

An
Bord
Pleanála

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

Inspector's Report ABP-313208-22

Strategic Housing Development

179 no. residential units (121 no. houses, 58 no. apartments), childcare facility and associated site works.

Location

In the townland of Season Park, South of Season Park Road,
Newtownmountkennedy, Co. Wicklow.
(www.seasonparkshd.ie)

Planning Authority

Wicklow County Council

Applicant

Dwyer Nolan Developments Limited

Prescribed Bodies

Irish Water
National Transport Authority
Transport Infrastructure Ireland
The Minister for Culture, Heritage and the Gaeltacht

The Heritage Council

An Taisce – the National Trust for
Ireland

Fáilte Ireland

Wicklow County Childcare Committee

Observer(s)

1. Aideen Holohan
2. Ann Stokes
3. Garrett Stokes
4. John Conway and the Louth
Environmental Group
5. Lourda Scott
6. Martin and Anne O'Connor
7. Mary Kavanagh
8. Michelle McDermott
9. Newtownmountkennedy Town
Team
10. Paul Kavanagh
11. ReWild Wicklow
12. Sara O'Brien
13. Shane Stokes

Date of Site Inspection

26th July 2022

Inspector

Rachel Gleave O'Connor

Contents

1.0 Introduction	4
2.0 Site Location and Description.....	4
3.0 Proposed Strategic Housing Development.....	4
4.0 Planning History	7
5.0 Section 5 Pre Application Consultation	8
6.0 Relevant Planning Policy.....	9
7.0 Statement of Consistency	14
8.0 Third Party Submissions	16
9.0 Planning Authority Submission.....	24
10.0 Prescribed Bodies.....	33
11.0 Oral Hearing Request.....	37
12.0 Assessment.....	38
13.0 Appropriate Assessment Screening.....	85
14.0 Screening for Environmental Impact Assessment (EIA)	94
15.0 Conclusion.....	101
16.0 Recommendation.....	102
17.0 Reasons and Considerations.....	104
18.0 Conditions.....	109
19.0 Appendix A: EIA Screening	117

1.0 Introduction

1.1. 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 approximately 8.5 ha (gross) and is located in the townland of Season Park approximately half a kilometre (as the crow flies) to the north-west of Newtownmountkennedy town.

2.2. The site is bounded by Season Park Road (L1037) and one off housing to the north, by agricultural lands to the west and south. The latter has permission for residential development under Reg. Ref. 06/6101 & 18/381, comprising a 10 year permission for 861 no. units and 4 no. creches. This permission was extended and will cease in 2024. In addition, permission exists for the Western Distributor Road that runs through the subject site and extends south of same, which also forms part of the submitted application details. The Season Park housing estate is located to the east. On the north side of Season Park Road are Coillte lands, including their head office.

2.3. The site is irregular in shape. It is comprised of five fields or field sections and is traversed centrally by field boundaries, and mature hedge planting. The site comprises a mixture of grassland and scrub, and ground levels fall from west to east.

3.0 Proposed Strategic Housing Development

3.1. The proposed development is for 179 no. dwellings on a c.8.5 hectare site (gross) as follows:

- 179 dwellings comprised of 121 houses, 6 duplex units and 52 apartments.
- The houses are comprised of 2 storey detached, semi-detached and terraced houses with 4x 2 bed, 86x 3 bed and 31x 4 bed.
- The duplex units are accommodated in 3 storey buildings (Type H) and are comprised of 6x 3 bed at first and second floor.

- There are 6x 1 bed apartments and 46x 2 bed apartments (Types G, H, J, and J1), accommodated in 20x 3 storey buildings.
- The proposed development also provides for a 189.9sqm creche, with a 99.45sqm community use facility overhead, in a 3 storey building.
- Access to the development will be via (i) a new vehicular entrance point off Season Park Road to the north, and (ii) via a proposed road extending south and east of the proposed housing, connecting into Main Street, Newtownmountkennedy at Fisher's Corner (as previously permitted under Ref.s 06/6101 & PL27.227704).
- The proposed development provides for (i) all associated site development works above and below ground, (ii) public open spaces (9,819sqm) and communal open spaces (886sqm), (iii) hard and soft landscaping and boundary treatments, (iv) surface car parking (total 339 spaces), (v) bicycle parking (total 158 spaces), (vi) bin storage, (vii) public lighting, (viii) substation (24sqm) all on an overall application site of 8.5ha.

3.2. Table 3.1: Key Figures

Site Area in hectares (ha)	8.5ha (gross) or 5.5ha (net)
No. of units	179
Density	32.5 uph (based on net site area)
Site Coverage	12.4%
Plot Ratio (of total site area)	0.35
Height	2-3 storeys
Dual Aspect	100%
Open Space	9,819sqm (17%) of public open space.
Part V	18 no. units (10%)
Vehicular Access	New vehicular entrance from Season Park Road and via a proposed road

	extending to the south and east of the subject site.
Car Parking	Total of 339 surface level spaces (comprised of 2 no. spaces per house, 1 no. space per apartment, 1 no. visitor space per 3-4 apartments, and 11 no. spaces for the creche / community use).
Bicycle Parking	Total of 158 cycle spaces (comprised of 98 no. spaces associated with apartments, 26 no. spaces for visitors to apartments, 21 no. spaces for duplex units, 5 no. spaces for visitors to duplex units, and 8 no. spaces for the creche).
Creche	189.9sqm

Housing Type	1 bed	2 bed	3 bed	4 bed	Total
No. of Apartments	6	46	0	0	52
No. of Duplexes	0	0	6	0	6
No. of Houses	0	4	86	31	121
Total	6	50	92	31	179
%	3.3%	28%	51.4%	17.3%	100%

4.0 Planning History

4.1. The permitted "Western Distributor Road" runs from the south, northwards through the subject site, and out onto Season Park Road. This part of the road that traverses the subject site is permitted under Ref. 06/6101 & PL27.227704, the duration of which was extended under Ref. 18/381 until 5th May 2024.

4.2. Adjoining Site to the East

4.3. Appeal Reference PL27.227704 (PRR 06/6101) 10 Year Permission granted (06/02/2008) for 861 no. residential units (including terrace, semi-detached and detached housing as well as 3-4 storey apartment blocks), provision of 4 no. creches, construction of roads and associated site works. This permission was extended under PRR 18/381 by a further 5 years – this permission will cease in 2024.

4.4. Appeal reference PL27.241521 (PRR 12/6477) Permission granted (15/07/2013) on appeal for: The change of house types within Estate No. 1; Amendments to Condition 8 (phasing) of PL27.227704;

- To allow for the construction of development within Estate 1 ahead of the Western Distributor Road from points A to L as required by Condition 8(c);
- To allow for the construction of development within Estate 1 ahead of the road improvement works from points A to F as required by Condition 8(d);
- To allow for occupation of the residential units within Estate 1 ahead of the section of the central greenway to the west of the Western Distributor Road as currently required by Condition 8(h);

Provision of a temporary open space area on the EC1 zoned lands to serve the residential development within Estate No. 1.

Following a request for further information the layout was amended to allow for an area of open space to be temporarily expanded with the omission of 17 no. dwellings. The permission is therefore for the provision of 109 no. dwellings and a crèche.

4.5. ABP-313743-22 / PA ref.22259: Planning Appeal concerning a development for 61 residential units and associated Community Day Centre facility. Permission refused by the Planning Authority for 3 reasons, relating to the inadequacy of footpath/cycle

paths from the site to the centre of Newtownmountkennedy, substandard junction Fisher's Corner, lack of upgrades to the road network, provisions of AA1 in the LAP, resulting in a traffic hazard; that the application would materially contravene the LAP provisions for AA1; and that the independent living units on the site with poor pedestrian connectivity to shops etc would be contrary to Objective CD19 of the plan. Appeal decision outstanding.

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 28th September 2021 in respect of a proposed development of 222 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 6th October 2021 ABP Ref. ABP-310759-21) 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:

- 1) Delivery of Roads Infrastructure, in relation to the western distributor / north-south link road and east-west link road, as well as pedestrian and cycle connectivity to the village centre; and
- 2) Development Strategy, in relation to the delivery of requirements under the statutory plan and road infrastructure.

5.2. Specific information was also requested:

- Material contravention statement if required;
- Housing quality assessment;
- Traffic and Transportation Impact Assessment;
- Green Infrastructure Plan, Landscaping Plan, Arboricultural Drawings and Engineering Plans;
- Explanation of open space;

- Plans and sections to indicate levels;
- Daylight and Shadow Impact Assessment;
- Response to CE opinion;
- Report on surface water drainage and management;
- Information in relation to article 299B(1)(b)(ii)(II) and 299B(1)(c) of the Planning and Development Regulations 2001-2018 if no EIA to be submitted;
- AA screening report;
- Taking in charge plan;
- Construction and Demolition Waste Management Plan; and
- Details of public lighting.

5.3. Applicant's Statement

5.4. 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:

- **Delivery of Roads Infrastructure:** It is proposed that this application include the previously approved Western Distributor Road under 06/6101 & PL27.227704, and essentially reappplies for this road link to connect the proposed development site to the town centre of Newtownmountkennedy. This ensures that adequate infrastructure and connectivity can be delivered by the applicant within the appropriate timeframe.
- **Development Strategy:** The proposed development incorporated roads infrastructure, community use, creche use and open space.
- **Specific Information:** Specific information has also been included with the application as listed above.

6.0 **Relevant Planning Policy**

6.1. National Planning Framework (2018)

6.2. The National Planning Framework 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.

6.3. Section 28 Ministerial Guidelines

6.4. 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:

- 'Urban Development and Building Height, Guidelines for Planning Authorities'. 2018
- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2020
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets' (DMURS)

- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities'

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Housing for All – a New Housing Plan for Ireland 2021.

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

- 6.5.1. 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.

6.6. Wicklow County Development Plan

An extract of some relevant objectives of the plan (non-exhaustive) are set out below:

Chapter 4, Housing, promotes development on suitably zoned lands, generally in accordance with the sequential approach. It places a strong emphasis on infill opportunities and better use of underutilised lands.

Housing objectives include (with summary description):

- HD5: new residential development shall be expected to aim for the highest density indicated for the lands.
- HD13: Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighbourhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station.

Cycling and Walking Objective

- TR11: To facilitate the development of foot and cycleways off road (e.g. through open spaces, along established rights-of-way etc), in order to achieve the most

direct route to the principal destination while ensuring that personal safety, particularly at night time, is of the utmost priority.

Parking Objectives:

- TR35 New / expanded developments shall be accompanied by appropriate car parking provision, with particular regard being taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. At such locations, the car parking standards set out in Appendix 1 Table 7.1 shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified.

Table 7.1 requires the provision of 1-2 no. spaces per dwelling unit.

Cycle parking is required on the basis of 1 space per bedroom + 1 visitor space per 2 units.

Heritage objectives (Chapter 10) include:

- NH6: Ensure ecological impact assessment is carried out for any proposed development likely to have significant impact on proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna, Annex I habitats, or rare and threatened species, including those species protected by law and their habitats, or rare and threatened species including those species protected by law and their habitats. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.
- NH14: To promote the preservation of trees, groups of trees or woodlands in particular native tree species, and those trees associated with demesne planting, in the interest of amenity or the environmental, as set out in Schedule 10.08 and Map 10.08 A, B & C of this plan.
- NH16: Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.
- NH17: To discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling where possible.
- NH18: To encourage the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, as part of the

development management process, and require the planting of native, and appropriate local characteristic species, in all new developments.

Appendix 1 of the development plan describes Development and Design Standards, including plot ratio and public open space.

6.7. Newtownmountkennedy Local Area Plan 2008 - 2018

- 6.8. The relevant Plans for the subject site are the Wicklow County Development Plan 2016-2022 and Newtownmountkennedy Local Area Plan 2008-2018. The subject site is located within the lands included in the expired, (as no subsequent LAP has been prepared or adopted) Newtownmountkennedy Local Area Plan 2008-2014 (as extended to 2018), which zoned the subject lands 'R1' 'Proposed Residential', with the objective "to protect, provide and improve residential amenities".
- 6.9. The site is zoned 'Objective R1' - 'To protect, provide and improve residential amenities'. Road infrastructure overlaps areas zoned OS Open Space.
- 6.10. The preparation of a new Local Area Plan, 2019 for Newtownmountkennedy was initiated in 2018, by way of Stage 1: Pre-Draft Public Consultation undertaken whereby a pre-draft 'Consultation Issues Booklet' was prepared and placed on display with submissions invited from 24 Jan 2018 to 23 Feb 2018. The subsequent Draft LAP was not placed on public display.
- 6.11. The Newtownmountkennedy LAP zoned the subject site objective R1: New Residential, the objective of which is: "To protect, provide and improve residential amenities".
- 6.12. The LAP identifies five action areas, with the subject lands at Season Park located within action area 1 (AA1), which is located to the west of Main Street in the townlands of Season Park, Newtownmountkennedy and Monalin and is bounded to the north by road No. L 1037 (Season Park) and to the south by the Roundwood Road (R756). This action area measures c. 58Ha and includes: c. 13ha zoned for public open space c. 4ha zoned for community and educational use c. 41ha zoned for residential use All of the lands are zoned R1 within AA1.

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, the Development Plan and Local Area Plan and I have had regard to same. A Material Contravention Statement also accompanies the application with respect to the Wicklow County Development Plan 2016-2022 and the Newmountownkennedy Local Area Plan 2008-2018 specifically in relation to the following:

- Density: The proposed density of 32.5 units per hectare (uph) exceeds the density for housing identified in the agreed action area in the 2002 LAP which was incorporated into the 2008-2018 LAP.
- Quantum of Development: Sections 4 and 11 of the LAP state that any single residential estate or residential application, shall not exceed 100 houses / 200 apartments. The proposed development provides for 179 dwellings comprised of 121 houses, 6 duplexes and 52 apartments.
- Phasing / Sequential Development: The site is identified as part of a wider 45.5ha area labelled the AA1 lands. Phases for the delivery of development alongside infrastructure is described in the plan, including delivery of connections. In response to the phasing requirements set out in the agreed action area, the applicant has provided the following response (in *italics*) describing their understanding of the current situation:
 - Phase 1:
 - Up to a maximum of 600 units, not exceeding 200 units p.a. - permission granted in 2008 for c.869 no. units which has not been built to exceed 200 units p.a.;
 - Generally located on the southern part of the Action Area - *development commenced at the southern end of the Action Area;*
 - Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link - *this is completed;*

- Provision of the by-pass route of the existing houses along the Actions Area southern boundary - *this is completed*;
- Provision of improvements to the R765 as far as the church and improvements to the access arrangements for the schools and community facilities - *this is completed*;
- Provision of revised access arrangements for schools and existing sports grounds - access is facilitated from the permitted development Ref.s 06/6101 and PL27.227704 to the schools and sports grounds;
- Provision of water storage facilities - permitted under Ref.s 06/6101 and PL27.227704;
- Satisfactory progress in the expansion of educational / community facilities e.g. sale/transfer of lands to educational organisation or community / sporting organisation - *this is outside of the applicant's control*;
- Completion of public park, including all landscape manipulation and landscaping – this has been substantially completed and will connect to the Glenbrook development and its linear park.

○ Phase 2:

f) No development shall be permitted in Phase 2 until all of the elements set out in Phase 1 above have been substantially completed, to the satisfaction of the Planning Authority - *no permission granted to date for development of the northern portion of the AA1 lands but the majority of the Phase 1 requirements have been met that can allow phase 2 to proceed, in conjunction with the current proposal to deliver the necessary roads infrastructure*;

g) Up to a maximum of 350 units - current proposal provides for 179 no. units;

h) Generally located to the north of Action Area - current proposal is located in the northern part of the Action Area;

- i) Construction of the northern elements of the western distributor road - provided for as part of the current application as well as having the benefit of being permitted under Ref.s 06/6101 and PL27.227704;
- j) Provision of an acceptable link between the western distributor road and the R772 – *provided for under the current development proposal.*

8.0 Third Party Submissions

8.1. 13 no. responses were received from third parties in relation to the application and the main matters raised are summarised below:

8.2. General, nature, principal of the development

- Newtownmountkennedy lacks the structural development to deal with an influx of residents. Chief Executive of Wicklow County Council acknowledges that housing growth rate could exceed 70% in a town in which, under the NPF, should not be more than 30%. Applications already granted permission in the area include ref.066101, extended by ref.18381 for several hundred houses; ref.081426 for 102 houses; applications in progress include ref.21731 for 41 units; ref.22259 for 61 units; ref.211005 for 58 units and ref.211000 for 59 units.
- Development should be focused in the centre of the town and the main street.
- The land in question was recommended for transfer to Strategic Land Bank in the upcoming County Development Plan by the Office of the Planning Regulator and the CEO of Wicklow County Council agreed.
- Area set to be dezoned in upcoming development plan.

8.3. Transport

- Proposed access via a quiet road.
- The applicant overly relies upon predicted transport by cycling for future residents, despite the 2016 census showing that 72% of trips to work and school were by private motor vehicles.
- Lack of jobs in the area leads to large numbers of residents commuting.

- Insufficient road infrastructure to facilitate the development.
- Roads are not fit for purpose around the town, the development will add to existing pressure to already congested and badly laid out roads.
- Lack of reliable public transport for the town.
- Development to the west of the town is not feasible given the lack of relief road. This relief road was incorporated into previously Development Plans.
- The LAP states that no new development will be permitted ahead of provision of new road improvements as described in the plan.
- The cumulative impact of new development already approved (wicklow hills) and the proposed development, along with 22/259 (first steps homes) development, unsuitable for the small road. The submitted assessments do not give consideration to cumulative impact.
- Application makes no effort to resolve street parking issues on Church Road.
- Fishers junction is inadequate to serve the development and will be serving 5 other developments (Church Road 211005, Dwyer Nolan Main 21731, Papver 21534 and Rockfield 211000).
- Rural road with no lighting, no footpath or cycleway, development is located too far away from serves. Development Plan favours sites closer to the centre.
- Reference to E-charging points in the design statement but not shown on plans.
- The proposed development is not sustainable as it is car reliant.

8.4. Amenity

- Concern regarding potential for rodent infestation as a consequence of clearing the lands. Request wall on boundaries with adjacent private garden to prevent this.
- Concern regarding overlooking. Lands higher than adjacent lands to the north-eastern end.
- Proposed development will lead to an increase in light pollution.

8.5. Design and Density

- Excessive quantum of development.
- None of the developers' housing development to date contributes anything positive to the town architecturally.
- Design makes no effort to reflect setting adjacent to forestry and natural landscape.
- Season Park Farm is a locally significant period house, the new development proposes to engulf it with brick and concrete through urban style design. Destroys the walled garden to the house.
- A design that reflects Georgian features of the oldest buildings in the town, the Fishers and the Corner House would be more appropriate.
- The development as per this application does not represent a high quality design.

8.6. Ecology

- The site is located in close proximity to the native woodland in the Coillte Forest.
- Risk of pollution to the Coillte forest, the river and the European protected area at the Murrough. Cumulative effect should be assessed and incorrectly discounted in the AA screening with inadequate regard to current applications.
- There is an abundance of native and protected species such as pine marten, badger, red squirrel, otter, and bats, alongside a variety of protected avian species such as red kite, sparrowhawk, and myriad garden birds, that occupy this area from the proposed site, across the forest and beyond.
- There are deer, foxes with cubs, hedgehogs, frogs, tadpoles and newts, birds, water hens, birds, supported in the forest and adjacent areas.
- Proposal removes almost all existing vegetation, leaving just eleven trees, contrary to both current and upcoming Development Plans, the recent international UN declaration of a global climate and biodiversity emergency, and the protection afforded to native flora and fauna under Wildlife Acts.

- If granted permission request revisions to retain biodiversity / existing vegetation on the site.
- Results in the widespread removal of woodland (2.3 acres), hedgerow and mature trees.
- The applicant has marked sections of hedges in adjacent private land (attached to existing dwellings) as part of what they would retain which is misleading.
- A pond of over 160 years is not mentioned, no survey carried out. Water hens and wild duck use the pond. Newts and frogs have been found on lands beside the pond. Newts are protected.
- No proper mention of a very old walled garden in consideration of bat roost potential and no bat survey of potential roosts in trees and structures carried out.
- Incorrect classification of habitat and understated important of woodland.
- Understating extent of green infrastructure/biodiversity loss.
- Inadequacy of mitigation measures for biodiversity impact.
- Incorrectly ruling out a surface water pathway to the European site, as the current waterbody has a poor status, therefore any additional pollution will not be diluted and will contribute to this poor status.
- Contrary to section 10.3.2 and objective NH1 of the Development Plan, as well as section 17.2 and subsection 17.2.1, section 17.4, objective CPO 17.22.
- Classification of area of woodland as a tree nursery downplays loss of trees there which amounts to hundreds. Inaccurate description of the area as containing conifers, when largely made up of native Oak, Ash, Birch and Willow, with Yew conifers, and all native species. The patch of woodland adjoins Newtownmountkennedy Wood and should be considered part of the same woodland complex, and therefore should have a County ecological importance, not local.
- Permanent removal of 1ha of native woodland and 77% of mature trees would contravene policies NH14, NH16, NH17 and NH18 of the Development Plan.

Failure to retain hedgerows contravene policy NH19. New hedgerow planting is almost entirely non-native contrary to policy NH19.

- Arboricultural assessment maps Scrub Area 2 and identifies presence of Goat Willow, which is a species associated with wetlands, but ecologist fails to identify the pond in this area.
- Proposed wildflower meadow mentioned in the EclA but absent from landscape masterplan and rationale.
- Retained hedgerows take up too much of proposed gardens to proposed houses, and there will be pressure from new occupiers to remove it.
- Proposed planting amounts to a fraction of the amount to be removed.
- The EclA considers a range of pollution preventing mitigation measures to avoid pollution of the river that are not included in the AA screening.
- There are errors and lacunae in the AA screening report. Reference to Dublin Bay is incorrect. Site includes sections of adjacent roads which are all served by storm drains, which is not acknowledged in the AA screening.
- Contradictions between the EclA and the AA screening in relation to potential significance of impacts in the absence of mitigation.

8.7. Infrastructure / facilities

- Concern at lack of school places. No secondary school in Newtownmountkennedy.
- Lack of local amenities / social facilities, such as soccer clubhouse, public greenspace / park, playground for older children, outdoor court, library, additional childcare facilities. Proposed open space is not fit for purpose.
- Pumping station at Newtownmountkennedy is at capacity. Irish Water noted upgrade requirements in 21731.
- Provision of a community use in the proposed development so far outside of the village would not bring any benefit to the existing community.
- Community uses identified are largely in Kilcoole and there is no public transport link.

- Two primary schools noted in Kilcoole, whereas there is only one, and there are three noted in Newtownmountkennedy, but there is only two, and no consideration of cumulative impact.

8.8. Environmental Impact Assessment (EIA) and Appropriate Assessment (AA)

- The identification of residual impact by third parties upon biodiversity cast doubt on the conclusion of the EIA Screening Report and suggests that a full EIA should have been carried out.
- In the document SEA Screening Report for proposed material alterations to the Draft Wicklow County Development Plan 2022-2028, an area comprising approximately 75% of the subject site is flagged as needing a SEA.
- References in the EIA screening to the urban nature of the development / site is misleading. Draws into question conclusions reached regarding significance of impact.
- The EIAR (EIA Report) is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- Notwithstanding that the development is sub-threshold, it is submitted that due to the nature of the development (identified contaminants, including asbestos), nature of the development (including height) and locus of the proposed development adjacent to a protected habitat, it should have been subjected to full EIA.
- The Screening for EIA presented by the Developer, including Ecological report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The EIAR, when read together with the Construction and Waste Management Plans, provides insufficient information to enable a proper and complete assessment of pollution and nuisances arising from the proposed development. There is insufficient information to assess the impact on risk to human health arising in respect of the proposed development. Impermissible for matters that impact human health such as noise / dust to be left over to the

contractor. Approach is contrary to the requirements of the EIA Directive with respect to public participation.

- Board lacks ecological and scientific expertise and/or does not appear to have access to the same, to examine the EIA Screening Report and AA Screening.
- The application does not comply with the requirements of the planning and development act 2000, the planning and development regulations 2001 or the EIA Directive. Information is insufficient and contrary to the requirements of the EIA Directive. Criteria considered in the EIA screening does not comply with requirements under the act and regulations.
- The EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.
- Insufficient information in the NIS in relation to the impact of the proposed development on bird and bat flight lines/collision risks in AA screening.
- The population and human health chapter of the EIAR is inadequate as fails to assess the impact of increased population on services including schools, childcare and medical care.
- EIAR does not adequately consider impact on biodiversity and human health from construction stage.
- EIAR does not adequately address climate change.
- AA contains lacunae and is not based on appropriate scientific expertise.
- AA Screening does not provide sufficient reasons or findings as required. No clear methodology or analysis offered.
- AA Screening flawed as rules out protected sites on basis of mitigation.
- NIS flawed as doesn't consider all aspects of proposed development arising during construction.
- Zone of influence has no basis in law. Inadequate regard to cumulative effects in AA.
- River Dargle is a Salmonid Water and inadequate protection. [Sic]
- Reliance on NIS submitted for a different project, Shanganagh WwTP. [Sic]

8.9. Material Contravention

- Material contravention of the zoning objective with respect to density.
- If the Board purports to justify non-compliance with objectives of the LAP, Development Plan, Masterplan and/or Urban Design Framework, this will amount to an unlawful breach of the requirements of the SEA Directive.
- Material contravention with respect to mix.
- Material contravention with respect to car parking.
- Material contravention with respect to childcare.
- The proposed development is not of strategic or national importance.
- Cannot grant permission where justification relies on the building height and apartment guidelines as these are ultra vires and not authorised by section 28(1C) of the planning and development act. The guidelines are also contrary to the SEA Directive.
- Application has not demonstrated sufficient infrastructure capacity, including public transport, drainage, water services and flood risk.

8.10. Other objections

- Loss of the woodland which has benefits to the human population, including ridding the air of pollutants and helping to cleanse the air from the effects of pollutants from large scale development. Other benefits including, mental health, physical fitness, relaxation, children exploring and learning. Woods also provide a natural sound barrier.
- The Level 3 European framework should be used to check sustainability of design. Electric charge points, sustainable energy heating system, water harvesting should be included.
- Poor visibility of the site notice.
- Flooding in the area.
- Application relies on open space provision on other sites to satisfy requirements.

8.11. In support (1 response)

- The Community Forum does not represent the people and did not arrange a meeting to give the community opportunity to speak about the planned development. Representation supports the proposed development.
- Submission from former owner of part of the subject site lands, in relation to the planned lifting of a sizable quantity of Yew trees from the site and replanting in Mount Kennedy Forest. The trees relate to a commercial tree crop/nursery and are not a forest.
- Businesses in the area support the application.
- Sewerage will be treated at the Greystones plant and this was upgraded to allow for additional capacity.
- There is a housing shortage, the development has a range of affordable new homes, aimed at first time buyers.
- The area has good free amenities, including the forest.
- Sporting and other clubs in the area to cater to future populations.
- Infrastructure in place to serve the development including public transport.

8.12. Enclosures: Report from NM Ecology reviewing the submitted ecological assessments;

9.0 Planning Authority Submission

9.1. The Council's report 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. Core Strategy

- Current housing stock numbers are c.1472, having regard to the 2016 number, and completions post 2016. The Core Strategy indicates a requirement for 2539 housing units up to 2025. Accordingly there is a requirement for a further 1067 units to satisfy population growth. Notwithstanding existing extant permissions it is considered that the quantum of residential development proposed would be acceptable and would satisfy

the Core Strategy requirements as set out in the current County Development Plan.

9.3. Compliance with Zoning Objectives / Intensity of Development

- The proposed uses are acceptable in principle. The density of the proposed development at 28.59 uph (based on a dwelling equivalent of 125sqm and a site area of 5.5ha), exceeds the maximum permitted density on these lands having regard to the Agreed Action Area (25 uph). However the uph would be in accordance with the County Development Plan 2016-2022 standards, as set out in Appendix 1.

9.4. Action Area 1 / Principle of Development Location

- It is indicated in the Action Area approval that development on the lands in Phase 2 would not be permitted until all elements set out in Phase 1 are substantially completed. The following elements have not been completed: Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link; and Completion of public park, including all landscaping manipulation and landscaping. The development therefore materially contravenes these provisions of the Approved Action Area. The development is isolated from the town centre and existing estates.

9.5. Phasing

- The phasing plan is not considered appropriate. The indication that the Road infrastructure to service the development will be in tandem with housing is unacceptable. No housing should be occupied until the link road/ western distributor road has been constructed and is operational to Fishers Corner, and the upgrade works at that point have been completed.
- It is considered preferable that social units are provided on a pro-rata basis for each phase or at a minimum of 10% of the total Part V Housing in each phase.

9.6. Design / Visual Amenity / Boundaries

- The overall layout is constrained not only by the future Distributor Road but also by land ownership boundaries which results in an irregular plot of land, reading as part of an incomplete jigsaw in its relationship to adjoining lands

which are currently undeveloped. The layout, particular with respect to the southern interface with adjoining lands, is forced to fit boundaries of the site as a consequence, rather than arising from a more holistic approach to the overall Action Area lands.

- Current layout is appropriate for the amenity of future residents/interface with agricultural lands to west. Housing mix and layout allows strong visual relationship along the proposed Distributor Road. Corner units ensure suitable passive overlooking of public areas. Garden levels provide usable space.
- Level of units on site 125/126 not indicated. Location of creche/community unit would be preferable adjacent to an entrance. Layout does not allow for drive-in / drop off facility. Preference for small number of single storey units as downsizing to apartments not preferred.
- The materials should reflect the location, the palette along the elevation to the local road should ensure a more suitable reflection of graduation from edge of Newtownmountkennedy.
- Alternative boundary treatment should not be permitted. Brick wall to side of site 1 unit A1 should accord with site section C-C.

9.7. Housing Type and Tenure

- The overall mix is acceptable. Question attractiveness of apartment units for older persons.

9.8. Creche / Community Facilities

- Location at entrance would be preferred. Design should be guided by Wicklow County Childcare. Parking should allow for drop off/pick up.
- Question community use facility. Unclear how would operate, indication operation is dependent on tenant is ambiguous. Could undermine provision of the creche due to lack of clarity.

9.9. Public Open Space

- Location and quantum acceptable.

9.10. Communal Open Space

- Location and configuration acceptable.

9.11. Private Open Space

- Would accord with Development Plan and Apartment Guidelines.

9.12. Part V

- Preference for housing pepper-potted throughout the estate.

9.13. Biodiversity

- Given that the site is zoned in the current LAP for housing there will inevitably be a loss of hedging/trees.
- The tree nursery has become overgrown due to lack of management. Given the zoning objective for the site, and as the nursery retains trees which are planted more recently it is considered that subject to the planting of native species within the overall development, that the landscaping / planting proposals will compensate for the removal of this area.
- Mitigation in the EclA should be implemented. Details of swift boxes should be provided. Ecological Clerk of works to be required to oversee, report and sign off mitigation. Further mitigation should be provided for potential bat roosts in old stone walls.

9.14. Archaeology

- Mitigation should be carried out to specifications of the DHLGH.

9.15. Impact on Residential Amenities

- No significant negative impacts.
- Existing boundary planting at interface of units on site 01 to 07 with dwelling to northeast corner should be retained, with concrete post and timber fencing to protect existing vegetation and ensure no new overlooking.
- Re: units on site 163 to 170 and existing dwelling below, retention of boundary vegetation should ensure no new overlooking, but confirmation required.

9.16. Roads and Accessibility

- Notwithstanding the identified works for the provision of the link road network to Fishers corner, it is considered that the movements of pedestrian, cyclists and vehicles will predominantly utilise the L-1037-0 to access the town centre, and the N11. Given the deficiencies evident in the L-1037-0 in particular with regard to pedestrian/cycle facilities and the lack of adequate proposals to upgrade the road network to cater for the development it is considered the development will result in a traffic hazard and would not provide for a sustainable development in terms of pedestrian connectivity.
- No development should be occupied until the identified link road network to the centre of Newtownmountkennedy is completed.
- The final design of the Fishers junction shall be agreed with the Roads Section to ensure that it aligns with planned town centre enhancements currently under public display.

9.17. Entrance/Road Design

- Request stage 2 and 2 RSA.

9.18. Public Lighting

- Request revision to include the East/West Link and all roads serving the proposed development.
- To be in accordance with Wicklow County Council's Guidance Document for Public Lighting Works for Developers and with the Road Authority.

9.19. Pedestrian Facilities, Cycle Facilities

- Concern at lack of pedestrian/cycle proposals for L-1037-0. Development should not be occupied in absence of works for pedestrian/cycle linkages on new Distributor Road. To be designed in accordance with the Road Authority requirements.

9.20. Car/Bicycle Parking

- Quantum acceptable. To be designed in accordance with standards in Development Plan.

9.21. Construction Management

- More robust plan requested to take account of EclA mitigation.
- Site works between hours of 0800 to 1800 Mon to Fri and 0800 to 1400 Sat, not all on Sun and BH.

9.22. Services

- Drainage/Flooding: Provision of SUDS measures appropriate. To accord with requirements of the Water & Environment Services Section of Wicklow County Council.
- Waste Water Treatment and Water Supply: Irish Water indicate connection feasible.

9.23. Screening for EIA and AA

- Reports noted.

9.24. Chief Executives Recommendation

9.25. It is considered that the development as currently proposed should be refused for the reasons outlined below:

1. The proposed development would endanger public safety by reason of serious traffic hazard because it is considered that the movements of pedestrian, cyclists and vehicles would predominantly utilise the L-1037-0, which is deficient in terms of pedestrian/cycle facilities, to access the town centre. Notwithstanding the identified upgrades, given the lack of adequate proposals to upgrade the road network to cater for the development, it is considered the development would not adequately cater for the safe movement of pedestrians and cyclists and would therefore be contrary to proper planning and sustainable development.
2. The lands are located remote from the town centre core with no existing pedestrian/cycle connections to the town centre. The distributor road identified to service the site and link it to the town centre, has not be constructed to date, and the site is isolated from the existing development within the Action Area 1 lands, and from Season Park residential development. The County Development Plan identifies that development should generally be phased in accordance with the sequential approach i.e.

Development shall extend outwards from centres with undeveloped land closest to the centres and public transport routes being given preference, i.e. 'leapfrogging' to peripheral areas shall be resisted; a strong emphasis shall be placed on encouraging infill opportunities and better use of underutilised lands; and areas to be developed shall be contiguous to existing developed areas.

Only in exceptional circumstances should the principles be contravened, for example, where a barrier to development is involved. Any exceptions must be clearly justified by local circumstances and such justification must be set out in any planning application proposal.

It is therefore considered that the proposed development would not accord with the sequential approach, and therefore would contravene the objectives of the County Development Plan 2016-2022, would be premature at this time, would read as an isolated stand along development on the rural fringe of Newtownmountkennedy, and would be contrary to proper planning and sustainable development.

3. The proposed development would materially contravene the provisions of the Newtownmountkennedy Local Area Plan and Approved Action Area 1 which provide that no development should be permitted in Phase 2, of which this site forms a part, until all of the elements set out in Phase 1 had been substantially completed.

To allow this development would therefore be premature, would materially contravene the provisions of the Approved Action Area Plan, and would be contrary to proper planning and sustainable development.

9.26. In the event that the Board determines to grant consent, 24 no. conditions are recommended. Conditions of note include the following: Roads phasing; Fishers Junction final design; Development Contributions under section 48(1); Security Bond; Revised details showing trees/hedging on boundary with existing houses and proposed units 01-07 and 163-170.

9.27. Enclosure: Decision for application ref.22/259 refused by Wicklow County Council and currently subject to an appeal to ABP.

9.28. Department Reports

9.29. Housing

- The Council's preference is for houses pepper-potted through the scheme. Detailed comments with respect to the internal fit out of units. There is a significant need in Newtownmountkennedy for 1, 2 & 3 bed units.

9.30. Roads

- In the event that permission is granted, request that details of the upgrade to Fishers Junction be agreed with the Council and that works on the link road are completed prior to occupation.
- Request stage 2 and 3 RSA.
- TWES does not foresee any offsets on Class 1 contributions.
- Request public lighting be conditioned for detailed design and layout, with inclusion of East/West link and other roads serving the development.

9.31. Elected Members

9.32. A summary of the views of the Wicklow Municipal District members at a meeting on 25th April 2021 are set in the submitted Chief Executive Report and copied below:

- Draft County Development Plan which is currently at Material Amendment Stage has excluded this land from zoning.
- Councillors have been told as part of the County Development Plan process that Newtownmountkennedy is over-zoned having regard to population targets in Core Strategy, and this land needs to be omitted.
- Contrary to the vision for Newtownmountkennedy in the Draft County Development Plan 2022-2027, which is due for adoption in September.
- Design inappropriate too many apartments.
- Appears over-congested.
- Insufficient Public Open Space.
- Social/community facilities.

- Community facilities are wholly inadequate to service this housing development.
- This is piecemeal development no additional facilities/services.
- Further housing should not be granted in the absence of community/educational facilities.
- Schools at capacity as it is.
- No secondary school in the area or no plans for one.
- Newtownmountkennedy can't sustain further development without relevant infrastructure.
- No guarantee Kineada will complete their elements.
- Need for schools, playing pitches, library etc.
- The identified community facility how will it operate, is is feasible as part of commercial crèche.
- Consider a playground would be more beneficial than an empty community centre.
- Ensure disabled access to community facility.
- Give rise to traffic congestion and impact on centre.
- When will roads come on-stream to service the development, as currently not built.
- Question given the scale of the development whether it can feasibly support the provision of the distributor road to service the development.
- Road access is reliant on the build out of the Northern Roads permitted under the Kineada development.
- 2 acres of mature woodland with native tree species within the development which will be lost – ABP should ensure that at least 50% of the woodland is maintained.
- This woodland is a habitat for Pine Marten, Bats and Red Kite as well as other mammals, birds, insects and plants.

- Woodland offers local people an opportunity to walk and explore biodiversity as well as being a sound barrier for traffic.
- Impact on Murrough Wetlands SAC due to discharges.
- The Newtownmountkennedy pumping station is at capacity.
- Consider the Strategic Housing Process inappropriate, view of Councillors / Local Authority not being taken on board by ABP.
- Opposed to SHD process developer is bypassing the standard planning system, and limiting participation.
- Accept there is a housing crisis but this proposed development is inappropriate.
- Members consider new quality housing, smaller estates is more appropriate.

10.0 Prescribed Bodies

10.1. An Taisce

- Discharge proposed into Newtownmountkennedy River which has poor status. Request proposal should be assessed for compliance with Article 4 of the Water Framework Directive. In-combination effects to the downstream Natura sites should also be assessed in light of other developments discharging into Newtownmountkennedy.
- Satellite imagery of the site indicates that the woodland 'nursery' is largely broadleaf in nature and likely of high biodiversity value. Recommend the proposal be redesigned to allow for preservation of the woodland.
- Potential to exacerbate dependence on private car use. The Traffic and Transport Assessment does not adequately address multi-modal, active travel and public transport options in relation to the proposal. Does not appear to evaluate the availability and accessibility of public transport or accessibility of services in the town for pedestrians and cyclists.
- Further assessment of existing public and active travel infrastructure in the area is needed, including existing bus routes and capacity, future expansion, accessibility.

- Proposals should be fully evaluated against the new National Sustainable Mobility Policy and the transport-related targets in the current Climate Action Plan.

10.2. Department of Housing, Local Government and Heritage

- The Department concurs with the conclusions and recommendations outlined in the submitted archaeological report. Conditions recommended with respect to pre-development archaeological testing and archaeological monitoring of groundworks at construction stage.

10.3. Inland Fisheries Ireland

- The EPA stations located within 1km of the Site designated the Newtownmountkennedy River as Good by the EPA in 2020 (station code: RS10N020400; RS10N020150) and is an important salmonid system.
- This system supports both Sea trout and Brown trout, Lamprey and Eel populations. This River has direct connectivity to The Murrough Wetlands SAC approximately 4-5km downstream.
- It is unclear as to what stage of the development the new surface water sewer system will be installed and connected into the existing storm network, which would have the potential to convey deleterious matter to the Newtownmountkennedy River.
- IFI would view the Newtownmountkennedy River and the Murrough Wetlands SAC as being inter dependent on one another to maintain a healthy and sustainable environment. The concept of the Newtownmountkennedy River acting as a type of buffer, mechanism, or part of any mitigation measures to protect the SAC would not be considered by IFI. There should be nothing other than clean water entering the surface water sewer system and any mitigation measures to protect the aquatic environment should be solely designed and implemented within the proposed development.
- If there is any potential for deleterious matter to enter the Newtownmountkennedy River during the construction phase through the surface water sewer system or by any other means this should be

acknowledged and mitigated against in a site specific Construction Environmental Management Plan (CEMP).

- The CEMP should identify potential impacts and mitigating measures on the aquatic environment, it should provide a mechanism for ensuring compliance with environmental legislation and statutory consents. The CEMP should detail and ensure Best Construction Practices including measures to prevent and control the introduction of pollutants and deleterious matter to surface water either directly or indirectly through the storm water drainage network and measures to minimise the generation of sediment and silt.
- Ground preparation and associated construction works, including large-scale topographic alteration, the creation of roads, buildings and footpaths, have significant potential to cause the release of sediments and various pollutants into surrounding watercourses. Pollution of the adjacent freshwaters (Newtownmountkennedy River) from poor on-site construction practices could have a significantly negative impact on the fauna and flora of this surface water system. A comprehensive and integrated approach for achieving stream protection during construction and operation (in line with international best practice) should be implemented. Construction works must be planned in a manner which prevents extensive tracts of soils from being exposed at any time and arrangements must be made for the control and management of any contaminated water resulting from construction.
- Surface water management measures must be implemented at the construction and operational stage to prevent any pollution of the Newtownmountkennedy River. Precautions must be taken to ensure there is no entry of solids, during the connection of pipe-work, or at any stage to the existing surface water system.
- It is essential that local infrastructural capacity is available to cope with increased foul or storm water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.
- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

- Reference to IFI and Department guidelines.

10.4. Irish Water

- In respect of Water: Connection to existing network is feasible, subject to upgrade works. (Works specified).
- In respect of Wastewater: Connection to existing network is feasible, subject to upgrade works. Namely, the Newtownmountkennedy pumping station is at capacity and an upgrade is required to facilitate this connection. Irish Water is currently progressing a project which will involve delivering the necessary upgrades required in order to support growth in this area. The project is currently at detail design stage and has estimated completion time of 2026 (subject to change).
- Design Acceptance: Statement issued by Irish water on 21st February 2022. The applicant (including any designers/contractors or other related parties appointed by the applicant) is entirely responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary which is necessary to facilitate connection(s) from the boundary of the Development to Irish Water's network(s) (the "Self-Lay Works"), as reflected in the applicants Design Submission.
- Conditions requested regarding connection agreement, no permission to build over assets and that development is carried out in compliance with Irish Water Standards Codes and Practices.

10.5. Transport Infrastructure Ireland

- Confirm no observations to make.

10.6. National Transport Authority

- Provision for Cycling: Notwithstanding the extant permissions which apply to the red line boundary of the proposed development, the NTA notes the provision of a 2-way cycle track on one side of the main spine road through the development and the road linking to the main street from the proposed roundabout. This requires all cyclists exiting the western section of the proposed development to cross the road to avail of safe cycling facilities. Two-way cycle tracks on one side of the road are most appropriate in locations

where development is concentrated on that side of the road. In this instance, significant housing areas are proposed on both sides. It is also noted that there are no proposals for cyclists on the local road to the north of the proposed development and on towards Church Road and the main street, despite much of this route being included within the site boundary. The NTA recommends that, in the event of a grant of permission, the applicant is requested to redesign the spine roads through the development to incorporate 2m cycle tracks on both sides of the roads with provision for appropriate crossing facilities at the roundabout, and that measures are agreed with the local authority which seek to manage traffic on the northern local road and on Church Road to ensure that they are amenable for cyclists.

- **Car Parking:** The NTA notes that the proposed development seeks to provide the maximum 2 parking spaces per unit as facilitated by the County Development Plan. Such a level of provision is likely to ensure that the private car will be chosen for the majority of trips from the proposed development and that car dependency will be designed in from the outset. This may be considered inconsistent with the Government's National Sustainable Mobility Policy which seeks to rebalance transport away from the private car. The NTA recommends that, in assessing the proposed development, consideration is given to the manner in which the number of parking spaces could be reduced in line with overarching transport policy.

11.0 Oral Hearing Request

11.1. One formal request for an Oral Hearing was received in relation to this application.

Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
- (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

11.2. Having regard to the circumstances of this case, to the issues raised in the observations received by the Board, and the assessment set out in section 12 below, I consider that there is sufficient information available on the file to reach a conclusion on the matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this instance.

12.0 Assessment

12.1. I will address the main planning issues arising from the proposed development under the following headings-

- Principle of Development
- Density
- Visual Appearance – Height, Scale, Mass and Design
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Water Infrastructure and Flood Risk
- Ecology
- Material Contravention
- Planning Authority's Recommendation
- Other Issues

12.2. Principle of Development

12.2.1. Land Use

12.2.2. 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.

12.2.3. The land use zoning of the site is described in the Newtownmountkennedy Local Area Plan 2008-2014 (extended to 2018 and since expired) as 'R1' 'Proposed Residential' with the objective 'to protect, provide and improve residential amenities'. The preparation of a new Local Area Plan, 2019 for Newtownmountkennedy was initiated in 2018, by way of Stage 1: Pre-Draft Public Consultation undertaken whereby a pre-

draft 'Consultation Issues Booklet' was prepared and placed on display with submissions invited from 24 Jan 2018 to 23 Feb 2018. The subsequent Draft LAP was not placed on public display. In the absence of any replacement of this LAP, the zoning of the site remains as described in the expired plan. The Planning Authority confirms this in their application of the zoning and objectives under this LAP to the subject site in their Chief Executive Report.

- 12.2.4. I am satisfied that development of the site for residential and creche use is in accordance with the land use zoning under the LAP.
- 12.2.5. With respect to road infrastructure, this overlaps areas zoned for open space under the plan. This road infrastructure already has planning consent and is provided in response to objectives under the LAP, as such, I am satisfied that no conflict with the zoning arises.
- 12.2.6. Draft County Development Plan
- 12.2.7. I note third party and elected member objections relating to the prematurity of the proposed development pending adoption of the new Development Plan.
- 12.2.8. The application site is not currently zoned for residential use in the draft Wicklow County Development Plan. This new Development Plan is not currently in force, and as such, is not a material consideration under section 9 of the 2016 act. It would not be appropriate to determine this application on the basis of the contravention of provisions under that plan before it comes into force. Therefore, the planning framework for assessment of the application is through adopted planning policy as expressed in section 6 of this report, and specifically, the current Wicklow County Development Plan 2016, and the since expired LAP in the absence of any replacement of the same.
- 12.2.9. Population Growth
- 12.2.10. I note third party concern regarding the population growth of Newtownmountkennedy.
- 12.2.11. The Planning Authority confirm in their Chief Executive report that in light of the current Core Strategy under the adopted Wicklow County Development Plan 2016, there is a requirement for 2,539 housing units up to 2025 for Newtownmountkennedy. Taking into account extant permissions, the Planning Authority conclude that the

quantum of residential development proposed would be acceptable and would satisfy the Core Strategy requirements as set out in the current County Development Plan.

12.2.12. I concur with the position of the Planning Authority. In addition, in my view the scale of this development should be informed by an assessment of site-specific circumstances including consideration of locational characteristics and connectivity/accessibility. The question of density and the appropriateness of the proposed scale of development for this site, is determined on a case-by-case basis and is part of the assessment I describe below. I undertake a detailed appraisal of the proposed density in light of the accessibility of the site in section 12.3 below.

12.2.13. Sequential Development of the Settlement

12.2.14. I note third party comments with respect to the location of the site relative to surrounding existing development and the town centre. I also note that the Planning Authority recommend that the application be refused, in part, due to the lands being remote from the town centre core, with reference to the Development Plan which requires development to extend outwards from centres in a sequential manner and in preference to 'leapfrogging' to peripheral areas. The Planning Authority conclude that the proposed development would not accord with the sequential approach and therefore would contravene the objectives of the County Development Plan. The Planning Authority also includes reference to the lack of construction of the distributor road to serve the site in relation to the sequential development of the area.

12.2.15. The subject site is not immediately adjacent to existing properties in the settlement, and in that sense is argued to be remote by the Planning Authority. However, the subject site is immediately adjacent to lands that have extant planning permission for comprehensive residentially-led redevelopment (ref. PL27.227704/PRR 06/6101). The applicant refers to the commencement of works associated with that planning permission. While the site area for these adjacent lands with planning consent are situated between the subject site and the existing Season Park estate, they also further to the south to the R765, and it is at this most southerly point of this adjacent site that works have commenced. The planning permission associated with these adjacent lands expires in 2024 and the applicant points to the recession years by way of explanation of the delay in progress on the site. The current application also

includes the north-south / east-west distributor road previously approved as part of this adjacent consent.

12.2.16. In my opinion, it is clear that it will take a number of years for there to be redevelopment of the lands immediately adjacent to the subject site. However, I am satisfied that the current application proposal is following a sequential approach, in that those adjacent lands closer to the town centre already have consent and works have commenced in association with that permission. Therefore, the current application proposition cannot be considered to be 'leapfrogging' in my view. It cannot be guaranteed that development will be delivered on the lands immediately adjacent to the application site, recent years have taught us to be cognisant of unforeseen events. However, it would be unreasonable in my opinion to prevent development on the current application site, given the circumstances of both sites, while awaiting the build out of the adjacent lands (i.e. the subject site is zoned for residential development, the adjacent lands have consent for development and are situated immediately adjacent to the existing settlement and works have commenced – albeit further to the south.) The subject site also includes road infrastructure to ensure delivery of the distributor road as previously consented.

12.2.17. Therefore, in my opinion, the development of the subject site would follow the sequential approach in terms of expansion of the settlement area. I consider connections to the town centre separately below in both my assessment of density in section 12.3 and transportation in section 12.7.

12.2.18. Phasing

12.2.19. The Planning Authority conclude that the proposed phasing plan for the development is unacceptable in terms of the delivery of road infrastructure in tandem with the residential units.

12.2.20. In relation to road infrastructure, there is currently an extant permission in place for the western distributor road in relation to planning permission for an adjacent site (ref.06/6101 & PL27.227704). This application is effectively re-applying for permission for the same western distributor road which is required to serve the proposed development. The applicant proposes that this road would be delivered in tandem with the proposed housing. A phasing plan is also submitted (drawing no.D1807.S16) and

the submitted Planning Report confirms that it is proposed to deliver the development over two phases:

- Phase 1 – consisting of 114 dwellings, four areas of public open space, creche and community use room, internal road no.'s 2, 3, 14, 15, 16, 17 and 21;
- Phase 2 – consisting of 65 dwellings, and associated open space, and internal road no.'s 3, 4, and 20.

12.2.21. The applicant confirms willingness to accept a condition concerning the phased delivery of the distributor road, in the event that planning is granted by the Board for this current SHD application, and the western distributor road has not already been delivered as part of the adjacent approved project.

12.2.22. I appreciate the Planning Authority's reservations surrounding the delivery of the road infrastructure in tandem with the development of the site for housing. However, in my view the key consideration is in relation to occupation of the site, which should not occur prior to the delivery of the distributor road, in a phased arrangement associated with the housing. Such a phasing plan could be agreed by condition with the Planning Authority and as the applicant confirms acceptance to this approach, I am satisfied that this a suitable response to the Planning Authority's concerns in relation to this matter.

12.2.23. The Planning Authority also outline requirements under the agreed action area for the lands in relation to the phasing of development in the AA1 lands alongside delivery of infrastructure. I address these matters in relation to potential material contraventions separately in section 12.10 of my report below.

12.3. Density

12.3.1. I note third party objections in relation to the quantum of proposed development for this site, as well as that the proposed density amounts to a material contravention of the plan.

12.3.2. 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' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

- 12.3.3. The subject site forms part of Action Area 1 (AA1) under the LAP. The criteria for the development of these lands, including in relation to infrastructure and phasing is described under the LAP. The LAP also refers to the 'Action Area Plan' agreed for these lands under the 2002 LAP, and states that any application for permission on new lands in AA1 shall comply with the phasing / infrastructure conditions and other requirements of the agreed action plan. The action plan sets out a maximum density of 25 uph for the AA1 lands (for terraced housing).
- 12.3.4. The Wicklow County Development Plan includes objective HD5 'density' which states that residential development is expected to aim for the highest density indicated for the lands as described in the Development and Design Standards appended to the Plan.
- 12.3.5. While the proposed density is calculated at c.32 uph based upon the net site area, the Planning Authority calculate a 'dwelling equivalent' density of 28.59 uph based upon a plot ratio of 0.35. While this exceeds the maximum set out in the agreed action plan, this is in accordance with the Development Standards described in Appendix 1 of the Development Plan. As the proposed density exceeds the agreed action plan as enshrined into the LAP, the applicant has included a Material Contravention Statement with reference to density which I consider in section 12.10 below.
- 12.3.6. The Planning Authority states that while the proposed density exceeds the maximum described in the Agreed Action Area (25 uph), the proposed density would be in accordance with the County Development Plan 2016-2022 standards (28 uph).
- 12.3.7. Newtownmountkennedy can be considered a 'small town' according to national planning policy guidance in the Sustainable Residential Development Guidelines. The subject site is situated proximate to the designated Town Centre for Newtownmountkennedy under the LAP. As such, in my view, the site can be considered an 'edge of centre' site for the purposes of the Sustainable Residential Development Guidelines. The density standards set down for 'edge of centre sites'

(Section 6.11) indicates that “development of such sites tend to be predominantly residential in character and given the transitional nature of such sites, densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation”. Based upon the net site area, the proposed development has a density of 32.5 uph, which is within the range described under the guidelines.

12.3.8. In terms of the accessibility of the site, the site is situated walking distance (approximately 15 mins) to both the designated town centre for Newtownmountkennedy and a bus stop situated in the centre, serving the Bus Éireann 133 route to both Wicklow Town and Dublin City Centre. I note third party concern regarding pedestrian infrastructure that would facilitate these connections.

12.3.9. The proposed development incorporates road and pedestrian infrastructure upgrades in the form of a distributor road that connects to the town centre. This distributor road already has planning consent as part of the planning permission for development of the lands to the east of the site (ref. PL27.227704/PRR 06/6101). However, the applicant is reapplying for consent as part of the current planning application to ensure that the proposed development would only be delivered in conjunction with that link. I consider the adequacy of pedestrian infrastructure and connections to the site further in section 12.7 as part of transportation considerations below, however for the purposes of considering planning policy with respect to density, I am satisfied that the site demonstrates connections to Newtownmountkennedy centre, although these connections are dependent upon infrastructure upgrades as part of the proposed development.

12.3.10. As a result, under the Apartment Guidelines, the subject site can be classified as a Peripheral and/or Less Accessible Urban Location in my view, which includes suburban areas that do not meet proximity or accessibility criteria and/or are sites in small towns or villages. In such areas, densities less than 45 dwellings per hectare will broadly be accepted, which includes the incorporation of apartment type dwellings. In this regard I note policy HD13 of the Wicklow Development Plan which relates to the location of apartment developments, and that this describes a ‘general’ requirement. I am satisfied that the proposed site is a suitable location for apartments in light of provisions in the Apartment Guidelines and its locational characteristics.

12.3.11. I also note Circular NRUP 02/2021 advising of residential density guidance for towns and villages, intended to clarify the application of Sustainable Residential Development Guidelines, with a graduated and responsive, tailored approach to the assessment of residential densities in Peripheral and/or Less Accessible Urban Locations, as defined in the Apartment Guidelines. In terms of defining Newtownmountkennedy in the context of settlement hierarchies and suitable densities, Newtownmountkennedy is identified for growth and is not considered to be a 'village' in the context of the guidance.

12.3.12. The proposed density of 32.5 dwellings per hectare is therefore within the ranges described in national planning policy as set out above.

12.3.13. In light of the foregoing, I am satisfied that the proposed density is not contrary to national planning policy and therefore is acceptable in principle. While I am content that the proposed density would not be inappropriate in principle, a wider assessment of the overall development impacts is still required. I set this assessment out further below, however I am satisfied that there is nothing to preclude the proposed density level on the site with reference to the above national policy documents, which promote a qualitative assessment, as set out in this report. With respect to the contravention of local planning policy relating to density, I address this further as part of my consideration of material contraventions in section 12.10 below.

12.4. Visual Appearance – Height, Scale, Mass and Design

12.4.1. I note third party concern regarding the quality of design and integration with the surrounding area. The Planning Authority also raise concern regarding the layout of the development in relation to the site ownership constraints and the proposed palette of materials.

12.4.2. 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.

- 12.4.3. 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.
- 12.4.4. Under the County Development Plan, development design standards describe a qualitative approach to assessing proposed building height and design, taking account of the established character surrounding a development site. There are also no specific restrictions in relation to height under the LAP.
- 12.4.5. The proposed development comprises 2 storey houses, and 3 storey blocks accommodating apartments and duplex units. The site is also situated adjacent to existing agricultural fields and greenfield areas. The closest residential estate is Season Park and it is characterised by 2 storey housing. As such, the proposed 3 storey height will be a departure from the existing visual character of the immediate area. 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. Therefore, while the proposed height does not represent a material contravention of the development plan, with height to be considered on a case-by-case basis, I still have regard to the criteria described in section 3.2 of the guidelines as set out below. I have used the section 3.2 criteria to guide my assessment of design and visual impact in general and therefore my consideration in this section is not just restricted to height.
- 12.4.6. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I have addressed the accessibility of the site in section 12.3 of my report above. The site is walking distance to a bus stop in the town centre that provides connection to Wicklow Town and Dublin City Centre. In

Wicklow Town and along the route into the City, there is access to high capacity and frequent services (such as rail services) and frequent bus services available.

- 12.4.7. The second criterion relates to the character of the area in which the development is located. As described above, the site is located immediately adjacent to greenfield areas. There are standalone residential dwellings (1 and 2 storey) situated along Season Park Road (the L-1037-0) to the north of the site and Season Park residential estate itself is further to the east (2 storey). Adjacent to the site is a field with consent for housing redevelopment as described in sections 4 and 12.2 above.
- 12.4.8. In my opinion, the proposed 3 storey block is a modest increase in scale compared to the established prevailing heights in the area. The proposed development is largely formed of 2 storey dwellings with a range of housing types, and with both semi-detached and terrace forms. The proposed 3 storey blocks are used to define the edge of the central road (distributor road) through the site and the corners of urban blocks. The apartments and duplexes contribute to the variety in housing types and are appropriate in my view, given the specific characteristics of this site and the surrounding area. While I note that 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 2 and 3 storeys, to be appropriate for the site.
- 12.4.9. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), the Planning Authority raises concern regarding the layout of the subject site, which is defined by landownership constraints. There are two parcels of land situated adjacent to the central north to south road (section of the distributor road) that are within third party ownership. The proposed layout is arranged around these parcels of land as a result, rather than creating a continuous frontage along this road on both sides. The resulting layout is not ideal, and I agree with the Planning Authority that a better solution would be achieved with the incorporation of these parcels of land, however, while there might be a better layout solution, that does not necessarily lead to a conclusion that the layout proposed is unacceptable. The proposed layout does not prohibit future development of these parcels of land in a manner that would 'complete' the frontage along the road. I do not consider the resulting layout to be harmful in terms of a consideration of design, and in my view, the proposed layout is not so fragmented or disjointed that it would be consider

'piecemeal'. The proposed layout still creates a legible frontage onto the central road, with an appropriate arrangement to urban blocks and definition of space through the locating of the proposed houses and duplexes/apartments. As a result, while the proposed layout is not necessarily optimum, it is the consequence of landownership constraints and does not result in a harmful design overall, and as such, I am satisfied with the layout as submitted in the application.

12.4.10. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, and materials), the proposed design avoids monolithic or uninterrupted forms at an appropriate scale for the location in my view. However, I note that third parties raise concern regarding the material finish and the Planning Authority request conditions in this regard. The proposed development is proposed to be finished in a mixture of render, buff brick and tile. Third parties point to the Georgian architecture in the centre of Newtownmountkennedy, however as a modern development, in my opinion employing a pastiche approach would not be the correct approach for this site outside of the town centre. I agree that the proposed design and materials are fairly ubiquitous for modern developments, but in this sense, they reflect the more modern additions to the area. I am satisfied that the proposed detailed design and finish is acceptable and would not be visually harmful to the area. A condition can also ensure that the materials used will be to an acceptable quality to be agreed with the Planning Authority.

12.4.11. 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 on the site would therefore be a positive contribution to the mix of typologies in the area (a 3.2 criterion).

12.4.12. 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 12.5 and 12.6 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 Architectural Design Statement, Flood Risk Assessment, Arboricultural

Assessment, Ecological Impact Assessment, Appropriate Assessment Screening Report, Archaeological Assessment and Sunlight, Daylight and Shadow Assessment.

12.4.13. I am satisfied that the proposed development appropriately incorporates the criteria described in section 3.2 of the Building Height Guidelines which I have had regard to above. As part of this, I note that the proposed development does not amount to a material contravention of the LAP or Development Plan in relation to height. In relation to the Planning Authority and third party concerns regarding the proposed layout and design, I have described above conformity with the planning policy framework, and I consider amenity impacts in further detail below.

12.4.14. With respect to the removal of the structure for the historic walled garden on the site, from my visit to the site it was evident that this is in a significant state of disrepair and parts have already collapsed. This is not a protected structure and there is no harm in its removal in my view, given its current condition.

12.4.15. Overall, I am satisfied that the proposed development would not have significant negative visual impacts and would not be overbearing.

12.5. Neighbouring Residential Amenity

12.5.1. I note third party objection in relation to adverse impact upon amenity. Here I address relevant considerations in the assessment of potential impact upon existing residential amenity, as well as any other amenity matters raised by third parties.

12.5.2. Daylight and Sunlight

12.5.3. Criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that 'appropriate and reasonable regard' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

12.5.4. Section 5 of the BRE guidance notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. 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.

12.5.5. 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)

12.5.6. The guidelines also states that if a proposed development is taller or closer than this, a 25⁰ line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.

12.5.7. 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/or reductions to 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 21st September and 21st 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 21st March.

12.5.8. The application includes a Daylight and Sunlight Report, this applies the methodology as outlined above and identifies properties adjacent to the subject site on Season Park Road to the north of the site, for consideration in terms of potential impact. All of the windows and amenity areas assessed meet the guideline targets, with 100% of all locations retaining a VSC of 27%, exceeding APSH annual and winter minimum levels, and retaining over 90% of the garden area in sunlight for at least 2hrs on 21st March, all in accordance with the guideline standards. I am also satisfied that the separation and height of proposed development closest to the adjacent lands with planning consent to the east, is sufficient to ensure that there will be no impact upon the daylight, sunlight or overshadowing of future development on that land.

12.5.9. The proposed developments potential impact upon surrounding occupiers daylight, sunlight and overshadowing will therefore be within acceptable parameters and is in accordance with BRE guidelines.

12.5.10. Separation Distance and Privacy / Overlooking

12.5.11. I note third party concerns with respect to overlooking and adverse privacy impact as a result of the proposed development. The County Development Plan describes separation distances of more than 22m between opposing windows serving living areas. I assess the potential overlooking between habitable room windows in general (i.e. bedroom and living rooms) below.

12.5.12. To the north east of the subject site, the proposed development is formed of two storey housing where it is closest to the boundary with an existing property on Season Park Road. Third parties point out the change in level between the subject site and existing properties to the north east, with concern that this exacerbates potential for overlooking. The rear of the proposed houses is approximately 14m away from the side elevation to the existing property to the north east, which is a single storey with dormers, and without any first floor side elevation windows facing the site. At their closest, the proposed houses have a garden depth of approximately 8m to the boundary with this existing property. A proposed house is also situated along the southern boundary of this existing garden, with its side elevation and garden adjoining the boundary to the existing property, however there are no habitable room first floor windows in the proposed houses side elevation. To the middle of the northern portion of the subject site, a three storey apartment block is proposed which is situated over

27m away from the side elevation of the closest existing house to the west. Other proposed houses are situated over 40m to all nearby existing structures to the north / north west of the site on Season Park Road. As a result, there is no direct overlooking between habitable windows to this property.

12.5.13. In terms of potential overlooking of the garden areas of existing properties, I acknowledge that the backdrop to existing properties bounding the subject site on Season Park Road will alter. This will result in some increased perceived overlooking of rear garden areas, however in my view, such impact is inevitable as part of the efficient development of a zoned 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.

12.5.14. Light Pollution

12.5.15. I note third party concern regarding the potential for light pollution from the proposed development. In my view, the site is zoned for residential development and will naturally result in increased population with associated footfall and traffic. The noise, light and emissions associated with this population will be at a standard residential level and not unusual for the area. The site is zoned for residential development and therefore emissions associated with residential occupation is anticipated in the plan. I address ecology considerations with respect to light in section 12.9 below.

12.5.16. Rodent Infestation

12.5.17. I note third party concern regarding potential for rodent infestation as a consequence of clearing the lands. As a result, it is requested that the proposed development incorporate walls on boundaries with adjacent private gardens to prevent escape of vermin into adjacent property boundary areas.

12.5.18. The submitted Ecological Impact Assessment does not highlight any large scale populations of rats or mice on the site (I address ecology specifically in section 12.9 below). The submitted Outline Construction, Waste & Environmental Management Plan commits to the regular clearance of rubbish from the site, *'to ensure that there are never build-ups which could attract vermin.'* Hoarding would also be erected to the boundaries of the site during any site preparation works. In my opinion, the proposed development reflects a standard proposition in terms of the type site clearance works required to facilitate development, and that there is nothing specific about this site

which would give rise to heightened concern regarding the potential for rodent infestation. I am also satisfied that the submitted Outline Construction, Waste & Environmental Management Plan incorporates mitigation to directly address the potential for attracting vermin to the site. As such, I see no reason to incorporate any additional mitigation in relation to this specific matter.

12.6. Proposed Residential Standards

- 12.6.1. In this section of my report, I address the range of applicable standards guiding an appraisal of the quality of proposed accommodation.
- 12.6.2. Daylight, Sunlight and Overshadowing
- 12.6.3. 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. The Wicklow County Development Plan 2016-2022, Development Standards, Section 1, Design Quality, also states that *"Layouts shall ensure adequate sunlight and daylight in accordance with 'Site layout planning for daylight and sunlight: a guide to best practice' (BRE 1991)."* The Design Standards for New Apartments also states that levels of natural light in new apartment developments is an important planning consideration and regard should be had to BRE standards. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.
- 12.6.4. A Daylight and Sunlight Report has been submitted with the application and describes the performance of the proposed apartment blocks in 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. In the proposed development, where kitchens and dining spaces form part of open plan living areas, the applicant has provided analysis against a 2% ADF target. Results for the worst case scenario aspects for apartments/duplexes are used to illustrate the minimum daylight conditions across the proposed development.
- 12.6.5. When considering the targets set out in the BRE guidelines as described above, the applicant demonstrates within the submitted report that all tested apartment/duplex units will meet the minimum ADF targets as described above. As a result, it can be logically extrapolated across the development, that 100% of proposed

apartments/duplexes will achieve the minimum ADF levels of 1% to bedrooms and 2% to kitchens / dining areas and open plan living / kitchen / dining spaces. I am satisfied that most of the units will in fact comfortably exceed these minimum levels.

12.6.6. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room 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 submitted assessment confirms that 92% of the tested apartment/duplex windows pass the annual and winter APSH. I am satisfied that the orientation of the all proposed blocks and houses has sought to maximise sunlight penetration into the accommodation, while addressing wider design considerations for this site, it's visibility in wider view, the street interface and enclosure of open spaces. I also note that the Apartment Guidelines does not refer to sunlight and only to daylight, while the Building Height Guidelines refer to daylight or light more generally, and therefore sunlight to windows is not a specific consideration under those guidelines. Overall I am satisfied that the acceptable levels of sunlight will be achieved to the vast majority of living rooms in the proposed development, in recognition of BRE criteria. I also note that access is provided to all units in the proposed development to well-lit sunny open spaces, which can be considered a compensatory feature in this regard.

12.6.7. In relation to overshadowing, the submitted analysis demonstrates that all proposed public and communal external amenity areas for the proposed development will achieve BRE target levels. This test has been carried out by the applicant on the basis of the minimum quantum of open space that is required under policy, rather than the actual quantum proposed which exceeds minimum standards. Analysis of the proposed private garden areas has not been provided, and I note that there are a number of north facing gardens that may not achieve BRE target levels. However, I am satisfied that any failure to achieve the BRE targets would be as a result of their north facing position in relation to the houses they are attached to, rather than as a consequence of the mass or scale of blocks. As outlined above, the BRE guidelines are clear that natural light is one of many factors in determining site layout, and I am satisfied that the proposed development achieves acceptable conditions for the proposed accommodation in relation to overshadowing. I also note once again, that all

units will have access to will-sunlit public open spaces that provides a degree of compensation for those properties with north-aspect private gardens.

12.6.8. Overall, I am satisfied that the proposed development will experience good daylight, sunlight and overshadowing conditions and that it accords with criteria described in the BRE guidelines, noting that these should be applied flexibly and in light of other site layout planning considerations, and that adequate compensatory measures are also included in line with the Apartment and Building Height Guidelines.

12.6.9. Dual Aspect

12.6.10. 100% of the proposed apartment units are dual aspect.

12.6.11. Internal Space Standards

12.6.12. The minimum apartment floorspace standards are described in the Apartment Guidelines and the proposed development meets or exceeds the minimum floor areas set out in the guidelines.

12.6.13. Floor to Ceiling Heights

12.6.14. The proposed development conforms with SPPR 5 of the Apartment Guidelines which states that a minimum of 2.7m floor to ceiling height should be provided at ground level to apartment blocks.

12.6.15. Privacy

12.6.16. There is sufficient distance to the rear of all of the proposed units in the development ensuring no undue overlooking. The majority of houses have a garden depth of at least 11m. Where separation between units is less than 22m, opposing windows are between non-habitable spaces such as hallways / bathrooms or between a habitable space and a non-habitable space (i.e. bedroom to hallway) and use of opaque glazing is indicated on the drawings (i.e. house types F, F1 and B).

12.6.17. Number of Apartments to a Core

12.6.18. The proposed development does not exceed 12 apartments per a single core in accordance with policy standards described in the Apartment Guidelines.

12.6.19. Private Amenity Space and Communal / Public Open Space

12.6.20. The proposed development incorporates private and communal open space associated with the apartment and duplex units in accordance with the Apartment

Guidelines, in the form of balconies and terraces. Private gardens are also provided to the rear of the proposed houses in accordance with the Development Plan standards, with a minimum of 50sqm to 2 bedroom and between 60-75sqm to 3+ bedroom houses, taking into account the provision of 0.64sqm of private open space for each 1sqm of house floor area.

12.6.21. The Development Plan requires that 15% of the site area be provided as public open space, with areas that are not suitable for recreational use to be excluded from any overall provision. The proposed development includes 9,819sqm of public open space equating to c.17.9% of the site areas. The public open space is provided in 6 areas distributed throughout the site, ensuring proximity of all proposed units to an area. There is provision for play for different age groups and all spaces are overlooking by proposed units, ensuring passive surveillance of the spaces.

12.6.22. Mix

12.6.23. The Planning Authority have confirmed that the proposed housing mix is in accordance with Development Plan requirements.

12.6.24. The mix of apartment units in the development conforms with SPPR1 of the Apartment Guidelines with 6x 1 beds (10.7%) and 50x 2 beds (89.2%) of the total apartment units proposed. The proposed mix of housing types and sizes also supports a variety of household types and sizes in accordance with County Development Plan and National planning policy requirements. I am satisfied that the overall proposed mix conforms with national and local planning policy.

12.7. Traffic and Transport

12.7.1. I note third party concerns regarding traffic impact associated with the proposed development. Elected members and the Planning Authority have also raised concerns. The Planning Authority recommend that the application be refused, in part, due to the endangerment of public safety by reason of serious traffic hazard, as the Planning Authority consider that movements of pedestrian, cyclists and vehicles would predominantly utilise Season Park Road (the L-1037-0) to the north of the site, which is deficient in terms of pedestrian/cycle facilities, to access the town centre.

12.7.2. Traffic Generation

- 12.7.3. The application includes a Transportation Assessment Report. This describes that the surrounding road network has capacity to accommodate the predicted vehicular traffic generation from the proposed development.
- 12.7.4. I note third party concern that the cumulative effect of nearby development schemes (consents or planned) has not been accounted for in the submitted assessment. The submitted Transportation Assessment incorporates traffic modelling up to the year 2039, using traffic growth factors to account for future year scenarios with an assumption of worst case traffic associated with the development. This demonstrates ample capacity in the surrounding network. I am satisfied that this growth modelling would account for the increase in traffic associated with surrounding developments, and in any case, given the degree of capacity demonstrated in the submitted assessment, even if growth was to be greater than that indicated, junctions are still expected to operate within capacity with the proposed development in place (para. 311 of the submitted assessment).
- 12.7.5. I note third party concern regarding the adequacy of Fishers Junction to accommodate the proposed development. Upgrades to this junction are included as part of the proposed development works. The submitted assessment has demonstrated, with consideration of growth modelling, that surrounding junctions would operate within capacity with the proposed development in place. The Planning Authority's Roads division notes the upgrades proposed to Fishers Junction and request a condition (in the event that the Board grants consent) for details of these upgrade works to align with their own plans for upgrades to the same as part of a town centre enhancement plan.
- 12.7.6. I am satisfied that the submitted data supports the conclusions set out in the submitted Transportation Assessment Report and that the surrounding road network would operate within capacity with the development in place.
- 12.7.7. Access
- 12.7.8. Concern has been raised by third parties regarding a lack of lighting, footpath or cycleway to serve the site. The NTA also suggest that in the event that planning permission is granted, that a condition be used to secure measures to be agreed with the Local Authority in relation to cycle use of the road to the north of the site (Season Park Road), as well as to enhance the design of cycle infrastructure to the internal

spine road for the site. The Planning Authority recommend that the application be refused, in part, due to the endangerment of public safety by reason of serious traffic hazard due to pedestrian, cyclist and vehicle movements that would predominantly utilise the L-1037-0 (Season Park Road) for access and egress to and from the site, which is deficient in pedestrian and cycle facilities.

12.7.9. The primary access to the proposed development would be via previously approved road infrastructure (yet to be completed), which also forms part of this current application, known as the western distributor road which links to Main Street / Church Road to the east. The local planning policy considerations remain unchanged with respect to this road, since that original consent, and I am consent that the proposal for this road is aligned with local planning policy objectives for the AA1 lands. A secondary access is proposed to the local road to the north of the site known as Season Park Road or the L-1037-0. During my visit to the site, I confirmed that the existing condition of this road to the north (Season Park Road / L-1037-0) is not suitable for pedestrian traffic and is not designed for safe cycle movements. In this sense, I concur with the sentiment of concerns raised by third parties, the NTA and the Planning Authority in relation to this road. However, I do not agree with the Planning Authority that this should form a basis to refuse permission for the application for the reasons I set out below.

12.7.10. The subject site is part of a parcel of land envisaged and planned for the residential expansion of Newtownmountkennedy. This is as described in the agreed Action Area Plan which describes the sequence and phasing of development and flows through the provisions of the Newtownmountkennedy LAP. These plans dictate the required infrastructure to facilitate development, with specific phasing described and tied to the delivery of various infrastructure, including road and pedestrian links. The subject site forms part of the AA1 lands.

12.7.11. The LAP states that with respect to the AA1 lands, 'a new distributor / access road shall be provided between the Roundwood Road (R765) and the L1037.... This road will distribute vehicular, cyclist and pedestrian movement on a north/south axis within AA1...' (page 18 LAP). This reference is to the distributor road which has previously been approved and also forms part of the current planning application. Other relevant policies and objectives include in section 4 of the LAP and the provision to provide for safe and high quality pedestrian and bicycle links between residential areas and retail,

recreational and educational facilities in the town; as well as section 8 and the provision to improve public road between Y-junction and the junction of the western link road with L1037 at Season Park (AA1). The current application includes pedestrian and bicycle links along the internal spine road serving the development and as part of the western distributor road linking into the town centre area. The application also includes a new access to the north of the site onto the L1037 and a footpath which runs the length of the site extent as it abuts the L1037, however there would be no footpath beyond the site extent on the L1037.

12.7.12. In my opinion, the proposed development is responding to the required infrastructure which is linked to delivery of housing on the site, as described in the LAP. There is no specific requirement under the LAP for development of the AA1 lands to include delivery of pedestrian footpaths on the L1037 / Season Park Road. In my view, to require such infrastructure now at the point of submission of a planning application, and to conclude the application should be refused as a result of its absence, is essentially to alter the parameters determining the acceptability of a development proposal for the site (in relation to road infrastructure provision). These parameters are clearly and comprehensively accounted for in the LAP, with in depth consideration given to the necessary road and pedestrian access / improvements needed to facilitate development of the lands, and without specific reference to pedestrian and cycle improvements on the L1037. In my view, the LAP accounts for the need for pedestrian and cycle connections via the new western distributor road and internal spine road through the site, which is reflected in the proposed development as submitted, and this is clear from the statement that '*This road will distribute vehicular, cyclist and pedestrian movement on a north/south axis within AA1...*' (page 18 LAP) in relation to the distributor road through the AA1 lands, linking Main Street and the L1037.

12.7.13. I have measured the distance of each route, taking an approximate centre point within the site and following the route of the new distributor road versus the L1037 route, and I found both routes to be circa 1km to the town. I consider that it is unlikely that future residents of the site would elect to utilise an unsafe pedestrian / cycle route into the town, when a safe alternative is available, and there is no significant difference in length of time for the journey. In my opinion, the LAP always envisaged that movement through the AA1 lands would be via the new distributor road, and not along

the L1037. The applicant has responded to the requirements under the LAP by including pedestrian and cycle links as part of the distributor road in the application.

12.7.14. With respect to the NTA request for an enhanced cycle infrastructure on the L1037, I have already set out above why I do not consider that this is required, in light of the policies and objectives in the LAP. In relation to the request for cycle lanes on either side of the internal spine road serving the site, rather than a 2 way lane on one side of the road as detailed in the application, I note that the submitted details provide for safe and convenient access through the site in my view, and therefore I do not agree that the design of this cycle infrastructure should be altered.

12.7.15. A DMURS Statement of Consistency has been submitted with the application. This confirms that DMURS design principles have influenced the design of the proposed development. I am satisfied that the proposed development has appropriately incorporated DMURS design principles, and the internal street network accords with DMURS.

12.7.16. Overall, I am satisfied that the proposed development does incorporate safe access for vehicle, pedestrian and cycle movements, specifically via the proposed, and previously approved, distributor road.

12.7.17. Cycle Storage

12.7.18. I note third party concern in relation to an overreliance on bicycles in association with occupation of the proposed development, which does not reflect census data for the area.

12.7.19. A total of 158 cycle storage spaces are proposed as part of the development. This is formed of 124 spaces for the future occupiers of the proposed apartments and duplexes, as well as 31 visitor spaces associated with the proposed apartments and duplexes. In addition, 8 spaces are proposed for the creche. The cycle spaces for the apartments and duplexes are secure and covered situated outside, but proximate to, the blocks as illustrated in drawing numbers D1807.S13 & S15.

12.7.20. The quantum of cycle storage for the apartments accords with the standards set out in the Development Plan. While the Apartment Guidelines do not include a specific planning policy requirement for the quantum of cycle storage to be provided, I am

satisfied that the proposed provision is in keeping with the intention of the guidelines in terms of maximising cycle storage provision.

12.7.21. Car Parking

12.7.22. I note third party concern that the proposed development is dependent upon transportation by private car. The NTA also suggest that the provision of car parking in the proposed development will promote private car journeys for the majority of trips, they therefore recommend that consideration is given to reducing the number of spaces.

12.7.23. Tables 7.1 and 7.2 of the Development and Design Standards in the Development Plan describe the car parking requirements for new development. In accordance with these standards, 2 spaces are proposed per a housing unit in the scheme. These spaces are situated at surface level within the plot for each house (generally within a front driveway area). In total, 339 surface level spaces are proposed as part of the development. This includes a total of 86 spaces for the proposed apartments/duplexes, formed of 52 spaces for the apartment units, 12 spaces for the duplex units and 22 spaces for visitors to those unit types. This equates to 1 no. space per apartment with 1 no. visitor space per 3-4 apartments in accordance with the Apartment Guideline benchmark standards for car parking in 'peripheral and/or less accessible urban locations' such as the subject site. The car parking for apartments, duplexes and creche is situated on the internal streets adjacent to the multi-residential unit blocks. There are also 11 no. spaces for the creche in accordance with Development Plan standards.

12.7.24. The submitted Planning Report states that the proposal includes provision for ducting to enable EV charging spaces. These are not shown on the submitted drawings, however should the Board determine to grant planning consent, a condition can secure a 10% provision of EV charging points for the development, with provision that all spaces should be able to accommodate a charging point in future.

12.7.25. I note third party concern that this application proposals does not resolve issues with on street parking suggested to exist on Church Road. In my opinion, it is not necessary, or dictated under any planning policy framework, that this application would address parking issues (should they exist) on surrounding streets. The proposed development would be walking distance to the centre of

Newtownmountkennedy and therefore it would not be expected that private car journeys would be relied upon for short trips into the centre. In addition, and as set out above, the proposal incorporates adequate provision for car parking within the development itself. As such I see no evidence to suggest that the application proposal would exacerbate any existing on street parking issues on surrounding streets.

12.7.26. Overall, I am satisfied that the quantum and location of the proposed car parking is in accordance with planning policy requirements.

12.7.27. Public Transport

12.7.28. I note third party concern that there is a lack of public transport to serve the development. An Taisce also suggest that public transport options are not adequately addressed in the submitted application and the proposal may exacerbate dependence of private car use.

12.7.29. I have described in section 12.3 above the accessibility of the site. I also note that the bus route served in Newtownmountkennedy which would be walking distance from the proposed development, provides links to high quality, frequent public transport options that are accessible on route to Dublin City and in Wicklow Town via main line rail links. In addition, I note potential future public transport enhancements with the BusConnects plan, that would include a route connecting Newtownmountkennedy to Kilcoole, a bus hub in Newcastle, and to DART services in Greystones.

12.7.30. I note third party concern that the area has a lack of employment opportunity and that this leads to large numbers commuting out of the town, however, as I describe in this report, the proposed development does have accessibility to public transport options. The subject site is also walking distance into the town centre. I have also given consideration to the quantum of car parking proposed compared to policy requirements and the predicted traffic generation for the development in this section of my report. Even in the event that car journeys are relied upon for commuting purposes, the traffic generation from the proposed development has been demonstrated to place negligible strain upon existing networks. While I acknowledge that the subject site is not served by a variety of frequent public transport options, I am satisfied that the characteristics of the proposed development align with the accessibility of the site, including the limited public transport provision within the centre of Newtownmountkennedy.

12.8. Water Infrastructure and Flood Risk

- 12.8.1. I note third party objections in relation to a lack of wastewater infrastructure and concerning flood risk.
- 12.8.2. The application includes an Engineering Planning Report which confirms the proposals for surface water management, as well as water supply and wastewater connections. This outlines that the proposed surface water management for the development would comply with the policies and guidelines of the Greater Dublin Strategic Drainage Study, with the overall objective to minimise stormwater runoff and to collect and treat runoff. Surface water management systems to be incorporated into the design of the proposed development include swales, infiltration trenches, rainwater butts, permeable paved areas and attenuation systems, with account taken for the 100-year storm event +20% climate change. In relation to wastewater, it is proposed that a new connection is made to the existing wastewater sewer that runs under Church Road in agreement with Irish Water. Similarly, in relation to water supply, a new connection is proposed via a watermain network that would run along the proposed east-west link road (the proposed distributor road), with connections to the public water infrastructure in agreement with Irish Water.
- 12.8.3. Irish Water have confirmed that in relation to water supply connections, this is feasible subject to infrastructure upgrade to be facilitated by the developer. In relation to wastewater, Irish Water confirm that connection is feasible subject to upgrades. Irish Water states that the Newtownmountkennedy pumping station is at capacity and that Irish Water is currently progressing a project to deliver upgrades to support growth in the area. This project has a completion time estimate of 2026.
- 12.8.4. Irish Water have issued a design acceptance statement for the proposed development and request conditions in relation to connection agreement and that works are carried out in accordance with their Standards, Codes and Practices.
- 12.8.5. While it is clear that there are currently capacity issues at Newtownmountkennedy in relation to wastewater, I am satisfied that Irish Water are in the process of undertaking works to increase capacity to serve development growth in the area, and that this would also facilitate the proposed development. Any grant of planning consent for this development can be subject to a condition requiring connection agreements with Irish Water, and therefore the developer will be required to continue to liaise with Irish

Water to ensure suitable connections to the network prior to operation of the development. As there is a current project in place to deliver the required infrastructure upgrades necessary to serve the proposed development, and Irish Water has issued a design acceptance statement in this regard, I am satisfied that there will be adequate water infrastructure to serve the proposed development prior to occupation.

12.8.6. The application also includes a Flood Risk Assessment. This confirms that the subject site is located in flood zone C and that no historic flood events have been recorded, with reference to pluvial, fluvial, coastal, and groundwater vulnerability. I am satisfied that the submitted assessment supports an evidential basis to conclude that the site is not at high risk of flooding and has not previously demonstrated a history of flooding. While I note third party comments with respect to rainfall run off from the site, I am satisfied that this relates to drainage of the site, and that the proposals for surface water management would respond effectively to that matter.

12.8.7. Overall, I am satisfied that the proposal would not increase the risk of flooding on the site or to the surrounding area, with an appropriate approach to mitigating surface water drainage. I note that the Planning Authority has not provided technical reports in relation to drainage, however I am satisfied that conditions can be relied upon to secure detailed specifications of storm water drainage for the authority's approval, should the Board determine to grant planning consent.

12.9. Ecology

12.9.1. I note third party objection to the proposed development in relation to ecological impacts, including lack of survey data, loss of trees and hedging, and inadequate mitigation measures. Prescribed bodies also make comments with respect to ecological matters, and I note the responses from Inland Fisheries Ireland in relation to Newtownmountkennedy River which is linked to the site and supports Sea trout, Brown trout, Lamprey and Eel populations, and An Taisce in relation to loss of woodland on the site. I address matters relating to potential impact upon European Sites in my Appropriate Assessment in section 13 of my report below.

12.9.2. Section 10 of the Wicklow County Development Plan 2016 deals with heritage and I note objective NH1 'Biodiversity' which requires that the impact of new development on biodiversity is minimised and that measures be required for the protection and enhancement of biodiversity in large developments. Objective NH6 asks for ecological

impact assessment in relation to proposed development that is likely to have impact upon Annex 1 habitats or rare or threatened species, including those species protected by law and their habitats, and to ensure appropriate related mitigation. NH8 relates to non-protected habitats and the carrying out of ecological impact assessments on proposed development likely to have impact on locally important natural habitats or wildlife corridors, and to ensure associated mitigation. Objectives NH14, NH16, NH17, NH18 and NH19 concern encouraging the retention of trees and discouraging the felling of trees and hedgerows to facilitate development.

12.9.3. The application includes an Ecological Impact Assessment Report (EclAR). The EclAR describes the habitats identified on the site during field surveys, which include Arable Crops (BC1), Stone Walls and Other Stonework (BL1), Buildings and Artificial Surfaces (BL3), Spoil and Bare Ground (ED2), Improved Agricultural Grassland (GA1), Amenity Grassland (improved) (GA2), Hedgerows (WL1), Treelines (WL2), Scrub (WS1), Dry Meadows and Grassy Verges (GS2), Immature Woodland (WS2) and Recently-Felled Woodland (WS5). In relation to loss of trees/hedgerow, I address this separately further below in this section of my report.

12.9.4. The EclAR includes consideration of the potential for fauna on the site, including protected species. In relation to bats, the EclAR states that there are old stone walls on the site with dense ivy cover that may offer potential roosting habitat for local bats, alongside hedgerows and treelines, which would also support foraging and commuting bats. The EclAR concludes that the subject site has moderate to high potential with regards to roosting, foraging, and commuting opportunities for bats. The EclAR also includes a desktop study of recordings of bats in the area. There is no specific bat survey of the subject site included in the application.

12.9.5. In relation to birds, a survey of the subject site was undertaken in March 2022 and confirmed a number of different bird species on the site, mainly of green conservation status, with one amber species being Herring Gull. An owl pellet was also observed within the field margin or the central crop field. No rare or protected mammals were observed during the survey of the subject site. The presence of Rabbit and Fox was evidenced through droppings, scat and burrows. Key ecological receptors (KER) for the site are identified to be hedgerows, treelines, scrub and woodland, which provide habitat for wildlife and form an ecological corridor. In the surrounding area, KERs of note are Irish Stoat, Pine Marten, Hedgehog, bat, birds, frogs and Brown Trout, which

may utilise habitat on the site which will be affected by the proposed development or there is a hydrological connection.

12.9.6. Section 6 of the EclAR identifies the potential impacts of the proposed development. During the construction phase, scrub, woodland and sections of hedgerows and treelines will be removed from the site. There is potential for negative impact upon mammals, including Hedgehog, Irish Stoat and Pine Martin, if they are present on the site. There is also potential for loss of foraging and commuting habitat, as well as roosting habitat for bats. Similarly, there would be loss of habitat for birds and potential for disturbance associated with noise and dust. In the absence of surface water management measures, surface water discharges have potential for negative impact upon aquatic fauna within Newtownmountkennedy River. During the operational phase, there is potential for disturbance of mammals utilising the site, as well as bats, as a result of night-time light pollution and loss of foraging resources.

12.9.7. Mitigation measures are described in section 7 of the EclAR. Specific measures are identified during the construction phase, including surface water management measures, the felling of trees during the period 1st March to 31st August should be avoided to avoid impact upon breeding birds, and avoided during winter months to avoid impact upon hibernating bats. Measures are also outlined to reduce noise and dust. Procedures to ensure controlled clearance of invasive species recorded on the site (Cherry Laurel and Butterfly Bush) are also outlined. During operation, measures to control and reduce light spill and the incorporation of swift boxes / bricks. The planting of native flora as part of the proposed landscape plan for the proposed development is also intended to improve local biodiversity. The potential for cumulative impact is considered in section 8 of the EclAR and includes acknowledgment of existing granted planning permissions in the area and the development plans for the site. The EclAR concludes that with mitigation in place, no significant negative residual impacts on the local ecology or on any designated nature conservation sites are expected from the proposed development.

12.9.8. I am satisfied that in relation to mammals and birds, the EclAR includes surveys that support conclusions reached in the report, and that there are no significant populations supported by the site. As such, with the mitigation proposed, no significant adverse impact to those populations is likely.

- 12.9.9. I note third parties point to the existence of a pond on the site which is not identified in the EclAR, and therefore the site is suggested to support fauna not identified in the report, including newts. The EclAR includes a desktop study of amphibian recordings in the area, this states that there are no records of Smooth Newt within 2km of the site.
- 12.9.10. Third parties point to historical ordnance survey (OS) maps of the area that show the pond to the north western corner of the site. It is also suggested that the arboricultural survey records the wetland tree species Goats Willow in this part of the site, which is an indication of the presence of water.
- 12.9.11. I have reviewed historical OS maps and concur with third parties that a pond is shown to the north western corner of the site, and within scrub area two, where Goats Willow (a known water loving species) is recorded in the arboricultural assessment. However, this is not necessarily evidence of a pond in current existence in this area in my view. During my visit of the site, I walked the parameter of the area where this pond is suggested to be located. It is populated by dense vegetation, largely brambles at the perimeter, which make access to the centre of this vegetated spot impossible without clearance works. Aerial photos indicate this part of the site has become overgrown over the years, and this vegetation growth may have negatively impacted the sustainability of the pond. Third parties have not presented any evidence of the current existence of the pond, for example photographs etc. The applicant's survey of the site does not identify a pond in this location and classifies this corner of the site as containing scrub only, and I could not locate the pond myself when I visited the site. I therefore have no reason to doubt the applicant's survey of the site which was undertaken by a professional ecologist. As such, it would appear to me, that the evidence points to the disappearance of a formal pond in this location overtime.
- 12.9.12. In terms of the presence of newts, again whilst third parties suggest newts have been seen, no evidence is presented to support this. The survey undertaken by the applicant includes consideration of desktop recordings of the presence of newts in the area, and there are no records within 2km of the site. Overall, I am satisfied that the evidence points to the disappearance of a historical pond in the north western corner of the site, perhaps as a consequence of organic debris from trees and intrusion of the scrub vegetation growing around it. I am also satisfied that there is no evidence of newt being supported on the site.

12.9.13. In relation to bats, I note that third parties point to the lack of survey data submitted with the application. As outlined above, desktop records indicate the presence of bats in the area, and the EclAR notes that habitats on the site are suitable for bats. As a result, the EclAR concludes that there is moderate to high potential for roosting, foraging and commuting bats on the site, however no specific survey of the site is included. The EclAR does include specific mitigation in relation to bats, namely provisions around the clearance of vegetation and lighting.

12.9.14. All bat species in Ireland are listed under Annex IV of the European (Birds and Natural Habitats) Regulations 2011 – 2021 and any works that would capture or kill them, damage or destroy their roosts or disturb them at important parts of their life cycle cannot take place without first obtaining a Derogation Licence. This licence is issued under Regulation 54 of the Regulations by the National Parks and Wildlife Service and strict criteria must be met before such a licence can be approved. The derogation licence operates under separate legislation that is triggered regardless of any planning consent over the site.

12.9.15. It is the intention that an EclAR of a proposed development identify key ecological receptors (KERs) and the significance of potential impacts upon KERs. Whilst a specific survey of bats on the site was not undertaken, based upon desktop records for the area and a professional ecologists survey of habitats on the site, bats are identified as a KER for the site. The applicant acknowledges records of bats in the area and that this, alongside the characteristics of the site, give it a moderate to high potential for bats. As such, I am satisfied that the applicant's documentation is sufficient.

12.9.16. However, in my opinion, I agree with third parties and the Planning Authority that the mitigation proposed is not sufficient in light of the potential for roosts within structures on the site. Therefore, I am recommending that if the Board determines to grant planning consent, this mitigation should be enhanced, and I have included a condition regarding the same (as part of a Construction and Environmental Management Plan) in my recommended order below.

12.9.17. In relation to water quality, I assess in detail the potential link to European Sites to the subject site and proposed development in section 13 below. In this section of my report, I consider impact upon aquatic fauna in the Newtownmountkennedy River as a

result of surface water discharges from the site. Inland Fisheries Ireland (IFI) state that the EPA stations, located within 1km of the site, have designated the Newtownmountkennedy River as 'Good' and this river is an important salmonid system. This system supports both Sea trout and Brown trout, Lamprey and Eel populations. IFI are concerned that it is unclear what stage of the development the new surface water sewer system will be installed and connected into the existing storm network, which would have the potential to convey deleterious matter to the Newtownmountkennedy River.

12.9.18. I note that section 7.1.2 of the EclAR outlines specific mitigation for aquatic fauna through surface water management during the construction phase. It is specifically stated in the EclAR that storm drain inlets will be protected throughout the construction phase. In addition, I note that an Outline Construction, Waste and Environmental Management Plan has been submitted, this refers to surface water run-off from the site, which will be managed with only clean water being discharged into the network. Therefore, I am satisfied that this indicates that measures will be in place at the start of the construction phase and during site preparation works. It is also possible to secure that these measures will take place at the earliest site preparation phases by way of condition and that a final Construction and Environmental Management Plan with measures for the control of water quality be submitted for approval, should the Board determine to grant consent for the application.

12.9.19. In relation to trees, An Arboricultural Assessment of the site and associated survey drawings are submitted with the application. In summary, 35 of the 47 individual trees surveyed are proposed to be removed, as well as two scrub areas and tree nursery (woodland of c.1.5 acres) which contain an additional large number of trees. In addition, six full sections and a short section of hedging, totalling c.664m, and one shrub boarder is also proposed for removal to facilitate the proposed development. This amounts to a significant quantum of tree and hedge removal from the site to facilitate the development and third parties and An Taisce raise concern regarding the scale of tree removal from the site. The Planning Authority acknowledge this vegetation loss, and state that as the site is zoned for housing in the current LAP, this will inevitably result in the loss of hedging/trees.

12.9.20. Third parties and An Taisce dispute the categorisation of an area on the site as a 'tree nursery' as they state it is a woodland with high biodiversity value. I also note the

submission from the self-identified curator of this 'tree nursery' in third party submissions, and their explanation in relation to the existence of this area and its intended commercial function. The Planning Authority state that the tree nursery has become overgrown due to lack of management and that given the zoning objective for the site, and subject to replacement planting, the landscaping proposals adequately compensate for its loss.

12.9.21. In my opinion, the submitted Arboricultural Assessment does not underestimate the loss of trees and hedgerow. It is clear that there will be significant clearance of trees and hedging to facilitate the development. Currently the southern, eastern and northern boundaries to the site are treelined or features hedgerow, as well as a central belt through the site, and there are 2 scrub areas and the tree nursery/woodland area that feature a large number of trees. The proposed development will necessitate the removal of all but sections of hedgerow on some southern and eastern boundaries of the site, noting that as third parties point out, some of this retained hedgerow is indeed within adjacent garden areas and not within the site itself. Therefore, the proposed development essentially requires comprehensive clearance of vegetation from the site.

12.9.22. In terms of tree protection, objectives under the Development Plan encourage tree and hedgerow retention and discourage the felling of mature trees to support development proposals. However, there is no specific tree protection or preservation for any trees or hedgerow on the subject site itself. The site is zoned for residential development and in the absence of any specific protection of trees on the site, I agree with the Planning Authority that loss of trees/hedging is inevitable. The tree nursery or woodland is also formed of a cultivated area, and while of ecological value, in my view it does not amount to the same significance as a historical woodland. Its loss therefore can be suitably mitigated through replacement planting as included in the application proposal. In terms of the quality of trees to be lost, there are no category A or B trees, with all vegetation classified as category C (with the exception of one category U tree), in the submitted assessment. As such, replacement planting can secure tree planting of equivalent value to that to be lost from the site.

12.9.23. Overall, in my opinion, while the scale of tree and hedgerow loss from the site appears significant, this must be considered in light of the quality of existing planting, which is low, and includes a cultivated woodland area. In light of those specific circumstances, the absence of any specific tree preservation or protection for the site,

and the zoning of the site for residential development, I am satisfied that the proposed landscape plan which includes the widescale planting of trees along all proposed streets and roads, open spaces and along boundaries of the site, will form appropriate mitigation for the loss of tree and hedgerow as a result of the proposed development. That tree and hedgerow loss cannot be avoided in my view, if the site is to be developed efficiently, and to a density that reflects its characteristics and in line with national planning policy, as described in section 12.3 of this report above.

12.9.24. I also recognise the concern expressed by third parties in relation to pressure upon retained hedgerows and trees to be planted from future occupants in relation to pruning. In my opinion, the garden areas shown are sufficient and would not by way of a consequence of the design, lead to undue pruning. I note a third party representation that points to the lack of an area of wildflower meadow(s) which is mitigation identified in the EclAR, but absent in the landscape masterplan. I concur that while there is a key code for wildflower meadow on the submitted plan, there does not appear to be any corresponding area as part of the proposed landscaping for the development, however this could be adequately addressed by condition should the Board determine to grant consent for the application.

12.10. Material Contravention

12.10.1. 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'.

12.10.2. 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'.

12.10.3. The applicant has submitted a Statement of Material Contravention with the application. This identifies potential areas that may be considered material contraventions in relation to the following:

- Density: The proposed density of 32.5 units per hectare (uph) exceeds the density for housing identified in the agreed action area in the 2002 LAP which was incorporated into the 2008-2018 LAP.
- Quantum of Development: Sections 4 and 11 of the LAP state that any single residential estate or residential application, shall not exceed 100 houses / 200 apartments. The proposed development provides for 179 dwellings comprised of 121 houses, 6 duplexes and 52 apartments.
- Phasing / Sequential Development: The site is identified as part of a wider 45.5ha area labelled the AA1 lands. Phases for the delivery of development alongside infrastructure is described in the plan, including delivery of connections. In response to the phasing requirements set out in the agreed action area, the applicant has provided the following response (in *italics*) describing their understanding of the current situation:
 - Phase 1:
 - Up to a maximum of 600 units, not exceeding 200 units p.a. - permission granted in 2008 for c.869 no. units which has not been built to exceed 200 units p.a.;
 - Generally located on the southern part of the Action Area - *development commenced at the southern end of the Action Area;*
 - Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link - *this is completed;*
 - Provision of the by-pass route of the existing houses along the Actions Area southern boundary - *this is completed;*

- Provision of improvements to the R765 as far as the church and improvements to the access arrangements for the schools and community facilities - *this is completed*;
 - Provision of revised access arrangements for schools and existing sports grounds - access is facilitated from the permitted development Ref.s 06/6101 and PL27.227704 to the schools and sports grounds;
 - Provision of water storage facilities - permitted under Ref.s 06/6101 and PL27.227704;
 - Satisfactory progress in the expansion of educational / community facilities e.g. sale/transfer of lands to educational organisation or community / sporting organisation - *this is outside of the applicant's control*;
 - Completion of public park, including all landscape manipulation and landscaping – this has been substantially completed and will connect to the Glenbrook development and its linear park.
- Phase 2:
- f) No development shall be permitted in Phase 2 until all of the elements set out in Phase 1 above have been substantially completed, to the satisfaction of the Planning Authority - *no permission granted to date for development of the northern portion of the AA1 lands but the majority of the Phase 1 requirements have been met that can allow phase 2 to proceed, in conjunction with the current proposal to deliver the necessary roads infrastructure*;
 - g) Up to a maximum of 350 units - current proposal provides for 179 no. units;
 - h) Generally located to the north of Action Area - current proposal is located in the northern part of the Action Area;
 - i) Construction of the northern elements of the western distributor road - provided for as part of the current application as well as having the benefit of being permitted under Ref.s 06/6101 and PL27.227704;

j) Provision of an acceptable link between the western distributor road and the R772 – *provided for under the current development proposal.*

12.10.4. The applicant suggests in their submitted statement, that with respect to these material contraventions, the proposed development can be justified given its strategic importance to housing delivery. In my opinion, the site can be considered of strategic importance to housing delivery for Newtownmountkennedy in the context of national planning policy documents and guidelines. These focus on the need to increase housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. Equal Housing for All, recently published continues to support and encourage Planning Authorities to facilitate and advance development to meet the housing needs of the country. As identified in section 12.3 above, the site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a reasonable walking distance to the centre of Newtownmountkennedy, as well as bus stops providing accessibility to transport hubs on route to Dublin City Centre and a train station in Wicklow Town.

12.10.5. In relation to density, the adopted Wicklow County Development Plan 2016-2022 sets out the criteria for density and for 'housing only greenfield' in Appendix 1: Development and Design Standards, as a maximum plot ratio of 0.35 or 3,500sqm of development per hectare on greenfield sites. Objective HD5 'Density' of the Plan, states that new residential development shall be expected to aim for the highest density indicated for the lands as set out in the Development and Design Standards appended to the Plan. However, under the Newtownmountkennedy Local Area Plan, which enshrines the 2002 Action Area Plan, density should not exceed 20 uph for detached and semi-detached dwellings and 25 uph for terraced dwellings. The proposed development has a plot ratio of 0.35 and the Planning Authority have calculated a 'dwelling equivalent' density of 28.59 uph based upon a plot ratio of 0.35. The Planning Authority states that while the proposed density exceeds the maximum described in the Agreed Action Area (25 uph for terraced dwellings), the proposed density would be in accordance with the County Development Plan 2016-2022 standards.

12.10.6. I concur with the Planning Authority in that the proposed density (at 32.5 uph) represents a material contravention of the LAP but is in conformity with the

Development Plan, as such there are conflicting objectives between these plans with respect to density. In my view, the proposed density is also in conformity with national planning policy guidelines, and I have described in detail in section 12.3 above how the proposed density reflects the national planning policy approach to compact growth on accessible sites, ensuring sustainable development and efficient use of land. As such, should the Board determine to grant planning permission and agree with my assessment with respect to the proposed density as set out in this report, a material contravention of the provisions for this site as they flow from the LAP is justified in the current circumstances under the following sections of the Act:

- 37(2)(b) (i) The strategic nature of the site for the delivery of housing in Newtownmountkennedy, in light of the characteristics of the site and the context of national planning policy documents and guidelines which promote compact growth. Including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and Equal Housing for All.
- 37(2)(b) (ii) the Newtownmountkennedy Local Area Plan (insofar as it enshrines the principles of the 2002 Area Action Plan for development of the site) contains conflicting development principles, specifically in relation to the density of the site, with objective HD5 'Density' of the Wicklow County Development Plan 2016-2022 which states that residential development should aim for the highest density indicated for the lands in the Development and Design Standards appended to the Plan.
- 37(2)(b) (iii) Permission for the development should be granted having regard to Section 28 guidelines, with specific regard to the conformity of the proposed development density with the standards set down for 'edge of centre sites' in the Sustainable Residential Development Guidelines (Section 6.11) and within the range of 20-35 dwellings per hectare. The subject site also demonstrates the characteristics of a Peripheral and/or Less Accessible Urban Location under the Apartment Guidelines, where densities of less than 45 uph are considered to be acceptable, being situated a reasonable walking distance to the centre of Newtownmountkennedy and bus stops. National planning policy and guidelines also promote increased housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing

and Homelessness and Project Ireland 2040 – National Planning Framework and specifically NPO 1b and NPO 3a.

12.10.7. In relation to the quantum of development, section 4 of the Newtownmountkennedy Local Area Plan contains a list of 'policy / objectives', which includes that the maximum size for any single residential estate is 100 houses / 200 apartments. Section 11 of the LAP also provides details for the five action areas for the Plan, with the subject site located in area AA1, and identified for a number of identifiable and distinct housing estates (not exceed 100 houses / 200 apartments). The proposed development for 179 dwellings formed of 121 houses, 6 duplexes and 52 apartments, exceeds this quota, and therefore I agree with the applicant that a material contravention arises with respect to the LAP.

12.10.8. However, I have described in detail in sections 12.2 and 12.3 above why local planning policy in the Wicklow County Development Plan 2016-2022 supports the population growth, plot ratio and density proposed under this current application, which in turn relate to the quantum of development proposed. Therefore, in my view, there is a conflicting approach set out in the Core Strategy and objective HD5 'Density' of the Development Plan, when compared the restriction on estate size described in the LAP. I have also set out in section 12.4 and 12.6 how the proposed design of the development reflects both national and local planning policy requirements, and therefore indicates that the proposed quantum of development can be provided on the site to an acceptable standard. Specifically in relation to the Sustainable Residential Development Guidelines with respect to density, design criteria as described in the development management criteria in section 3.2 of the Building Height Guidelines and specific planning policy requirements for the standard of accommodation as described in the Apartment Design Guidelines.

12.10.9. As such, should the Board determine to grant planning permission and agree with my assessment with respect to the proposed population growth, plot ratio and density, which indicate in my view that the proposed quantum of accommodation is acceptable, a material contravention of the provisions for this site as they flow from the LAP is justified in the current circumstances under the following sections of the Act:

- 37(2)(b) (i) The strategic nature of the site for the delivery of housing in Newtownmountkennedy, in light of the characteristics of the site and the

context of national planning policy documents and guidelines which promote compact growth. Including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and Equal Housing for All.

- 37(2)(b) (ii) the Newtownmountkennedy Local Area Plan contains conflicting policies / objectives for the site as part of the AA1 lands, specifically in relation to a restriction on estate size to 100 houses, with the Core Strategy and objective HD5 'Density' of the Wicklow County Development Plan 2016-2022 which support population growth for the area at a scale proposed in this application, and without any restriction on estate size.
- 37(2)(b) (iii) Permission for the development should be granted having regard to Section 28 guidelines, specifically the density ranges set down for 'edge of centre sites' in the Sustainable Residential Development Guidelines, design principles as described in the development management criteria under section 3.2 of the Urban Development and Building Heights Guidelines, and conformity with SPPRs set out in the Design Standards for New Apartments Guidelines.

12.10.10. In relation to the phasing / sequential development, the Newtownmountkennedy Local Area Plan states in section 11 'Action Area Plans' that in relation to the AA1 lands of which the subject site forms part of, *"An action area plan was agreed for these lands (as set out in the 2002 LAP) in August 2006. Any application for permission on new lands included in this action area shall comply with the phasing / infrastructure conditions and other requirements of the agreed action plan."* The phasing set out in the agreed action area plan is summarised above in this section of my report. Briefly, the phasing requires that specific infrastructure is delivered in phase 1, and that no development shall be permitted in phase 2 until all of the elements set out in phase 1 have been 'substantially completed, to the satisfaction of the Planning Authority'. The subject site forms part of the northern end of the AA1 lands identified as part of phase 2. The applicant identifies that in relation to required infrastructure in phase 1, the following is yet to be delivered:

- Satisfactory progress in the expansion of educational / community facilities e.g. sales / transfer of lands to educational organisation or community / sporting organisation; and
- Completion of public park, including all landscape manipulation and landscaping.

12.10.11. With regard to the first element (i.e. educational / community facilities) the applicant states that this is outside of their control. In relation to phase 2, the LAP also states that construction of the northern elements of the western distributor road, and provision of an acceptable link between the western distributor road and the R772, is to take place.

12.10.12. The Planning Authority recommend that the application be refused. The Planning Authority state that in relation to phase 1 the following elements are yet to be completed:

- Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link; and
- Completion of public park, including all landscaping manipulation and landscaping.

12.10.13. The Planning Authority state that to allow this development would therefore be premature and would materially contravene the provisions of the Approved Action Area Plan.

12.10.14. Therefore, the LAP requires that the elements required under phase 1 be 'substantially completed, to the satisfaction of the Planning Authority' prior to any development being permitted in phase 2, and the Planning Authority have identified that the southern elements of the western distributor road and the completion of a public park, have not been completed to their satisfaction. The Planning Authority appear to accept that the provision of educational / community facilities is not required prior to consideration of this application in phase 2. As a result, my understanding is that there are two phasing elements that the proposed development would materially contravene with regard to the agreed action area for the AA1 lands in phase 2 as enshrined within the LAP. Firstly, in relation to the western distributor road and secondly in relation to the completion of a public park.

- 12.10.15. In December 2008 a ten year planning permission was granted (ref.06/6101 and PL27.227704) for comprehensive mixed use, residentially-led development, which includes open space and the western distributor road links. This permission was extended to 2024 and has been commenced at the southern end of the action area lands.
- 12.10.16. In relation to the road infrastructure, the applicant confirms that they understand that this link (i.e. the southern elements of the western distributor road including connection to the Moneycarroll Link) to be complete. The applicant is also including the northern end of the western distributor road within this current application and has indicated that they are willing to accept a condition that this be provided prior to occupation of the development.
- 12.10.17. In relation to the public park, the applicant state that this has been substantially completed. I am satisfied that the completion of this park is forthcoming and that to prevent the current proposition in lieu of that completion would not be a reasonable proposition.
- 12.10.18. I have set out in section 12.2 why I am satisfied that the proposed development does represent a sequential development of the settlement and would not amount to 'leapfrogging' in terms of the phased growth of Newtownmountkennedy. Specifically, in light of the planning approval and commencement of works in association with the nearby development ref.06/6101 / PL27.227704. I am also satisfied that the proposed development respects the spirit of the phasing criteria set out in the agreed action area plan which flows through the provisions of the LAP. This is because all infrastructural elements required as part of phase 1 have commenced, and in respect to the western distributor road, this can be conditioned to be provided prior to occupation of the development.
- 12.10.19. As such, should the Board determine to grant planning permission and agree with my assessment with respect to the proposed phasing / sequential development, a material contravention of the phasing provisions for this site set out in the agreed action area for the AA1 which is enshrined into the LAP, is justified in the current circumstances under the following sections of the Act:
- 37(2)(b) (i) The strategic nature of the site for the delivery of housing in Newtownmountkennedy, in light of the characteristics of the site and the

context of national planning policy documents and guidelines which promote compact growth. Including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and Equal Housing for All.

- 37(2)(b) (iii) Permission for the development should be granted having regard to Section 28 guidelines, specifically the Sustainable Residential Development Guidelines, design principles as described in the development management criteria under section 3.2 of the Urban Development and Building Heights Guidelines, and conformity with SPPRs set out in the Design Standards for New Apartments Guidelines, which all indicate that the location of the subject site is an efficient and sustainable site for residential development in line with the principles of compact growth; as described in national planning policy and guidelines, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and specifically NPO 1b and NPO 3a.

12.10.20. Other Potential Material Contraventions

12.10.21. In relation to the justification for a material contravention of the development plan and local area plan with respect to density, I have outlined why given the site specific circumstances, it is acceptable in this case. I have addressed the proposed mix of the development in section 12.6 above and am satisfied that no material contravention arises with respect to that matter. I have assessed car parking and public transport in section 12.7 above, as well as water infrastructure in section 12.8 and social infrastructure and childcare in section 12.12 below and am satisfied that no material contravention results. In relation to a material contravention with respect to non-compliance with the LAP/Masterplan/Urban Design Framework, I am satisfied that the characteristics of the site support the proposed development and that no material contravention results, other than in relation to density, that the estate exceeds 100 houses and in relation to phasing, and I have set out above why the Board would be justified in granting planning permission for the application, should they decide to do so, with reference to sections 37 2(b)(i) and (iii) of the Act.

12.11. **Planning Authority's Recommendation**

- 12.11.1. The Planning Authority recommends that the application be refused for three reasons, firstly in relation to the endangerment of public safety by reason of serious traffic hazard due to pedestrian, cyclist and vehicle movements that would predominantly utilise the L-1037-0 (Season Park Road), which is deficient in pedestrian and cycle facilities; secondly in relation to the location of the site and the distributor road which is yet to be constructed, as such the proposal would not reflect the principles of sequential development; and thirdly as the proposed development would materially contravene the provisions of the LAP which provide that no development should be permitted in phase 2 until all of the elements in phase 1 have been substantially completed.
- 12.11.2. In relation to the first reason, I have set out in detail in section 12.7 of this report above, why I consider that the proposed development does incorporate safe access for vehicle, pedestrian and cycle movements, specifically in the form of the distributor road proposed as part of the development works, as previously approved. In my view, the LAP describes a comprehensive list of required infrastructure to facilitate development of the AA1 lands which the subject site forms apart of, and pedestrian / cycle infrastructure on the L1037 is not required in policies and objectives under that plan. I am also satisfied that the route from the site along the new distributor road would be equivalent to a route from the site along the L1037 to the town, and therefore future occupiers would be inclined to utilise the route that provides pedestrian and cycle infrastructure to facilitate safe movements. As such, I do not concur with the Planning Authority's reason for refusal in this regard.
- 12.11.3. In relation to the second reason, I have set out in section 12.2 why I consider that the proposed development on the subject site would reflect the principles of sequential development. Specifically, the subject site is immediately adjacent to lands that have extant planning permission for comprehensive residentially-led redevelopment (ref. PL27.227704/PRR 06/6101). The current application also includes the western distributor road previously approved as part of the adjacent consent. I am satisfied that as these adjacent lands, which are closer to the town centre, already have planning consent and works have commenced in association with that permission that the current application proposition cannot be considered to be 'leapfrogging'.
- 12.11.4. Finally, in relation to the third reason, I have set out in detail the material contraventions that arise with respect to this planning application in section 12.10

above, which includes matters relating to phasing and these matters have been identified by the applicant. There are two areas where the application materially contravenes the phasing provisions set out in the plan, namely in relation to the western distributor road and the completion of a public park. However, as previously described, planning permission has been granted (ref.06/6101 and PL27.227704) and extended to 2024 for residential development on adjacent lands with provision for open space and the western distributor road. This permission has been commenced at the southern end of the action area lands. The applicant also includes the northern end of the western distributor road within this current application and has indicated that they are willing to accept a condition that this be provided prior to occupation of the development. As such, a material contravention is justified in my view, due to the site specific circumstances for this application and as described in section 12.10 above.

12.11.5. Overall, I do not agree with the Planning Authority's recommended reasons for refusal and I am recommending that the Board approve the application as outlined in my suggested order below.

12.11.6. I note the Planning Authority decision with respect to an adjacent site to the east, reference 22259 currently subject to appeal to An Bord Pleanála (ref.ABP-313743-22). The Planning Authority's reasons for refusal as summarised in section 3 of this report above, includes matters similar to their recommendation for this current SHD application, specifically with respect to the provisions of the LAP in regard to the AA1 lands and lack of pedestrian / cycle infrastructure to link to the centre of the town, as well as a lack of road upgrades. The appeal decision for that application has not yet been made, but by way of clarity, it is worth noting that the current SHD application is distinct from this neighbouring site, in that this current application includes road infrastructure and upgrades, including the distributor road, providing pedestrian and cycle access to the town.

12.12. Other Issues

12.12.1. Archaeology

12.12.2. I note objectives BH1 to BH6 of the Development Plan in relation to the protection of archaeological heritage.

12.12.3. The application includes an Archaeological Assessment. This confirms that there are no recorded archaeological sites within the proposed development site. There is recordings of Bronze Age to medieval period archaeological features in the surrounding area. As a result, the report concludes that the site has low archaeological potential. I concur with this and have included a condition as part of my recommendation below, that would address any unanticipated archaeological discoveries during works in association with the proposed development. This also reflects the approach outlined in the Department of Housing, Local Government and Heritage's response to the application.

12.12.4. Social Infrastructure

12.12.5. I note third party concern in relation to the availability of social infrastructure to serve the proposed development. This is raised specifically in relation to education, amenities and social facilities (including sport, leisure, childcare and library). I have already noted and addressed concerns in relation to wastewater infrastructure in section 12.8 of this report above.

12.12.6. A Social Infrastructure Assessment is submitted with the application. This identifies existing childcare, education, healthcare, sports / recreation, religious and other community facilities in the area that have capacity to serve future populations associated with the development. A creche is also proposed, to account for additional demand that would be generated by the development beyond capacity in the area, with space for 46 no. childcare places, this proposed facility as part of the development would also be sufficiently sized to accommodate surrounding populations in addition to occupiers of the proposed development. I am satisfied that the submitted report demonstrates that there is sufficient social infrastructure reasonably proximate to the site that would cater for the proposed development.

12.12.7. With specific reference to education facilities, I note comments in relation to the lack of a post-primary school in Newtownmountkennedy and that there is a lack of public transport to serve routes between the site and surrounding schools. In my opinion, this is not a matter within the control of the applicant to resolve, and it is for the education authority to respond to growing educational demand in certain areas. The site is zoned for residential development and the applicant has identified surrounding educational provision, albeit in the wider area proximate to the site. Therefore, I do not foresee a

permanent negative effect in this regard. Overall, I am satisfied that the applicant has presented analysis to support their conclusions that capacity exists to cater for the education demands of the development.

12.12.8. Third parties and the Planning Authority query the practicality of the community use proposed, given its lack of specification, location on this site and situation outside the town centre. I am satisfied that the location of the community use (and creche) is acceptable. The use is situated centrally within the site and adjacent to open space and a play area, which has a beneficial juxtaposition with the proposed community and creche use. While a location at the entrance of the site might be more proximate to surrounding existing communities, that would also situate the use closer to busier roads, while the proposed location is adjacent to the internal, slower street network and centrally within the proposed estate for this development and future occupiers, with these factors being beneficial in my view. However, I do concur with the Planning Authority that the lack of specification around the proposed community use could result in negative consequences, such as vacancy or occupation by a use that was not compatible with the proposed creche. As such, a condition could be used to require further specification of the proposed community use and information about the intended occupier, should the Board determine to grant planning consent for the application.

12.12.9. Energy and Sustainable Design

12.12.10. I note third party submission that The Level S European framework should be used to check sustainability of design, however this is not recognised or required criteria under applicable planning policy at this time.

12.12.11. The submitted Building and Lifecycle Report with the application describes the incorporation of enhanced building fabric energy efficiency and air source heat pumps to reduce carbon emissions associated with the proposed development. The proposed development would be required to comply with Building Regulations that relate to the overall BER rating of new homes.

12.12.12. Site Notice

12.12.13. I note a third-party representation in relation to the visibility of the site notice advertising the application. The purpose of the public notices is to give an indication to the general public that a planning application has been lodged on the subject lands

and a broad outline of the development proposed. It is clear that the general public have been made aware of the proposed development, given the volume of submissions received. In terms of legislative requirements, a site notice is required at the main entrance to the lands or structures concerned and 2 site notices were displayed by the applicant. In my opinion, the locations where notices were displayed for this application is acceptable and the visibility of the notices did not prevent the concerned parties from making representations.

12.12.14. Part V

12.12.15. The applicant has submitted Part V proposals as part of the application documents.

18 no. units are currently identified as forming the Part V housing.

12.12.16. 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.

13.0 **Appropriate Assessment Screening**

13.1. This section of the report considers the likely significant effects of the proposal on European sites. Where likely significant effects cannot be excluded, appropriate assessment is required to assess the likely effects on a European site in view of its conservation objectives and assesses whether adverse effects on the integrity of the site will or might occur in respect of each of the European site(s) considered to be at risk, and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening Report submitted with the application.

13.2. I have had regard to the submissions of third parties in relation to the potential impacts on European sites, as part of the Natura 2000 Network of 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. Likely significant effects on European Sites (Stage I Screening)

13.6. The subject site comprises agricultural land located immediately adjacent to undeveloped lands, also primarily in, or formally in, agricultural use, as well as one off housing to the north of the site. The site immediately to the east of the subject site has planning consent for residentially-led redevelopment as part of a wider comprehensive development of lands reaching further to the south (ref. PL27.227704 / 06/6101). Further to the east is the existing residential estate of Season Park.

13.7. The site is situated within the Avoca-Varty catchment and Newcastle[Wicklow]_SC_010 sub catchment. The closest watercourse to the subject site is the Newtownmountkennedy River 100m to the north, which flows into Kilcoole Marsh 5km east, before connecting to the Irish Sea. EPA stations within 1km of the subject site designated the Newtownmountkennedy River as Good in 2020. The site is situated on the Wicklow groundwater body, with is Not at Risk of not meeting its Water Framework objectives. There is a High and Moderate classification for vulnerability risk of groundwater contamination across the site.

13.8. The site is not located within or adjacent to any European site.

13.9. I have had regard to the submitted Appropriate Assessment Screening Report, which identifies that while the site is not located directly within any European site, there are a number of European 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:

- Carriggower Bog SAC (0716) 2.4km;
- Glen of the Downs SAC (0719) 3.6km;
- The Murrough Wetlands SAC (2249) 4.5km;
- Wicklow Mountains SAC (2122) 6.7km;
- Bray Head SAC (0714) 7.4km;
- Knocksink Wood SAC (0725) 11.3km;
- Ballyman Glen SAC (0713) 11.7km;
- Wicklow Reef SAC (2274) 14.1km;

- Vale of Clara (Rathdrum Wood) SAC (0733) 14.8km;
- The Murrough SPA (4186) 4.3km;
- Wicklow Mountains SPA (4040) 6.8km; and
- Wicklow Head SPA (4127) 14.3km.

13.10. 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 European sites, and any potential pathways which may exist from the development site to a European site, as well as by the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

13.11. The qualifying interests of all European sites considered are listed below:

Table 13.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Carriggower Bog SAC (0716) 2.4km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Transition mires and quaking bogs [7140]</p>
<p>Glen of the Downs SAC (0719) 3.6km;</p> <p>To restore the favourable conservation condition of qualifying interests/species of conservation interest for</p>	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>

which the SAC has been selected.	
<p>The Murrough Wetlands SAC (2249) 4.5km;</p> <p>To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p>
<p>Wicklow Mountains SAC (2122) 6.7km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
<p>Bray Head SAC (0714) 7.4km;</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>

<p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>European dry heaths [4030]</p>
<p>Knocksink Wood SAC (0725) 11.3km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>
<p>Ballyman Glen SAC (0713) 11.7km;</p> <p>To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>
<p>Wicklow Reef SAC (2274) 14.1km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for</p>	<p>Reefs [1170]</p>

which the SAC has been selected.	
Vale of Clara (Rathdrum Wood) SAC (0733) 14.8km; To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]
The Murrough SPA (4186) 4.3km; To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Red-throated Diver (<i>Gavia stellata</i>) [A001] Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Herring Gull (<i>Larus argentatus</i>) [A184] Little Tern (<i>Sterna albifrons</i>) [A195] Wetland and Waterbirds [A999]
Wicklow Mountains SPA (4040) 6.8km; To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]
Wicklow Head SPA (4127) 14.3km;	Kittiwake (<i>Rissa tridactyla</i>) [A188]

<p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	
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13.12. The above Table 14.1 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 submitted report identifies any pathways or links from the subject site to European Sites considered in this screening assessment, and I summarise this below.

13.15. The subject site does not overlap directly with any European site and therefore there is no risk of direct habitat loss or fragmentation to occur as a result of the development. The subject site does not support populations of any fauna species linked to the qualifying interest (QI) populations of European sites. The proposed development will be connected to the existing surface water network east of the subject site which discharges into the Newtownmountkennedy River. This may result in an indirect hydrological link to The Murrough Wetlands SAC and The Murrough SPA during both the construction and operational phases.

13.16. During both the construction and operational phase, the implementation of best practice measures will prevent harmful discharges into the hydrological network. These measures are not designed or intended specifically to mitigate any putative potential effect on European sites. They constitute the standard approach for construction works in an urban area and are incorporated into development design as part of necessary surface water management systems through SUDs. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any European site or any intention to protect a European site. It would be expected that

any competent developer would deploy them for works on a site whether or not they were explicitly required by the terms or conditions of a planning permission.

13.17. Furthermore, any discharges from the subject site would have to travel over 6km along the surface water network and Newtownmountkennedy River before reaching the downstream European sites, and as such, would be diluted and result in no impact upon overall water quality.

13.18. The subject site will also be served by a public foul sewer via a newly constructed connection, resulting in an indirect hydrological link to The Murrough Wetlands SAC and The Murrough SPA via discharges to the Kilcoole Wastewater Treatment Plant (WwTP). This discharge would likely be diluted as a result of rainfall events and the applicant confirms that discharges from the Kilcoole WwTP are currently compliant with Emission Limit Values set in the Wastewater Discharge Licence.

13.19. I note that there is a reference European sites in Dublin Bay in the submitted AA Screening Report (pg17) which in my view is a typographical / drafting error, and this has not impacted the conclusions reached in either the submitted document or my Appropriate Assessment Screening of the proposed development.

13.20. I note the representation from An Taisce and third parties with reference to the 'poor' water framework status of the Newtownmountkennedy River, and I have outlined above that the nearest EPA stations within 1km of the subject site designated the Newtownmountkennedy River as Good in 2020. I also address cumulative effects below.

13.21. I note the consultation response from Inland Fisheries Ireland (IFI) which I have also addressed in section 12.9 of my report above. IFI considers The Murrough European sites and the Newtownmountkennedy River as inter dependent on one another to maintain a healthy and sustainable environment, and I agree with this approach. IFI are concerned regarding any suggestion that the Newtownmountkennedy River acts as a 'type of buffer, mechanism, or part of any mitigation measures to protect the SAC'. In my view, there is no suggestion that the Newtownmountkennedy River will act as a buffer, and the recognition that discharges will be diluted over a significant distance between the subject site and the European site is not to suggest that the intervening environment would be subject to unacceptable pollutants. The proposed development will incorporate best practice construction measures and SUDs as part

of the development design. These measures are not designed or intended specifically to mitigate any putative potential effect on any European Site(s). As described above, these measures constitute the standard approach for construction works and the design of residential developments. It would be expected that any competent developer would deploy them for works on a site whether or not they were explicitly required by the terms or conditions of a planning permission. These construction procedures and operational surface water management systems will control the possibility of potential pollutants exiting the site during construction, and therefore it is not anticipated that there would be any polluting discharges into the Newtownmountkennedy River. As such, no mitigation measures are required.

13.22. I note third party concern that the site includes sections of adjacent roads which are all served by storm drains, which is not acknowledged in the AA screening. In my opinion, there is no alteration to the quality of discharges into these roadside drains as a result of the proposed development. I have set out above that the proposed development would incorporate best practice construction measures and that standard SUDs are incorporated into the design of the development, which manage surface water discharges, and prevent potential for pollutants to escape from the site during both construction and operation.

13.23. A third party response also suggests that mitigation set out in the EclA is not reflected in the AA Screening reports submitted, however, as I have described above, the measures to be incorporated to control discharges from the site which might otherwise impact water quality are not mitigation, in the sense that they are incorporated into construction procedures and development design regardless of proximity or links to European sites.

13.24. I note third party objection in relation to the submitted NIS, however this appears to be a generic point as this application does not include an NIS. Concern is also raised in relation to the AA Screening and that this is not based upon sufficient scientific expertise, evidence and does not include analysis of all construction activities, impact upon birds / bats from collision or include sufficient site surveys. I have outlined above my analysis of the survey data presented, which I consider to be sufficient. I am satisfied with the scientific expertise, data, methodology and analysis offered in the submitted report. In relation to the potential for bird or bat collision with buildings, I am not of the view that the proposed height would require any specific

technical assessments at a maximum of 3 storeys, and as such, specific bat or bird collision study/assessment is not required.

13.25. In combination / cumulative effects

13.26. The submitted report identifies the potential for in-combination effects in section 3.5.2.6 of the submitted report. This identifies a number of planning permissions in the area surrounding the subject site. These developments would be required to comply with policy objectives in the Development Plan relating to the protection of European sites and water quality. The Development Plan and Biodiversity Action Plan for Wicklow are also identified, and plan for development in the area with measures to enhance biodiversity. There are no projects or plans identified that in-combination with the proposed development, could cause any likely significant effects on European sites.

13.27. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to any European Sites.

13.28. AA Screening Conclusion

13.29. In conclusion, having regard to the nature and scale of the proposed development on serviced lands (via feasible network upgrades), the nature of the receiving environment, the distances to the nearest European sites, the lack of hydrological or any other pathway and/or the dilution effect that would occur to any discharges from the site, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have effects on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.30. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

14.0 **Screening for Environmental Impact Assessment (EIA)**

14.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIAR Screening Report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report

(EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

14.2. Section (10)(b) of Schedule 5 Part 2 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.)

14.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

"Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7."

14.4. The proposed development is for 179 no. residential units, creche and associated site works. The overall site area is approximately 8.5ha and is formed of agricultural lands and road surface area. The site is currently zoned for residential use and can be serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. In relation to habitats or species of conservation significance, the AA screening set out above, concludes that the

proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.

14.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 299B(1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The submitted EIA Screening Report addresses the information under Schedule 7. It is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to Schedule 7A and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Planning Report;
- Statement of Consistency;
- Building Life Cycle Report;
- Universal Design Statement;
- Social Infrastructure Assessment;
- Childcare Demand Assessment;
- Outline Construction Management Plan;
- Architectural Design Statement, Plans and Drawings;
- Engineering Planning Report, Plans and Drawings;
- Outline Construction, Waste and Environmental Management Plan;

- Flood Risk Assessment;
- Landscape Rationale, Plans and Drawings;
- Arboricultural Assessment and Plans;
- Outdoor Lighting Report and Plans;
- Appropriate Assessment Screening Report;
- Ecological Impact Assessment Report;
- Statement in accordance with Article 299(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001, as amended;
- Archaeological Assessment;
- Sunlight, Daylight & Shadow Assessment;
- Transportation Assessment Report; and
- Stage 1 Road Safety Audit.

14.5.1. In addition I have taken into account the SEA of the Development Plan. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union Legislation other than the EIA Directive have been taken into account, I would note and have considered that the following assessments / reports have been submitted:

- A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended, providing an assessment of relevant EU legislation in relation to the proposed development and identifying the consideration of relevant EU legislation in the preparation of plans / reports as follows;
 - Directive 92/43/EEC, The Habitats Directive, in the submitted AA Screening Report, Ecological Impact Assessment and Arboricultural Assessment Report;
 - Directive 2000/60/EU, EU Water Framework Directive, in the submitted AA Screening Report, Ecological Impact Assessment, Flood Risk

Assessment, Outline Construction, Waste and Environmental Management Plan and Engineering Planning Report;

- Directive 2001/24/EC, SEA Directive, in the submitted EIA Screening Report and Planning Report;
- Directive 2002/49/EC, Construction, Waste and Environmental Management Plan;
- Directive 2008/50/EC on ambient air and cleaner air for Europe, in the submitted Outline Construction, Waste and Environmental Management Plan and Transportation Assessment Report;
- Directive 2007/60/EC on the assessment and management of flood risks, in the submitted Flood Risk Assessment;
- Directive (EU) 2018/850 on the landfill of waste, in the submitted Outline Construction Waste and Environmental Management Plan;
- Directive 2008/98/EC on waste and repealing certain Directives, in the submitted Outline Construction, Waste and Environmental Management Plan;
- Directive 2000/14/EC on noise emission in the environment by equipment for use outdoors, in the submitted Outline Construction, Waste and Environmental Management Plan;
- Directive 2012/27/EU on energy efficiency, in the submitted Building Lifecycle Report;
- Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) no.525/2013, in the submitted Building Lifecycle Report;
- The Bern and Born Convention, and Ramsar Convention, in the Ecological Impact Assessment;
- Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, in the submitted Building Lifecycle Report.

14.5.2. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

14.5.3. I have completed a screening assessment as set out in Appendix A of this report and recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report (EIAR) would not therefore be required. The conclusion of this assessment is as follows:

14.5.4. Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned in the Newtownmountkennedy Local Area Plan 2008-2014 (extended to 2018) as 'R1' 'Proposed Residential' with the objective 'to protect, provide and improve residential amenities' where residential with ancillary childcare facility is in conformity with the land uses.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).

(g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Outline Construction Management Plan, and Outline Construction Waste and Environmental Management Plan.

- 14.5.5. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. I recommend that a screening determination be issued accordingly, confirming that no EIAR is required.
- 14.5.6. In relation to third party responses, a number of concerns are raised with respect to the submitted EIA Screening Report, which I address there.
- 14.5.7. It is suggested in a third party response that the identification of residual biodiversity impact suggests a full EIA should have been carried out. I have set out a comprehensive assessment of potential ecological impact in section 12.9 above, as well as my Appropriate Assessment Screening in section 13 above. In my view, there are no residual negative impacts with respect to European sites, or impacts that can not be adequately mitigated, with respect to ecology. A third party response also suggests that an EIA is required as preparation material for the new Development Plan for the area indicates that 75% of the site area is in need of SEA, however the zoning of the subject site and the applicable policies and objectives are as outlined in the current Wicklow County Development Plan (including the Newtownmountkennedy LAP) which has been subject to SEA, and the preparation of the new plan is not relevant to the determination of this current application. Third parties state that references to the 'urban' character of the area in the submitted EIAR is misleading, however I am satisfied that this is in relation to the wider settlement area of Newtownmountkennedy and I have set out the site and locational characteristics clearly in my report and EIA Screening of the proposal.
- 14.5.8. I note third party concerns regarding the submitted EIA screening report and suggestions that the application should have been subjected to full EIA given the site and development characteristics. I have set out above my EIA screening of the application and explained why it should not be subjected to full EIA in my opinion,

and this is also reflected in the table I set out in Appendix A of this report. The EIA screening report is sufficiently detailed in my opinion and fully considers both construction and operational impacts of the proposed development. The subject site is not located adjacent to a protected habitat and my assessment set out in this report includes a Screening for Appropriate Assessment in section 13 and full consideration of ecological impacts in section 12.9 above. I am also satisfied that consideration to potential impact upon human health is undertaken in the EIA Screening and I have had regard to the same.

- 14.6. My EIA screening assessment is informed by the application documentation as a whole and does not solely rely upon the submitted EIA screening report.
- 14.7. The submitted EIA Screening also considers potential cumulative impacts with reference to approved and planned projects in the locality, which has also informed my assessment. I am satisfied that with respect to cumulative impact, that the proposed development relates to residentially zoned lands and that the development of other residentially zoned lands in the area has been accounted for under the Development Plan which was subject to its own SEA. There are no anticipated significant cumulative impacts anticipated with respect to surrounding development which would not have already been accounted for under the Development Plan.
- 14.8. I note a number of references to the submitted 'EIAR' in a third party representation, these appear to be generic references and do not relate back to the current application which does not include an EIAR. Similarly, reference is made to the submitted NIS and reliance on the Shanganagh WwTP, which does not relate to this current submission.

15.0 Conclusion

- 15.1. The proposed construction of residential development and childcare / community use facility is acceptable in principle at this site, with regard to the relevant zoning in the Newtownmountkennedy Local Area Plan extended to 2018. The design of the proposed development responds to its context and fulfils local planning policy with regards to the sequential expansion of the Newtownmountkennedy area. The proposal will efficiently develop this site for much needed housing, incorporating a diverse range of housing types that will contribute to the overall housing mix of the

area, and incorporating infrastructure that will provide connectivity to the town centre. As a result of the provision of new road, pedestrian and cycle infrastructure, the proposed development ensures safe and convenient connectivity to surrounding areas. The proposed scale and density of the residential development at this location is also desirable with regard to its locational characteristic, with regard the national planning policy and particularly the Sustainable Residential Development Guidelines.

- 15.2. The height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupants of the scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupants of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 15.3. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

16.0 Recommendation

Planning and development Acts 2000 to 2019

Planning Authority: Wicklow County Council

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 4th Day of April 2022 by Armstrong Fenton Associates of 13 the Seapoint Building, 44-45 Clontarf Road, Dublin 3, on behalf of Dwyer Nolan Developments Limited.

Proposed Development

The proposed development will consist of 179 residential units as follows:

- 179 dwellings comprised of 121 houses, 6 duplex units and 52 apartments.

- The houses are comprised of 2 storey detached, semi-detached and terraced houses with 4x 2 bed, 86x 3 bed and 31x 4 bed.
- The duplex units are accommodated in 3 storey buildings (Type H) and are comprised of 6x 3 bed at first and second floor.
- There are 6x 1 bed apartments and 46x 2 bed apartments (Types G, H, J, and J1), accommodated in 20x 3 storey buildings.
- The proposed development also provides for a 189.9sqm creche, with a 99.45sqm community use facility overhead, in a 3 storey building.
- Access to the development will be via (i) a new vehicular entrance point off Season Park Road to the north, and (ii) via a proposed road extending south and east of the proposed housing, connecting into Main Street, Newtownmountkennedy at Fisher's Corner (as previously permitted under Ref.s 06/6101 & PL27.227704).
- The proposed development provides for (i) all associated site development works above and below ground, (ii) public open spaces (9,819sqm) and communal open spaces (886sqm), (iii) hard and soft landscaping and boundary treatments, (iv) surface car parking (total 339 spaces), (v) bicycle parking (total 158 spaces), (vi) bin storage, (vii) public lighting, (viii) substation (24sqm) all on an overall application site of 8.5ha.

Decision

Grant 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.

17.0 Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in the settlement boundary area of Newtownmountkennedy on a site zoned for residential in the Newtownmountkennedy Local Area Plan extended to 2018;
- (b) the policies and objectives of the Wicklow County Development Plan 2016-2022 and the Newtownmountkennedy Local Area Plan extended to 2018;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – A New Housing Plan for Ireland;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) The Architectural Heritage Guidelines for Planning Authorities and Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999;
- (i) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (j) The pattern of existing development in the area;
- (k) The planning history of the site and surrounding area;
- (l) The submissions and observations received;

- (m) The Chief Executive Report from the Planning Authority recommending that the application be refused; and
- (n) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would enhance the protected structure on the site, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have an effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned in the Newtownmountkennedy Local Area Plan 2008-2014 (extended to 2018) as 'R1' 'Proposed Residential' with the objective 'to protect, provide and improve residential amenities' where residential with ancillary childcare facility is in conformity with the land uses.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).

(g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Outline Construction Management Plan, and Outline Construction Waste and Environmental Management Plan.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

Having regard to the zoning objective for the site as set out in the Newtownmountkennedy Local Area Plan extended to 2018, the pattern of existing and approved development in the immediate vicinity of the site, the AA Screening Report submitted with the application and subsequent Appropriate Assessment Screening in the Inspectors Report, the location in the existing settlement area for Newtownmountkennedy and a reasonable walking distance to the town centre and public transport links, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Newtownmountkennedy Local Area Plan extended to 2018 in relation to density (proposed at 32.5 uph and exceeding 25 uph set out in the LAP), quantum of development (exceeding 100 houses as described in the LAP) and phasing (in relation to the expansion of educational / community facilities and completion of public park works in phase 1, which is to be substantially completed prior to phase 2 development of which the subject site is apart).

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development and Local Area Plans would be justified for the following reasons and consideration.

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

The proposed density, quantum of development and phasing is justified in light of the strategic nature of the site for the delivery of housing in Newtownmountkennedy, in light of the characteristics of the site and the context of national planning policy documents and guidelines which promote compact growth. Including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and Equal Housing for All.

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

In relation to density, the Newtownmountkennedy Local Area Plan (LAP) contains conflicting development principles, with objective HD5 'Density' of the Wicklow County Development Plan 2016-2022 which states that residential development should aim for the highest density indicated for the lands in the Development and Design Standards appended to the Plan.

In relation to the quantum of development proposed, conflicting policies / objectives for the site as part of the AA1 lands are described in the LAP, specifically in relation to a restriction on estate size to 100 houses, compared to the Core Strategy and objective HD5 'Density' of the Wicklow County Development Plan 2016-2022 which support population growth for the area at a scale proposed in this application, and without any restriction on estate size.

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

In relation to the density, quantum of development and phasing proposed, permission for the development should be granted having regard to Section 28 guidelines, with specific regard to the conformity of the proposed development density with the standards set down for 'edge of centre sites' in the Sustainable Residential Development Guidelines (Section 6.11) and within the range of 20-35 dwellings per hectare. The subject site also demonstrates the characteristics of a Peripheral and/or Less Accessible Urban Location under the Apartment Guidelines, where densities of less than 45 uph are considered to be acceptable, being situated

a reasonable walking distance to the centre of Newtownmountkennedy and bus stops. As well as conformity with design principles as described in the development management criteria under section 3.2 of the Urban Development and Building Heights Guidelines, and SPPRs set out in the Design Standards for New Apartments Guidelines. National planning policy and guidelines also promote increased housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and specifically NPO 1b and NPO 3a.

18.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Details of the proposed development to be submitted as follows:
 - (a) Final design of the Fishers Junction upgrade and link road from the development to this junction;
 - (b) The incorporation of required measures following a Stage 2 and 3 Road Safety Audit;
 - (c) Complete specification of the proposed community use and confirmation of the intended occupier;
 - (d) A Final Landscape Masterplan to reflect the submitted details and include wildflower planting.

Complete specification (including revised drawings if necessary) showing the detailing of these elements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity, traffic and pedestrian safety.

3. The mitigation measures contained in the Ecological Impact Assessment (EcIA) which was submitted with the application shall be implemented in full (including in relation to invasive species, phasing/construction/demolition timing and landscaping/vegetation clearance timing).

Reason: In the interest of clarity and proper planning and sustainable development of the area and to ensure ecological best practice.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority/An Bord Pleanála prior to commencement of any development.) The phasing scheme shall provide for the provision of the Link/Distributor Road to be completed as far as Fishers Junction and operational, prior to the occupation of any dwelling.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

9. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to

demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

10. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping (including boundary treatments), which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

13. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including (but not limited to):

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Provision of parking for existing properties during the construction period;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains to be initiated at the earliest stage of the project on site.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- o) Complete specification of cut and fill works to the site.
- p) Construction Traffic Management Plan.
- q) An Ecological Clerk of Works to oversee all environmental/biodiversity mitigation measures set out in the CEMP, including supervision of structure (including stone walls) and vegetation clearance from the site, with pre-clearance checks for bat roosts.

Reason: In the interest of amenities, public health and safety.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of visual and residential amenity.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on

behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermain, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

19. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

20. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute

shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

21.(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

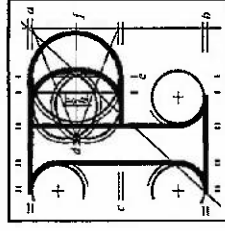
(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units (and the remaining development).

A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

19.0 Appendix A: EIA Screening



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-313208

Development Summary

179no. residential units (121no. houses, 58no. apartments), childcare facility and associated site works.

	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report was submitted with the application

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?

No

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA

Yes

SEA undertaken in respect of the Wicklow County

Development Plan 2016-2022. An AA Screening Report and Ecological Impact Assessment (EclA) under the Habitats Directive and with reference to the River Waterbody Water Framework Directive. A Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive. The submitted EIA Screening Statement also refers to the Habitats Directive. A Statement in accordance with Article 299B(1)(b)(ii)(C) of the Planning and Development Regulations 2001 as amended was also submitted, providing an assessment of relevant EU legislation in relation to the proposed development and identifying the consideration of relevant EU legislation in the preparation of plans / reports.

B. EXAMINATION

Yes/ No/
Uncertain

Briefly describe the nature and extent and Mitigation Measures (where relevant)

Is this likely to result in significant effects on the environment?

		(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The residential use proposed and the size and design of the proposed development would not be unusual for this part of Newtownmountkennedy in Wicklow. While the height of some blocks is 3 storeys and the maximum height of adjacent buildings in Season Park is 2 storey, the proposed scale is not exceptional, relative to the established urban context.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The works will involve levelling out in some areas, but with no significant change to topography. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated in an existing residential area.	No

<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such development. While the development will result in the intensity of land coverage by buildings and loss of trees/vegetation, this is not on a significant scale at either national or county level. The proposed landscape works also incorporate mitigation measures through landscape planting.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Construction waste can be managed via a Construction Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>Surface water management systems as required of a project of this scale will prevent the escape of potential pollutants from the site.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction and Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Waste and Environmental Management Plan to include traffic movements, would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.</p>	<p>No</p>

1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the scale of the development, its situation in an existing urban area and the surrounding pattern of land uses.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	This is a stand-alone development, comprising renewal of a site. The Wicklow County Development Plan 2016-2022 and Newtownmountkennedy Local Area Plan plans for the expansion of the county and has been subject to SEA. This application and those developments in the vicinity are catered for in the plan through land use zoning. Other developments in the wider area alongside the proposed development, are not considered to give rise to significant cumulative effects.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:	No	An AA Screening Assessment Report and Ecological Impact Assessment are submitted with the application. Having	No

<p>1. European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>2. NHA/ pNHA</p> <p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>	<p>regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites and pNHAs, the lack of hydrological or any other pathway and/or the dilution effect that would occur to any discharges from the site, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have any potential impact.</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>Yes</p> <p>Existing habitats have been surveyed in the submitted Ecological Impact Assessment and AA Screening Assessment Report. Surveys support a conclusion that the site does not form an ex-situ area for European sites. Desktop surveys also demonstrate that while bats are likely to utilise the site and given the characteristics of habitats on the site, mitigation is necessary to reduce impact on bats. Mitigation is also outlined in the submitted EcIA, including the periods during which vegetation clearance will take place, to limit potential effects. Additional mitigation concerning the supervision of an ecologist and survey of walls and structures prior to the</p> <p>No</p>

		demolition is also required and can be conditioned as part of any consent.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	Conditions are recommended and described in the Archaeological Report in the event of discovering of unexpected features.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	Yes	The subject site is formed of agricultural land. This land is zoned for residential development and loss of its use for agriculture would not be significant to the sector on a local or national level.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The site is separated to watercourses and no risk to groundwater bodies is identified.	No

2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands proposed for development are susceptible to lands slides or erosion and the topography of the area is flat.	No
2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No.	The site is adjacent to minor local traffic routes.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	The subject site is not situated immediately adjacent to any hospitals, schools or other sensitive community facilities.	No

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Developments have been identified in the vicinity, however these are all of a scale and nature that would be anticipated under the Wicklow Development Plan 2016-2022 and would not give rise to significant cumulative environmental effects alongside this development.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No

3.3 Are there any other relevant considerations?	No	No
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C. CONCLUSION		
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required
Real likelihood of significant effects on the environment.	No	

D. MAIN REASONS AND CONSIDERATIONS		
Having regard to: -		
(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.		

- (b) the location of the site on lands zoned in the Newtownmountkennedy Local Area Plan 2008-2014 (extended to 2018) as 'R1' 'Proposed Residential' with the objective 'to protect, provide and improve residential amenities' where residential with ancillary childcare facility is in conformity with the land uses.
- (c) The pattern of development and planning approvals in surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Outline Construction Management Plan and Outline Construction, Waste and Environmental Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.



Rachel Gleave O'Connor
Senior Planning Inspector

2nd August 2022