrounding area. The prevailing building height surrounding the subject site is 1-2 storeys and the proposed development includes heights in excess of this and up to 4 storeys.
- iv) Parking: The Development Plan provides a car parking standard of 2 no. spaces for each house unit, 1.5 spaces per apartment and 1 visitor space per 4 apartments. The proposed development includes house type D that does not conform to this standard, there is less than 1 space per an apartment / duplex unit proposed and there is approximately 1 visitor space provided for every 4 apartments proposed.

11.8.5. In relation to density, the proposed development site is subject to a specific objective within the Newbridge Local Area Plan (LAP) for C2 lands, prescribing a maximum density of 15 units per hectare (uph). As the proposed density is for 35 uph, I agree with the applicant that this represents a material contravention of that specific objective

under the LAP. The applicant also identifies that in table 11 'Indicative Residential Densities' of the LAP, a general density parameter is described of 30-50 uph for 'Outer Suburban/Greenfield Generally new residential zoning areas.' The site is zoned for new residential and therefore falls within this classification. Objective LDO 1 of the Development Plan also states that the density of residential development should be in accordance with the Sustainable Residential Development Guidelines and as part of this, table 4.2 'Indicative Density Levels' of the County Development Plan also identifies a General Density Parameter of 30-50 uph for New Residential Development in Outer Suburban / 'Greenfield' locations. I have also described in detail in section 11.3 the site characteristics which align with national policies for increased densities on appropriate sites. Specifically, the Sustainable Residential Development in Urban Areas Planning Guidelines which state that for outer suburban / greenfield sites on the periphery of larger towns, which in my opinion would include the subject site, densities to a range of 35-50 dwellings per hectare will be appropriate. I am therefore satisfied that the exceedance of the density level proposed when compared to the objective for C2 lands under the LAP is acceptable. In my view, should the Board determine to grant planning permission, a material contravention of the Newbridge Local Area Plan (extended to December 2021) in relation to density is justified as follows:

11.8.6. In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development can be considered of strategic importance at a county level, formed of 336 units on zoned lands for much needed residential development, in accordance with the broader policies and objectives of the NPF and RSES, specifically objectives 33 and 35 of the NPF which seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements.

11.8.7. In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

There are conflicting objectives in the development plan and local area plan. The development plan and local area plan include indicative densities for new residential zoned lands, (which would include the subject site) of between 30-50 uph. Objective LDO 1 of the development plan also asks densities to reflect the Sustainable

Residential Development Guidelines, which for the subject site would be between 35-50 uph. However, Newbridge Local Area Plan (LAP) includes a specific objective for C2 lands, which includes the subject site, of 15 uph.

11.8.8. In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery and efficient development on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework; and the Sustainable Residential Development in Urban Areas Planning Guidelines 2009. Specifically in light of the location of the site on the periphery of the existing settlement, on a suburban / greenfield area, where densities of between 30-50 uph are expected. The site is a short walking distance to the town centre for Newbridge, a town highlighted in the RSES as having good levels of local employment, services and amenities. The site also has access to public transport with bus stops situated a reasonable walking distance from the site. In addition, the proposed development is also in accordance with SPPR3 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

11.8.9. In relation to section 37(2)(b)(iv) of the Planning and Development Act 2000 (as amended):

11.8.10. The pattern of development in the area, specifically being the previous planning approval on the site (PA ref.16/658, ABP ref.249038) with an approved density of 21.71 uph and in excess of the specific objective for 15 uph on C2 lands described under the Newbridge Local Area Plan. In addition, a SHD permission (ref.302141) was granted on lands at Athgarvan Road, Kilbelin, Newbridge in 2018 for a development density of circa 37-39 uph, with heights up to 3 storeys. This therefore indicates that a material contravention would similarly be justified for the proposed development.

11.8.11. In relation to the provision of apartments and duplexes on the site, I note that policy HL 6 of LAP states the following:

*To restrict apartment developments generally to town centre locations or suitably located sites adjoining public transport connections. Apartments will not be permitted*

*where there is an over concentration of this type of development. Higher density schemes will only be considered where they exhibit a high architectural design standard creating an attractive and sustainable living environment. Duplex units shall not generally be permitted.*

11.8.12. Of the 336 units proposed there are 27 no. apartments and 64 no. duplexes, equating to 27% of the overall development. I note that the Planning Authority considers that the development is unacceptable in this regard and in relation to policy HL 6. However, I do not agree with the applicant that this represents a material contravention of the plan. In my view this policy seeks to restrict apartment developments *generally* to town centre locations or suitably located sites adjoining public transport connections (my emphasis). This implies that there are situations where apartments outside of these locations are appropriate, and I have outlined in section 11.2 of my report why I consider the site to be appropriate for the proposed apartment and duplex units proposed. I am of the view that, given the qualified wording of the policy, the proposal here does not materially contravene same.

11.8.13. I also consider there to be no over concentration of apartment units in the general locality, with the surrounding developments predominantly consisting of 1 and 2 storey housing. I am of the view that that the proposal is acceptable in terms of the height and design proposed and will create an attractive and sustainable living environment, as described in section 11.4 above. In relation to the duplex units proposed, policy HL 6 states that duplex units shall not *generally* be permitted (my emphasis), but I am of the view that the policy is worded so as to allow them in some instances, and I have set out in detail in sections 11.2, 11.3, 11.4 and 11.5 of this report above, why the characteristics of the site support the proposed apartment and duplex units within the development and with acceptable design and quality standards proposed. Given the qualified wording in the policy, I am not of the view that the proposal materially contravenes same.

11.8.14. In relation to height, section 17.2.1 of Development Management Standards in the County Development Plan states the following under 'general development standards':

*The appropriate maximum or minimum height of any building will be determined by:*

- *The prevailing building height in the surrounding area;*
- *The proximity of existing housing;*

- *The formation of a cohesive streetscape pattern, including height and scale of proposed development relative to width of street or area of open space.*

11.8.15. As the proposed development includes heights up to 4 storeys in a location where the prevailing building height is 1 to 2 storeys, the applicant concludes a material contravention of the plan arises.

11.8.16. Similarly, in relation to car parking, the County Development Plan describes standards for car parking in table 7.9, with a minimum of 2 spaces per housing unit and 1.5 spaces per apartment, with 1 visitor space for every 4 apartments. The proposed development does not conform with this standard, with less car parking spaces included than would be generated in accordance with the minimum quanta identified. The applicant therefore concludes that a material contravention of the plan arises.

11.8.17. In my opinion, the aforementioned standards do not amount to a policy or objective under the plan. Therefore, I do not agree that a material contravention arises. The standards described in section 17 of the County Development Plan are intended to guide the form that development takes, but there is recognition of flexibility in the application of standards to specific development proposals. In this sense, I note section 17.1 of the development plan which states:

*There is an obligation on the Council to ensure that permissions granted under the Planning Acts are consistent with the policies and objectives set out in this Plan. This chapter focuses on the general planning standards and design criteria that will be applied by the council to ensure that future development is in accordance with these policies and objectives. There is provision for a degree of flexibility of approach in particular circumstances. This applies where proposed development is otherwise consistent with proper planning and sustainable development and the preservation and improvement of amenities.*

11.8.18. It is therefore my view that where a proposed development does not comply with the Development Management Standards described in section 17 of the County Plan, this does not amount to a material contravention of the plan.

11.8.19. In summary, I consider that the only material contravention that arises with respect to this application relates to the exceedance in density identified for C2 lands under the Newbridge LAP, and that this would be justified for the reasons described above. However, should the Board conclude that other material contraventions arise with

respect to those matters outlined above, justification would similarly support a material contravention for those matters in relation to the strategic character of the application; the adherence to SPPRs and criteria under section 28 guidelines, specifically the Building Height and Apartment Guidelines; and the established housing typologies and parking levels represented in planning approvals both on the site and in the surrounding area.

## **11.9. Planning Authority's Reasons for Refusal**

11.9.1. The Planning Authority have recommended that the application be refused for 2 reasons. I have addressed each of these reasons throughout my assessment, both above and below. Here I will provide an overview and cross reference to relevant sections of my report, to explain my assessment in relation to each of the reasons raised.

11.9.2. The first recommended reason for refusal relates to the proposed density, with reference to the maximum density of 15 units per hectare set out in the Newbridge Local Area Plan 2013-2019 (ex.2021) and Section 4.3 of the RSES which states that 'higher densities in core strategies should be applied to higher order settlements such as Dublin City, Regional Growth Centres and Key Towns. However, there should be a graded reduction in residential densities for Self-Sustaining Growth Towns, Self-Sustaining Towns, towns and villages that are commensurate to the existing built environment.' The Planning Authority consider the site to be in a peripheral location on the settlement edge and a rural settlement, where the proposed density would be inappropriate.

11.9.3. I have set out in detail in sections 11.3 above the characteristics of the site and how these compare to National Planning Policy relating to sustainable development density. In my view, the proposed density of 35 uph is lower than would be targeted in more urban areas, but appropriate for the site. In this sense, the density is reflective of a 'graded reduction' when compared to more central or accessible areas, as described in the RSES. While I note that the subject site is at the edge of the existing settlement area, it is still a reasonable walking distance to the town centre for Newbridge, and the character of Newbridge is urban. The subject site is located at the edge of the settlement area and adjacent to greenfield areas, I also note that the site is zoned for new residential, which is indicated in table 11 of the LAP as forming outer suburban /



greenfield locations, and this reflects the definition of such locations under the Sustainable Residential Development in Urban Areas Guidelines as:

*‘...open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure’...*

11.9.4. National Planning Policy guidance, and both table 4.2 of the County Development Plan and table 11 of the LAP, identifies outer suburban / greenfield locations as suitable for densities of between 30-50 uph.

11.9.5. The fact that this is a zoned site for housing, situated within walking distance to the town centre, is a primary characteristic for consideration in my opinion. The RSES highlights Newbridge as having good levels of local employment, services and amenities and as such, it is a location that can sustainably support new housing delivery in terms of the amenities, services and employment opportunities on offer. Therefore, in my opinion, the Planning Authority’s approach to density levels for this site does not reflect National or Regional Planning Policy, which encourage compact growth in appropriate areas to ensure sustainable housing delivery. There is also public transport available to the site as I have described in detail in section 11.2 and 11.3 above. As a result, I do not agree with the Planning Authority that the proposed development should be refused based upon the ‘high’ density level proposed.

11.9.6. The second recommended reason for refusal relates to the design, with reference to the Urban Design Manual – a Best Practice Guide, accompanying the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. The Planning Authority considers the proposed design concept to be poor, substandard in form and layout, with a failure to provide a hierarchy or high quality usable open spaces. The Planning Authority includes a detailed assessment of the scheme against the criteria in the Urban Design Manual and I have had regard to this as part of my appraisal of the scheme.

11.9.7. I have set out in section 11.4 and 11.6 my evaluation of the proposed design and open space in the development. I do not agree with the Planning Authority that the open space has been sacrificed in order to achieve a higher density development. The green edge to the link road to the west of the site provides some linkage between the open space areas to the western side of the site. While these spaces are separated by the road, visually the spaces are prominent along this edge and are interconnected in

that sense. To the east of the site, the open spaces are connected through homezone street areas, and have a more intimate character with the proposed housing on that side of the site. Access between all the open spaces proposed is facilitated via footpaths through the proposed development and therefore I do not agree with the Planning Authority that there is no connectivity between these spaces. In my opinion, the landscape design does facilitate the use of public spaces from the outset, and is in accordance with the Urban Design Manual criteria.

11.9.8. The Planning Authority suggests that there should be a larger central open space within the proposed development site, in place of the housing units shown. I do not agree that this would be the correct approach, as the proposed provision of open space is already acceptable in my view. I also note that this would reduce the density of the proposed development to an inefficient level in light of the National Planning Policy approach.

#### **11.10. Other Issues**

##### **11.10.1. Water Infrastructure and Flood Risk**

11.10.2. It is proposed to connect the foul drainage discharge and water supply for the proposed development to the existing infrastructure at Standhouse Road with gravitational connection. Upgrade works are required in association with this, and Irish Water have issued a Statement of Design Acceptance in relation to this. Proposed surface water drainage has been designed in cognisance of the objectives and guidance contained in the Greater Dublin Strategic Drainage Study. The Planning Authority's Water Services Department have not raised any objection to the proposals, with conditions recommended to secure appropriate arrangements. I am satisfied with the proposed approach to foul drainage, water supply and surface water management for the site.

11.10.3. In relation to Flood Risk, I note that this forms a consideration under the section 3.2 criteria of the Building Height Guidelines. The applicant has submitted a Site-Specific Flood Risk Assessment as part of the application. This demonstrates that the proposed development is located in Flood Zone C and has no history of flooding. The submitted data demonstrates that the proposed development would not expose future occupants to risk of flooding from any sources, including tidal, fluvial, pluvial, ground water and human

/ mechanical; it also would not increase the risk of flooding elsewhere. As a result, I am satisfied that the proposed development is acceptable in terms of flood risk.

#### 11.10.4. Ecology, trees and hedgerows

11.10.5. Policy GI 8 seeks the protection and management of existing networks of trees and hedgerows. G1 27 of the Development Plan states that it is a requirement that all new development identify, protect and enhance ecological features by making provision for local biodiversity. Section 13 of my report below includes an Appropriate Assessment of the application proposals and should be read in conjunction with this part of my report.

11.10.6. The application includes an Ecological Impact Assessment, this describes the current condition of the site, with the northern section in use for agricultural land (tillage) and the southern half comprising gravel and sand for over 10 years. The ecological assessment of the site is informed by desktop research, field survey and bat survey. The field survey gave particular attention to the possible presence of habitats and species which are legally protected under Irish and European Legislation. A bat survey is described, with reference to an accompanying Bat Survey report, however this does not form part of the submission documents.

11.10.7. The key ecologically receptors on the site are the hedgerows along the northern and eastern boundary of the site and the trees along the western boundary of the site. Recolonising bare ground, dry meadows, grassy verges, scrub, pond, exposed sand, bare ground, non-native shrubs, earth banks and artificial surfaces also support habitats for various species on the site. No invasive species listed in the third schedule of the European Communities Birds and Natural Habitats Regulations 2011 were recorded on the site itself. A tree survey also accompanies the application, this identifies 26 category A trees (high quality), 1 category B tree group (moderate quality), 1 category B hedgerow (moderate quality), 2 category C trees (low quality) and 1 category U tree (remove as dead or dying), equating to a total of 29 existing trees, 1 tree ground and 1 hedgerow on the site. Only one tree is identified for removal as a category U tree which is expected to have a short lifespan due to future disease. The trees along the western boundary will be retained and protected during construction works. Where the construction of the Link Road infringes on the root protection zone of 3 trees to the south, a solution is proposed to minimise impact. The hedgerow along the northern

boundary beside the Standhouse Road will be removed as permitted under the previous approval for the site Ref.16/658 to facilitate the Link Road.

11.10.8. No red list bird species under BoCCI classification were recorded, however 6 amber list species were recorded. Badgers, Otters and Bats are protected species under Wildlife Acts in Ireland. No evidence of Badger was found, although a badger sett was found along the western boundary in a mature hedgerow/treeline, outside of the proposed main development work area for the site. There is no evidence or record of Otter within the proposed development site, however given that Otter is recorded in the vicinity of the site, it is likely that Otters are in the general area, although as there is no watercourse associated with the site, frequenting of the site itself would not be expected. Bat surveys detected Leisler's Bat, Soprano Pipistrelle and Common Pipistrelle on the site however the quantum detected is not provided, reference is made to a submitted Bat Survey Report for complete results, however this does not form part of the application. No invertebrates or amphibians and reptiles of note were recorded on the site, and habitats on the site would not support protected amphibian species. No other species of importance were observed.

11.10.9. The submitted assessment describes proposed mitigation measures, including the adherence to the 'Guidelines for the Treatment of badgers Prior to the Construction of National Road Schemes', ensuring the design of artificial lighting during both construction and operation is sensitive to bats, the adherence to other best practice measures and regular inspections. The Construction Management Plan incorporates specific measures to ensure that there is no significant impact upon water quality as a result to the proposed works. There are no risks of cumulative habitat loss or fragmentation of impacts identified.

11.10.10. The key ecological receptors on the site are the trees and hedgerows on the boundaries. Planning approval already exists for the removal of the hedgerow along the northern boundary under consent PA ref. 16/658. The site surveys identified a Badger sett within the western tree line and these trees are retained as part of the development. A Link Road will be constructed along this edge and already has approval under the previous consent. The construction will be undertaken to limit impact upon the potential presence of Badgers. I am satisfied that the measures described are acceptable and that as no evidence of Badger was found on the site beyond the sett, there would be no regional or national impact to Badger populations as a result of the proposed

development. There was no evidence of Otter on the site and no environments to support Otter species on the site, measures to prevent indirect impact via water quality are described in the submitted NIS and Construction Management Plan. I am satisfied that the measures described are acceptable and that there would be no regional or national impact upon Otter species as a result of the proposed development.

11.10.11. While the results of the Bat survey of the site are indicated in the submitted Ecological Impact Assessment, the survey report itself does not form part of the application, I am therefore unable to be certain of the number of Bats using the site. The submitted documentation does state in Table 5.6 of the assessment that no bat roosts were identified, and the site is used for foraging and commuting habitat only, of local importance, higher value. Therefore, disturbance as a result of the proposed development would only be at a local population level. It is not possible to condition the submission of the survey results, as it is necessary to determine in advance of granting planning consent what mitigation is appropriate given the survey results. However, I am satisfied that given the retention of the western belt of trees and hedgerow, this would ensure that the extent of impact would be limited, as this is likely the main commuting / foraging route. I am also satisfied that the ecological assessment conforms the use of the site by bats is of local importance only. Measures are also described in the submitted assessment to ensure the incorporation of artificial lighting that is sensitive to bats both during construction and operation of the development, and this could be secured by condition should the Board determine to grant planning consent.

11.10.12. Overall, I am satisfied that on the basis of the information before me, there would be no likely disturbance or significant adverse impact, or impact beyond the local level, upon protected species associated with the subject site.

11.10.13. Creche

11.10.14. The proposed development includes a creche located centrally within the site. It is situated within a 2 storey building and would have capacity for 102 children. The proposed creche is sized to serve both the proposed development and properties as part of the Phase 1 development currently under construction. It serves as a replacement for the creche approved under the original consent (PA ref. 16/658) which had capacity at that time for 47 children. Taking the proposed development alongside the Phase 1 units, amounts to a total of 390 units, which following the discounting of 1 bed units as permitted

in national guidance, equates to a requirement for 92 childcare spaces. The proposed creche is therefore appropriate to meet this requirement.

#### 11.10.15. Archaeology

11.10.16. The application includes documentation in relation to the identification of built heritage in the surrounding area and the potential for archaeological findings on the subject site. This confirms that there are no protected structures located in the immediate vicinity of the site and that there is no evidence of architectural heritage on the site. However, the possibility of concealed archaeology is identified. The report confirms that during archaeological testing in 2016 of the northern area of the site, subsurface features of archaeological interest and / or potential were discovered. This included ditches, pits and stake holes, with fragments of bone and charcoal, as well as a piece of possible prehistoric pottery and flint. The proposed development intends for all subsurface features of archaeological interest / potential to be preserved 'in-situ' and contained within a green / public open space area (no.2). Mitigation measures during construction are also described, including archaeological monitoring of the northern area of the site.

11.10.17. The Department of Housing, Local Government and Heritage recommend conditions to account for the possibility for concealed archaeology on the site, and should the Board determine to grant planning consent, a condition could be incorporated securing the same.

#### 11.10.18. Part V

11.10.19. The applicant has submitted Part V proposals as part of the application documents. 33 no. units are currently identified as forming the Part V housing. The Planning Authority Housing Department have confirmed that the developer's agent has engaged with the department and are aware of the Part V obligations pertaining to this site if permission is granted. Detailed comments are made with respect to the council's preference for Part V units in terms of design and layout.

11.10.20. I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will

ensure that the most up to date legislative requirements will be fulfilled by the development.

## 12.0 Screening for Environment Impact Assessment

12.1. Paragraph 10 subsection (b) of Part 2 in Schedule 5 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- (i) Construction of more than 500 dwelling units;
- (iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

12.2. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report and I have had regard to the same. The submitted report states that the proposed development relates to changes to an authorised development that is currently under construction, and therefore the proposal is considered by the applicant under Paragraph 13 of Part 2 of Schedule 5 as follows:-

*“(a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-*

*(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*

*(ii) result in an increase in size greater than –  
- 25 per cent, or  
- an amount equal to 50 per cent of the appropriate threshold,  
whichever is the greater.”*

12.3. The applicant concludes that as the proposed development does not result in development exceeding 500 units, does not increase the development quantum by 50%, and has a site area that is less than previously approved application PA ref. 16/658, a mandatory EIA is not required when applying paragraph 13 (as extracted out above).

- 12.4. However, paragraph 10 subsection (b)(iv) of Part 2 in Schedule 5 is clear that a mandatory threshold exists for urban development on sites exceeding 10ha (in built-up areas outside of a business district). The SHD application submitted has an application redline site area of 11.42ha. This is the total site area within which all works are proposed as part of the development. Within this area, the applicant describes a developable site area of 9.6ha, however this is for the purposes of density calculations only. The developable site area is calculated on the basis of the 11.42ha total site area minus the following areas: adjoining landowner boundary, link road, archaeological zone, clearance zone for mast and no build zone for underground cable. Therefore, the site area, as confirmed in the applicants' documents and application form is 11.42ha, and in excess of the mandatory threshold for EIA.
- 12.5. This application is described as the 'future phases' of previous application (PA ref. 16/658) and the developer is in the process of constructing Phase 1 as part of that consent to the south of the subject site. That application had a site area of over 15ha and therefore triggered the mandatory requirement for an EIA, and an Environmental Impact Statement formed part of that application. An Environmental Impact Assessment Report has not been submitted with the current SHD application as the applicant contends paragraph 13 applies as set out above.
- 12.6. I do not concur with the applicant's conclusions in relation to the EIA Screening for this development and I set out my considerations in relation to this matter below.
- 12.7. Firstly, in my opinion, paragraph 13 relates to changes or extensions to development already authorised. The applicant does not describe the current application as a 'change or extension' to the previous approved scheme in statutory notices. Instead, the development is described as 'future phases'. It is not clear from the statutory notices that a change, extension – or indeed amendment – to that previous application is being sought. In addition, there is a lack of consideration of an overall assessment of the site area in the submission documents, which would be expected if this current application formed an amendment or change to that previous consent. For example, in relation to density and housing provision, no overall quantification is provided across the wider landownership area that would include Phase 1. I have also assessed the development as a standalone proposition and not as part of a



wider development across the landownership area. My assessment has considered interactions with the Phase 1 development only.

- 12.8. Secondly, paragraph 13 states that the change or extension, would result in a development listed in Part 1 or paragraphs 1 to 12 of Part 2 and increase the size of the development by either 25% in site area, or 50% of the threshold amount. In my opinion, the application does not *change* or *extend* the site, in combination with the original site, in a manner that would fall within the definition of 'urban development' under Part 2. As it is the current application site itself, which in excess of 10 ha falls within the definition of an Infrastructure Project for an 'urban development' under paragraph 10(b)(iv) of Part 2 of Schedule 5. Therefore, the fact that the proposed development does not increase the development by either 25% in site area or 50% of the applicable threshold amount, is not the salient point in my view. The submitted EIA Screening Report fails to acknowledge that the site area of the current application is in excess of 10ha.
- 12.9. Lastly, in my opinion, the application of paragraph 13 to a development should not be exclusive and the primary thresholds described in Part 2 (paragraphs 1-12) of Schedule 5 still apply. Therefore, while the applicant considers the development for the purposes of EIA screening, to be a 'change' to a previously authorised development that does not increase the site area by more than 25% or units by more than 50%, does not mean that paragraph 10 subsection (b)(iv) of Part 2 in Schedule 5 does not apply. It is clear from paragraph 10 subsection (b)(iv) of Part 2 in Schedule 5 that urban development in excess of 10ha (in a built up area outside of a business district) triggers the need for EIA, and therefore it is irrelevant that the proposal does not increase the number of units by more than 50% or the site area, when compared to the previously authorised development.
- 12.10. In my mind, the correct application of paragraph 13, could be described in the following example: An authorised development for housing, followed by a subsequent application for the change or extension / amendment of that authorised development, formed of part / or all of the authorised development site area and not increasing the site area by more than 25% or 50% of the housing units proposed - but importantly, not in itself triggering the need for mandatory EIA. This is exactly the circumstances of the previous planning refusal on the site following appeal (ABP ref. 305410-19), which had a site area of 3.11ha and was described as amendments to

the originally consented scheme. That is not the circumstances of the current application, which in itself has a site area of 11.42ha, and therefore in excess of the 10ha mandatory threshold for EIA.

12.11. As a result, it is my opinion that this application should be refused as a result of the requirement for an EIA and the lack of an associated EIAR, following the mandatory requirements for EIA under paragraph 10, Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended). In this regard, I note paragraph 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), which states that nothing shall prevent the Board from refusing to grant permission for a proposed SHD, where the Board considers the development to be premature by reference to the inadequacy or incompleteness of an EIAR, even where the application was not invalidated in relation to the same at the point of receipt.

### **13.0 Appropriate Assessment**

13.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) and Appropriate Assessment Screening submitted with the application.

13.2. I have had regard to the submissions of prescribed bodies in relation to the potential impacts on Natura 2000 sites.

#### **13.3. The Project and Its Characteristics**

13.4. See the detailed description of the proposed development in section 3.0 above.

#### **13.5. The European Sites Likely to be Affected (Stage I Screening)**

13.6. The development site is not within or directly adjacent to any Natura 2000 site. The site is located on the edge of existing residential settlements to the east. The predominant habitat on the site itself is made up of recolonising bare ground (ED3). Along the boundary are also hedgerows (WL1) habitat with various tree species. There is also dry meadows and grassy verges (GS2) habitat on the site and scrub (WS1) habitat is also evident in various locations. A small pond is situated at the

southern end of the site, classified as other artificial lakes and ponds (FL8). There is a road into the development site and construction prefabs (BL3), along the road boundary is an area of ornamental / non-native (WS3) habitat. There is also exposed sand, gravel and till (ED1) and spoil and bare ground (ED2) in the southern part of the site. Earth banks (BL2) habitat are situated along the east and west boundaries of the site. The submitted NIS confirms that the majority of habitats identified on the site are generally considered to be modified and of low conservation value with the boundary hedge to the east of moderate conservation value. No plant species of conservation significance or high impact invasive plant species are noted.

13.7. I have had regard to the submitted Appropriate Assessment screening, which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Pollardstown Fen SAC (0396) 620m;
- Mouds Bog SAC (2331) 3.6km;
- River Barrow and River Nore SAC (2162) 11km;
- Ballynafagh Lake SAC (1387) 11.3km;
- Ballynafagh Bog SAC (0391) 13km.

13.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including observations on the application made by prescribed bodies and I have also visited the site.

13.9. I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the following European sites (associated with impact to species of conservation interest), as a result of hydrological connectivity to Pollardstown Fen (0396) and River Barrow and River Nore (2162), and due to distance to Mouds Bog (2331).

13.10. Significant impacts on the remaining SAC sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites: Ballynafagh Lake (1387) and Ballynafagh Bog (0391).

13.11. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table 13.1: European Sites/Location and Qualifying Interests

<b>Site (site code) and Conservation Objectives</b>	<b>Distance from site (approx.)*</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
Pollardstown Fen SAC (0396) To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected	620m	Cladium Fens (7210); Petrifying Springs (7220); Alkaline Fens (7230).  Desmoulin's Whorl Snail (1016) ( <i>Vertigo moulinsiana</i> ); Narrow-mouthed Whorl Snail (1014) ( <i>Vertigo angustior</i> ); Greyer's Whorl Snail (1013) ( <i>Vertigo geyeri</i> ).
Mouds Bog SAC (2331)	3.6km	Raised Bog (7110); Degraded Raised Bog (7120); Rhynchosporion Vegetation (7150).
River Barrow and River Nore SAC (2162) to maintain or restore the favourable conservation condition of the qualifying interests.	11km	Estuaries (1130); Tidal Mudflats and Sandflats (1140); Reefs (1170); Salicornia Mud (1310); Atlantic Salt Meadows ( <i>Glauco-Puccinellietalia maritima</i> ) (1330); Mediterranean Salt Meadows ( <i>Juncetalia maritima</i> ) (1410); Floating River Vegetation (3260); Dry Heath (4030); Hydrophilous Tall Herb

		<p>Communities (6430); Petrifying Springs (7220); Old Oak Woodlands (91A0); Alluvial Forests (91E0).</p> <p>Desmoulin's Whorl Snail (1016) (<i>Vertigo moulinsiana</i>); Freshwater Pearl Mussel (1029) (<i>Margaritifera margaritifera</i>); White-clawed Crayfish (1092) (<i>Austropotamobius pallipes</i>); Sea Lamprey (1095) (<i>Petromyzon marinus</i>); Brook Lamprey (1096) (<i>Lampetra planeri</i>); River Lamprey (1099) (<i>Lampetra fluviatilis</i>); Twaite Shad (1103) (<i>Alosa fallax</i>); Atlantic Salmon (1106) (<i>Salmo salar</i>); Otter (1355) (<i>Lutra lutra</i>); Killarney Fern (1421) (<i>Trichomanes speciosum</i>); Nore Freshwater Pearl Mussel (1990) (<i>Margaritifera durrovensis</i>).</p>
Ballynafagh Lake SAC (1387) To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	11.3km	<p>Alkaline fens (7230).</p> <p>Desmoulin's Whorl Snail (1016) (<i>Vertigo moulinsiana</i>); Marsh Fritillary (1065) (<i>Euphydryas aurinia</i>).</p>
Ballynafagh Bog SAC (0391)	13km	<p>Active raised bogs (7110); Degraded raised bogs still capable of natural regeneration (7120); Depressions on peat substrates of the Rhynchosporion (7150).</p>

13.12. Table 13.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

13.13. Potential Effects on Designated Sites

13.14. The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites. As a result, and due to the distance of the subject site to these SACs, there is no significant risk to protected habitats and species of the Natura 2000 sites listed above as a result of habitat fragmentation or loss, disturbance or reduction in species density. There is also no direct hydrological or any other link identified to the Ballnafagh Bog SAC. While there is a hydrological link to Ballynafagh Lake SAC via the Grand Canal, this is approximately 17.63km in distance and therefore the dilution effect with other effluent and surface runoff would mean that there would not be any significant deterioration of water quality at this SAC associated with the proposed development.

13.15. There is a hydrological link identified to the River Barrow and River Nore SAC and Pollardstown Fen SAC with the subject site, as a result of it being located in the Barrow Catchment and Liffey and Dublin Bay Catchment area. The submitted NIS also considers the Mouds Bog SAC to be sufficiently proximate to the subject site to require mitigation of potential impact in relation to discharges from the site.

13.16. During the operational phase, the submitted AA Screening states that the proposed development would not impact upon the listed habitats and species of the Pollardstown FEN, Mounds Bog and the River Barrow and River Nore SACs, due to the design of drainage and attenuation systems. The SUDS measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they are not considered mitigation measures in an AA context.

13.17. During the construction phase, the submitted AA Screening states that a deterioration in water quality could arise through the release of suspended solids during soil disturbance works, the release of uncured concrete and the release of hydrocarbons (fuels and oils). If this deterioration of water quality occurred, it would have an adverse impact upon the qualifying interests of the aforementioned SACs which have a hydrological link to the subject site.

13.18. AA Screening Conclusion

- 13.19. The site is situated between 620m and 11km away from the Pollardstown FEN SAC, Mounds Bog SAC and the River Barrow and River Nore SAC. I conclude that the impacts as described above cannot be ruled out, and if they occurred, would be significant given the hydrological links and proximity to these Natura 2000 sites. As such, likely effects on Pollardstown FEN SAC, Mounds Bog SAC and the River Barrow and River Nore SAC cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.
- 13.20. In relation to the remaining SAC areas considered, due to the distance between the proposed development site to these designated conservation sites and the lack of either direct hydrological pathway or the distance and dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to those designated sites. The construction and operation of the proposed development will therefore not impact on the conservation objectives of features of interest of Ballynafagh Lake SAC and Ballnafagh Bog SAC.
- 13.21. Stage 2 – Appropriate Assessment
- 13.22. The Qualifying Interests/Special Conservation Interests of the Pollardstown FEN SAC, Mounds Bog SAC and the River Barrow and River Nore SAC are outlined in table 13.1 above.
- 13.23. The submitted Natura Impact Statement (NIS) with the application provides a detailed description of the aforementioned SAC areas. Pollardstown Fen has ornithological importance for both breeding and wintering birds. Otter and brook Lamprey, two species listed in Annex II of the E.U. Habitats Directive, occur at Pollardstown. The species complexes supported in this SA are often rare in Ireland and include internationally important invertebrates. Of particular conservation importance, are the Annex II Whorl Snails species found there. Pollardstown Fen is the largest spring-fed fen in Ireland and has a well-developed and specialised flora and fauna.
- 13.24. Mounds Bog consists of two basins of high bog separated by a central ridge, otherwise flat, with slopes at its margins. The site is a SAC for bog and vegetation habitats recorded there. Red Grouse, a Red Listed species and one that is becoming increasingly rare in Ireland, has been recorded in the Mounds Bog.

- 13.25. River Barrow and River Nore consists of most of the freshwater stretches of the Barrow/Nore River catchments. A wide range of habitats associated with the rivers are included within the SAC area, including substantial areas of woodland, dry heath, wet grassland, swamp and marsh vegetation, salt marshes, small dune system, biogenic reefs and intertidal sand and mud flats. The site supports many Annexed habitats, including priority habitats of alluvial woodland and petrifying springs, as well as a number of Annex II species as including in table 13.1 above. The main vulnerabilities, are agricultural intensification, pollution to surface waters, human induced changes in hydraulic conditions and erosion.
- 13.26. The conservation objectives for these SACs is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species, or qualifying interests, for which the SAC has been selected.
- 13.27. The submitted NIS considers the potential impacts of the proposed development upon the Qualifying Interest (QI) of the SAC areas considered. It is concluded that there will be no habitat loss, fragmentation or direct impacts upon QI species arising from the development. However, due to proximity and hydrological or surface water runoff connection, there is potential for indirect impact upon qualifying interests of the SACs due to increased dust and a potential deterioration in water quality during the construction phase. This could occur through water quality deterioration through the release of suspended solids during soil disturbance works. Increased sediment could have the potential to impact upon fish species by damaging gravel beds required for spawning, smothering fish eggs and interfering with gills of fish. Water clarity could also be reduced, impacting light penetration of the water and affecting certain behaviours of aquatic fauna such as foraging success. The proposed development is also situated within the current distribution, range and favourable reference of Otter. While no evidence of Otter recorded on the site, given that watercourses are within proximity of the proposed development and the NBDC records Otter in the vicinity of the proposed development, the NIS concludes that it is likely that Otters are in the general area and a significant impact on water quality could indirectly impact upon this qualifying interest during construction works.
- 13.28. As a result of the foregoing, specific mitigation measures during construction are required to protect and maintain the integrity of the QI habitats and species



supported in Pollardstown FEN SAC, Mounds Bog SAC and the River Barrow and River Nore SAC in my view.

- 13.29. To determine the appropriate mitigation measures to be applied, consideration of the potential impacts is required in light of the site specific conservation objectives for the SACs. The NIS confirms the potential sources of chemical contamination, that would be from the release of hydrocarbons (oils, fuels) from construction plant, equipment and removal of home heating system. Hydrocarbons can affect water quality, potentially resulting in toxic conditions for aquatic flora and fauna. Oil films on the water surface can disrupt oxygen diffusion from the atmosphere, resulting in de-oxygenation of waters. Another source of contamination would be from the release of uncured concrete which would alter the pH level of the water locally, potentially leading to the death of aquatic flora and fauna and an alteration to the waterbody substrate.
- 13.30. Mitigation measures identified are set out in detail in section 8 of the NIS. These refer, for the most part, to best practice construction measures which seek to ensure *inter alia* the protection of water quality during construction phase, along with precautionary measures and actions to be taken in the unlikely event of a spill from the site. Dust control is also outlined with measures to reduce, suppress and clean dust generated from construction activities on the site.
- 13.31. I note the Department of Housing, Local Government and Heritage comments in relation to the vulnerability of the groundwater system with which the subject site is associated with. The submitted NIS specifically identifies the threat and pressure to the habitat in the Pollardstown Fen from mixed source pollution to surface and groundwaters. The mitigation measures have therefore been specifically considered with this potential impact upon groundwaters in mind. I am satisfied that the mitigation measures described in the NIS will be sufficient to protect groundwaters from contamination and that there is no expectation of interruption to the flow of groundwaters associated with development of the site.
- 13.32. Following a complete review of the mitigation measures outlined in section 8 of the submitted NIS, alongside consideration of the site specific conservation objectives and potential impacts upon these, I am confident that with the incorporation of the described mitigation, the project would not adversely affect the integrity of the

Pollardstown Fen SAC (0396), Mouds Bog SAC (2331), and River Barrow and River Nore SAC (2162). This is based on a complete assessment of all implications of the project.

13.33. In-Combination / Cumulative Impacts

13.34. Section 9 of the NIS considers in combination effects, informed by a review of Kidare County Development Plan 2017-2023, County Kildare Local Economic and Community Plan 2016-2021, as well as proposed and permitted development in the area proximate to the subject site. Planning applications for the alteration to dwelling houses and redevelopment of a garage/service station are noted. There are also 19 EPA licenced facilities stated to be within 10km of the site. Due to the distance and scale / nature of proposed development and facilities surrounding the site, there are no cumulative air or noise impacts which would pose a significant risk to designated sites or species. There is also no risk associated with the aims of the Water Framework Directive, as the development would not pose a significant risk upon the SACs due to a deleterious effect on water quality either during construction with the implementation of mitigation measures, or operational phase. I am content with the assessment of potential cumulative impacts described in the NIS.

13.35. With the implementation of the mitigation measures outlined in this report, I conclude that the proposed development is not likely to lead to any cumulative impacts upon the integrity of the Pollardstown Fen SAC (0396), Mouds Bog SAC (2331), and River Barrow and River Nore SAC (2162) when considered in combination with other developments.

13.36. AA determination – Conclusion

13.37. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

13.38. Having carried out for a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely significant effects on the Pollardstown Fen SAC (0396), Mouds Bog SAC (2331), and River Barrow and River Nore SAC (2162) could not be ruled out, due to either proximity or hydrological link. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

13.39. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, the Pollardstown Fen SAC (0396), Mouds Bog SAC (2331), and River Barrow and River Nore SAC (2162), or any other European site, in view of the sites Conservation Objectives.

13.40. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

## 14.0 Conclusion

14.1. Following the requirements under Part 10 of the Planning and Development Regulations 2001 (as amended), the proposed development triggers the mandatory requirement for EIA under Section 10 subsection (b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). While the applicant suggests that Paragraph 13 of Part 2 of Schedule 5 applies, this SHD application has been submitted standalone, and as future phases of the previous consent over the wider landownership area (PA ref.16/658). It is not described as an amendment / change or extension of that previous consent. In any case, the site area of 11.42ha (gross) exceeds the mandatory threshold for the requirement for EIA for urban development under the regulations.

14.2. As such, it is my opinion that the Board should refuse permission for the application in accordance with the mandatory requirements under Schedule 5 of the 2001 Act (as amended) and paragraph 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

## 15.0 Recommended Order

### **Planning and development Acts 2000 to 2019**

### **Planning Authority: Kildare County Council**

15.1. Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and

particulars, lodged with An Bord Pleanála on the 22<sup>nd</sup> Day of July by Briargate Developments Newbridge Limited care of Simon Clear and Associates Planning and Development Consultants Dublin 6.

### **Proposed Development**

- Construction of 336 no. residential units consisting of 245 no. houses, 27 no. apartments and 64 no. duplexes;
- The 245 no. houses comprises 2 storey, detached, semi-detached and terraced units to include:-
  - 17 no. 2 bed houses;
  - 184 no. 3 bed houses;
  - 44 no. 4 bed houses
- The 27 no. apartments are located in a part 3 storey and part 4 storey building and include:-
  - 13 no. 1 bed units;
  - 13 no. 2 bed units;
  - 1 no. 3 bed unit;
- The 64 no. duplexes are located across 6 no. 2 to 3 storey buildings and include:-
  - 32 no. 1 bed units;
  - 16 no. 2 bed units;
  - 16 no. 3 bed units;
- A 2 storey creche;
- Car parking, bicycle parking, internal roads, services infrastructure, bin stores and bicycle stores;
- Footpath improvements along Standhouse Road;
- Landscaping, open spaces, play areas, boundary treatment and public lighting;
- All associated site works and services.

## **Decision**

**Refuse permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

1. Following the requirements under paragraph 10 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), the proposed development triggers the mandatory requirement for EIA under subsection (b)(iv), with a gross site area in excess of 10ha, at 11.42ha. An EIAR has not been submitted and therefore the associated requirements under the regulations, including the need for EIA, cannot be carried out. Therefore the proposed SHD is premature by reason of inadequacy or incompleteness of an EIAR, and can be refused in accordance with paragraph 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

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Rachel Gleave O'Connor  
Planning Inspector

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20<sup>th</sup> October 2021