

Statement of Material Contravention

In respect of

**Proposed Residential Development at Farrankelly,
Greystones Co. Wicklow**

On behalf of

Cairn Homes Properties Ltd

Prepared by



September 2019

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TABLE OF CONTENTS

1.0	INTRODUCTION	3
2.0	LOCAL POLICY	4
2.1	GREYSTONES-DELGANY AND KILCOOLE LOCAL AREA PLAN 2013-2019	4
2.2	WICKLOW COUNTY DEVELOPMENT PLAN 2016-2022	5
3.0	MATERIAL CONTRAVENTION JUSTIFICATION.....	6
3.1	INTRODUCTION	6
4.0	SUMMARY AND CONCLUSIONS	13

LIST OF FIGURES

Figure 2.1 – Zoning Map A Greystones-Delgany and Kilcoole LAP 2013-2019	4
Figure 3.1 – Duplex Units in Charlesland to the east	11
Figure 3.2 – ‘Crescent’ Apartments in Charlesland to the east	11
Figure 3.3 – 4 Storey Apartment Buildings in Eden Gate.....	12
Figure 3.4 – 3 Storey Apartment Buildings in Eden Gate.....	12

LIST OF TABLES

Table 2.1 – Population Change in Wicklow County and Greystones-Delgany 2011 - 2016 (Source: CSO)	5
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1.0 INTRODUCTION

- 1.1 On behalf of the applicant, Cairn Homes Properties Limited, 7 Grand Canal, Grand Canal Street Lower, Dublin 2 we hereby submit this Statement of Material Contravention, in respect of a Strategic Housing Development (SHD) proposal on a site within the townland of Farrankelly, Delgany, Greystones, Co. Wicklow.
- 1.2 The proposed SHD comprises a residential development of 426 no. dwellings in a mix of houses, apartments and duplex apartments along with a two storey creche, residential amenity building, active open space of 4.5 hectares and a greenway (2.4 hectares) along Three Trouts stream.
- 1.3 This statement outlines the justification of the proposed development on lands which materially contravenes Objective RES5 of the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 (the GDK LAP) in terms of the permissible density of the development as well as the associated Objective HD5 of the Wicklow County Development Plan 2016-2022. In addition, objective HD13 is also considered (which relates to the location of apartments).
- 1.4 It is noted that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the GDK Local Area Plan 2013-2019 and if minded to do so, grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).
- 1.5 This statement is submitted having regard to section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:

“5(6) 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 statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant’s opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000

- 1.6 The scheme is also submitted with regard to Section 37(2)(b) of the Planning and Development Act 2000 (as amended) which states:

“(2) (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- (i) the proposed development is of strategic or national importance,*
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan”.*

- 1.7 Having regard to the analysis set out below demonstrating the compliance of the proposed development with national planning policy and guidelines and having considered the pattern of development, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Local Area Plan, by reference to sub-paragraphs (iii) and (iv) of Section 37(2)(b) for the reasons set out below.
- 1.8 It is respectfully requested that An Bord Pleanála accept the following justification for a material contravention of the density provision within the Greystones-Delgany Local Area Plan 2013-2019. This justification is put forward on the basis that the policies and objectives stated in the Section 28 Government Guidelines, particularly “*Guidelines for Planning Authorities on Sustainable Residential development in Urban Areas (2009)*” and the “*National Planning Framework 2040*” provide for higher densities than that set out in the LAP.

2.0 LOCAL POLICY

2.1 Greystones-Delgany and Kilcoole Local Area Plan 2013-2019

- 2.1 The overall subject lands are zoned, Residential, Active Open Space and Open Space. A maximum density of 22 dwellings-per-hectare (dph) is prescribed for residential zoned lands.
- 2.2 Objective RES5 of the Greystones LAP states: ‘*On undeveloped residentially zoned land, it is an objective of the Council to provide for the development of sustainable residential communities up to a maximum density, as prescribed by the land use zoning objectives indicated on Map A and described in ‘Table 11.1: Zoning Matrix’.*’³ In existing residential areas, infill development shall be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties.’

Figure 2.1 – Zoning Map A Greystones-Delgany and Kilcoole LAP 2013-2019



- 2.3 The proposed development is not consistent with the GDK LAP standards in respect of density or the associated Objective HD5 of the Wicklow County Development Plan

2016-2022 (also relating to density of LAPs). The LAP requires 22 units per ha. The proposed development provides 35.7 units per hectare.

- 2.4 In accordance with Wicklow County Development Plan 2016-2022 (CDP 2016), Greystones-Delgany is designated a 'Large Growth Town 2' with a target population of 21,000 by 2016 and 24,000 by 2022. Table 2.1 below illustrates the population at county level and within Greystones-Delgany. The proposed development will contribute much needed housing to provide for the anticipated growth in population. The proposed scheme is consistent with the core strategy and settlement objectives of the CDP which directs growth into Large Growth Towns.

Table 2.1 – Population Change in Wicklow County and Greystones-Delgany 2011 - 2016 (Source: CSO)

Area	Number of Persons		
	2011	2016	% change 11-16
Wicklow County	136,640	142,425	4.2
Greystones-Delgany	17,468	18,140	3.8

Source: Central Statistics Office 2011 and 2016

- 2.5 Section 3.2 of the GDK LAP states: *'In order to provide for a target population in Greystones-Delgany of 24,000, the plan must provide for an increase in the amount of housing units from 6,637 in 2011 to a total of 10,402 in 2022, representing a total increase of 3,765 units'*
- 2.6 Section 3.3 of the GDK Plan states; *'The Greystones-Delgany and Kilcoole LAP 2013-2019 zones sufficient land to provide for the total number of additional units required up to 2022'*. We also note that the scheme has been reviewed considering the core strategy of the Wicklow CDP (see Section 4.1 of the accompanying Statement of Consistency) and complies with the objectives of the strategy to provide 3,501 dwellings by 2028.
- 2.7 The operational phase of the proposed development will result in the provision of 426 residential units and a creche. This will provide accommodation for approximately 1,244 persons, based upon the existing average occupancy rate of 2.9 persons per household.
- 2.8 Accordingly, the provision of 426 units on the subject site, which is zoned for 'Residential' purposes is entirely in keeping with the core strategy of the CDP 2016 and the GDK LAP.

2.2 Wicklow County Development Plan 2016-2022

- 2.9 With reference to Objective HD5 the Wicklow CDP states:

"HD5 In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. (Unless specific in the relevant local plan, the density objective for any particular lands shall be drawn for the principles set out in the Development and Design Standards appended to this plan.)"

2.10 In relation to Objective HD13 the Wicklow CDP states:

“HD13 Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighborhood 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.”

3.0 MATERIAL CONTRAVENTION JUSTIFICATION

3.1 Introduction

3.1 As stated above the GDK LAP requires 22 units per ha, and Objective HD5 links the density of proposals to the highest density indicated in the relevant LAP. The proposed development provides 35.7 units per hectare. In addition, Objective HD13 notes that apartments will only generally be permitted within designated centres or within 10 minutes walking distance of a train or light rail station. Notwithstanding this, it is considered that permission for the proposed development should be granted having regard to national and regional planning guidelines for the area, Ministerial Guidelines under section 28 and policy directives as outlined in the following justification.

3.2 Section 37(2)(b) of the Act sets out four distinct criteria which allows the Board to materially contravene a development plan. This statement of material contravention addresses each of the items and it is our considered opinion that the current proposal satisfies the criteria as follows:

(i) *the proposed development is of strategic or national importance,*

Response: This is not relevant to the proposed statement.

(ii) *there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*

3.3 **Response:** This is not relevant to the proposed statement.

(iii) *permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

3.4 **Response:** The following section addresses relevant national and regional planning policies and guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended) and provides a justification under each document, demonstrating the schemes compliance with each component. The following policy and guidelines are considered relevant:

- Project Ireland 2040 – National Planning Framework;
- Rebuilding Ireland, an Action Plan for Housing and Homelessness (2016);
- Eastern and Midland Regional Economic and Spatial Strategy 2019;
- Sustainable Urban Housing: Design Standards for New Apartments (2018); and

- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

National Planning Framework

3.5 The National Planning Framework is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.

3.6 The following is outlined:-

National Policy Objective 3a of the Draft NPF states that it is a national policy objective to *“deliver at least 40% of all new homes nationally within the built up envelope of existing urban settlements”*.

National Policy Objective 4 states *‘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 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 34 - *Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.*

National Policy Objective 35 - *Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

3.7 **Response:** The proposed development, at the density proposed, accords with the National Planning Framework (2018) (NPF), in particular with its principles of compact growth and the reinforcement of the country's existing urban structure at all levels. Where housing policy is concerned, the proposed development accords with the NPF's core principles for housing delivery – in particular the location of the proposed new housing is prioritised within the existing settlement of Greystones. The proposed increase in density compared to that within the GDK LAP aligns with national policy guidance and is considered suitable and appropriate development on the subject lands.

3.8 In accordance with the NPF's strategy of compact growth, it is proposed to develop new homes on the subject site which will provide a continuous built form adjacent to the existing built up area and within the development boundary per the GDK LAP.

3.9 In accordance with National Policy Objective 33, new homes will be provided at a sustainable location, with access to existing services and facilities, including (DART c. 2.1km from eastern entrance) transport as well as Dublin Bus services (on Kilcoole Road & to the north at Killincarraig). In accordance with National Policy Objective 35, the proposal will increase residential density within an existing settlement. The proposed scheme is consistent with the NPF.

3.10 With regard to Objective HD13, the inclusion of apartments is in response to the National Planning Framework recognises that *“currently, 7 out of 10 households in the State consist of three people or less, with an average household size of 2.75 people. This is expected to decline to around 2.5 people per household by 2040. Yet, the stock*

of housing in Ireland is largely comprised of detached and semi-detached houses with three to four bedrooms.”

- 3.11 Having regard to the above, the proposed development responds to the identified strategic need for the wider strategic need for a greater mix in the housing stock in urban areas. The proposed development will include apartments which will result in a variety of house types to accommodate a mix of household types, suitable for first time buyers, single people, families, empty nesters and the elderly, in order to ensure a social mix and balance is achieved.

Rebuilding Ireland – Action Plan for Housing and Homelessness

- 3.12 Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.
- 3.13 Rebuilding Ireland is set around 5 no. pillars of proposed actions. *Pillar 3 seeks to – Build More Homes: Increase the output of private housing to meet demand at affordable prices.*
- 3.14 **Response:** The increased height and density put forward in the proposal will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3, which seeks to build more homes - *“to increase the output of private housing to meet demand at affordable prices.”*

Regional Economic and Spatial Strategy 2019

- 3.15 The Regional Economic and Spatial Strategy (RSES), which was recently adopted in June 2019, notes that the preferred spatial strategy for the East and Midlands is the consolidation of Dublin plus the Regional Growth Centres of Athlone, Dundalk and Drogheda, supported by planned focussed growth of a limited number of self-sustaining settlements.
- 3.16 The Plan states: *‘The Dublin Metropolitan Area, as identified by the plan, includes the continuous built up city area and the highly urbanised settlements of Swords, Malahide, Maynooth, Leixlip, Celbridge, Bray and Greystones, that have strong connections and synergy with the city in a polycentric metropolitan area.’*
- 3.17 The MASP supports the overall Settlement Strategy as set out in Chapter 4 and sets out an integrated land use and transportation strategy for the sequential development of the metropolitan area focussed on:
- *Consolidation of Dublin city and suburbs*
 - *Key Towns of Swords, Maynooth and Bray*
 - *Planned development of strategic development areas in Donabate, Dunboyne, Leixlip, and Greystones*
- 3.18 The delivery of identified strategic development areas should be facilitated, where practicable, in a sequential manner to promote sustainable compact growth in coordination with the provision of enabling infrastructure and services.

- 3.19 **Response:** The proposed scheme will deliver a high-quality residential development at an appropriate density and height (through the inclusion of apartments), in proximity to local retail and services as well as employment centres. The site is located within a town identified to accommodate growth in close proximity to Dublin city. The development of the lands at the proposed density is in accordance with national strategic guidance and in accordance with the proper planning and sustainable development of the area.
- 3.20 The proposed sequential development at Farrankelly will consolidate the existing built up area of the Dublin Metropolitan Area and promote sustainable compact growth with access to public transport (Dublin Bus [on Kilcoole Road] and Irish Rail [2.1km from site]) and improves connectivity in the wider area through introducing potential linkages within an expanded green infrastructure (as part of a greenway).

Sustainable Residential Development in Urban Areas (2009)

- 3.21 The Sustainable Residential Development in Urban Areas (SRD) Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity.
- 3.22 **Response:** The provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 (Section 5.8) which refer to minimum net densities of 50 dwellings per ha along public transport corridors and within 1km of a light rail stop to provide for an efficiency in serviceable land usage given the proximity of the site along a public transport corridor.
- 3.23 The guidelines also stated in relation to outer suburban sites;
- ‘the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general **range of 35-50 dwellings per hectare** and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.’ (our emphasis)*

- 3.24 The proposed scheme is accessible via Dublin Bus services on Kilcoole Road and is located approx. 2.1km from Greystones DART station. Whilst considered an infill site due to the existing urban context surrounding the site (there are existing residential developments to the north, south and east of the site), it is also noted that the site’s location could be considered in the outer suburbs. Therefore, the proposed density of 35.7 dwellings per hectare is considered suitable for the site.

Urban Development and Building Heights (December 2018)

- 3.25 The Government published the Urban Development and Height Guidelines on December 7th 2018 (the Height Guidelines). The Height Guidelines are intended to set out national planning policy guidelines on building heights in urban areas, in response to specific policy objectives set out in the NPF.
- 3.26 The Height Guidelines contain SPPR 4 which requires:-

‘It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2009)" or any amending or replacement Guidelines;

2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and

3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more."

3.27 **Response:** The proposed development provides an appropriate density in compliance with the Sustainable Residential Development in Urban Areas (2009) of c. 35.7 units per hectare.

3.28 In reference to Policy HD3, points 2 and 3 of SPPR4, requires a greater mix of building heights and typologies in the future development of suburban locations and to avoid mono-type building typologies (2 storey or own-door houses only), particularly in developments of 100 units or more. The proposed apartments have been specifically included to address the requirements of SPPR4 to provide a mix of building heights and typologies and to ensure appropriate density is achieved.

3.29 The proposed development comprises a total of 426 no. units in total, including 245 no. houses, 88 no. duplex units and 93 no. apartments. Apartment units are provided by a combination of 1, 2 and 3-bed units across 3 no. buildings, while the duplex units are provided across 11 no. buildings. It is noted 31% of all the 426 no. dwellings are 1 and 2 bedroom units (apartments and duplex units).

3.30 The proposed development avoids mono-type development of 2 storey own door houses, through the incorporation of 3 storey duplex apartments and 4 storey apartments.

3.31 The proposed scheme and density as well as the inclusion of apartments, put forward is considered entirely appropriate, given the location of the site and the surrounding urban context.

Sustainable Urban Housing: Design Standards for New Apartments (2018)

3.32 The updated Sustainable Urban Housing Design Standards for New Apartments (the Apartment Guidelines) were published in March 2018. The guidelines provide for revised guidance on apartment developments in response to the National Planning Framework and Rebuilding Ireland. The Apartment Guidelines state;

*"..While the provision of apartments may not be required below the 45 dwellings per hectare net density threshold, they can allow for greater diversity and flexibility in a housing scheme, whilst also increasing overall density. Accordingly, **apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages.**"*
(JSA Emphasis added).

3.33 **Response:** The proposed scheme includes 93 apartments within 3-4 storey buildings, located centrally within the site as well as 88 no. duplex units. The proposed apartments contribute to the variety of unit mix within the site, appealing to all levels of the market from first time buyers to those seeking to downsize. The proposed dwelling

mix and density onsite is considered suitable to meet the diverse needs of the housing market and the future occupants of the scheme.

(iv) ***“permission for the proposed development should be granted having regard to the pattern of development, and permissions granted in the area since the making of the development plan”.***

3.34 **Response:** The subject site is located on lands zoned ‘Residential’. The proposed built form is entirely appropriate for the area and will integrate seamlessly within the established neighbourhood having regard to the pattern of development (see below).

Figure 3.1 – Duplex Units in Charlesland to the east



Figure 3.2 – ‘Crescent’ Apartments in Charlesland to the east



3.35 To the rear of Glenheron is the established Charlesland development, zoned ‘Existing Residential’. This scheme again accommodates a similar style large-scale residential scheme with ancillary social infrastructure such as a creche and large useable open space areas. The Charlesland Centre is located to the east of the scheme and provides local services such as a supermarket, hairdressers, café, beautician and medical centre (Reg. Ref. 014910/ PLPL.27.126750). Assuming a gross site area of 40 hectares (as

outlined in the Inspectors Report), density of the scheme was 36.65 dwellings per hectare.

- 3.36 To the south of the Charlesland development is the newly constructed Glenheron residential estate which is nearing completion (Reg. Ref. 161412). The scheme comprises 192 residential units and a creche.

Figure 3.3 – 4 Storey Apartment Buildings in Eden Gate



Figure 3.4 – 3 Storey Apartment Buildings in Eden Gate



- 3.37 In summary, the proposed development will be in keeping with the scale of the existing pattern of development in the locality.

4.0 SUMMARY AND CONCLUSIONS

- 4.1 As set out in Section 37(2)(b) An Bord Pleanála may materially contravene a development plan or Local Area Plan where national planning policy objectives take precedence.
- 4.2 An appropriate justification is set out within this statement should An Bord Pleanála consider the proposed development a material contravention of the Greystone-Delgany and Kilcoole Local Area Plan 2013 – 2019. The statement demonstrates that the proposed increased density is appropriate on the subject lands in line with the Section 28 Guidelines and in accordance with the National Planning Framework 2040.
- 4.3 The proposed scheme has been assessed in relation to the core strategy of the Wicklow County Development Plan 2016 – 2022 and the Greystones- Delgany and Kilcoole LAP. The core strategy of the CDP indicates that there will be a requirement for 3,501 additional dwellings within Greystones – Delgany by 2025. This is generally consistent with the GDK LAP which states that 3,765 dwellings will be required by 2022. The proposed scheme will provide 426 additional dwellings which will assist in the achievement of the housing target for the area, resulting in the provision of high-quality housing for future residents, in compliance with the CDP 2016-2022.
- 4.4 It is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement which demonstrates that the increased density proposed is entirely appropriate in this instance. Local objective RES5 and objective HD13 has been overtaken by developments in national planning policy and guidelines, noting the national importance of delivering housing given the current housing crisis.