



**SIMON CLEAR & ASSOCIATES
PLANNING AND DEVELOPMENT
CONSULTANTS**

**Proposed Strategic Housing Development
Ballymany,
Newbridge,
Co. Kildare**

Material Contravention Statement

Applicant: Briargate Developments Newbridge Limited

February 2022

**Simon Clear B.A. Dip. T.P. MIPI
Darran Quaile B.A. MRUP MSc BLUP MIPI
Paula Shannon B.A.MRUP MIPI**

**3 TERENCE ROAD WEST,
TERENURE,
DUBLIN 6W
D6W YY79,
IRELAND.**

**Phone: 00-353-1-492 5934
Fax: 00-353-1-492 7617
E-mail: admin@clearconsult.ie
Web: www.clearconsult.ie
Vat No. 9803199H**

1. Statutory Context

This Material Contravention Statement has been prepared to accompany a planning application for a residential development consisting of 336 no. residential units submitted under the Strategic Housing Development provisions of the Planning and Development (Housing and Residential Tenancies) Act 2016.

The statement of Material Contravention has been prepared to acknowledge matters which may be considered to be a Material Contravention of the Kildare County Development Plan and the Newbridge Local Area Plan 2013-2019 (extended until December 2021).

This statement has been prepared in accordance with Section 5(6) of the Planning and Development Housing and Residential Tenancies Act, 2016, which requires that:-

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.

Section 9(6) confirms that An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan, other than in relation to the zoning of land as follows:-

(a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed 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.

(b) 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.

(c) 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.

In this regard, the provisions of Section 37(2) (b) of the Planning and Development Act, 2000 (as amended) apply:-

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 spatial and economic strategy 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.*

2. Summary of Contraventions

The table below summarises the relevant provisions of the Kildare County Development Plan 2017-2023 and the Newbridge Local Area Plan 2013-2019 and how the proposal contravenes these standards.

Parameter	Local Area Plan/Development Plan	Proposal
Density	The Newbridge Local Area Plan has a specific objective for lands zoned C2 that a maximum density of 15 units per hectare will apply.	The proposal is located on lands zoned C2 and provides a density of 35 units per hectare.
Apartment/Duplex Units	The Newbridge Local Area Plan has a specific policy to restrict apartment developments generally to town centre locations or suitably located sites adjoining	The proposal includes both apartments and duplexes and is defined as being an outer suburban/greenfield site.

	public transport connections. Also within the same policy it is noted that duplex units shall not generally be permitted.	
Height	The KCDP has general development standards for building heights which indicates that the appropriate maximum or minimum height of any building will be determined by the prevailing building height in the surrounding area.	The proposal includes building heights of 3 and 4-storeys where the prevailing height in the surrounding area is 1-2-storeys.
Parking	Table 17.9 of the KCDP provides a car parking standard of 2 no. spaces for each house unit, 1.5 spaces per apartment and 1 visitor space per 4 apartments.	The proposal generally provides 2 parking spaces per house, except for House Type D. >1 car parking spaces is provided per apartment/duplex and c.1 visitor parking space is provided per 4 no. apartments.

3. Local Planning Policy Context

The Newbridge LAP (NLAP) sets out guidance for development on lands zoned C2 – New Residential. A specific objective that *a maximum density of 15 units per hectare will apply to lands zoned C2* is provided in the NLAP.

The NLAP has a specific housing policy that restricts apartment and duplex developments as follows:-

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

Density

The subject lands are the only lands zoned C2 in the Newbridge LAP. Table 10, copied below, provides a quantum of land zoned for new residential units and the corresponding number of units, which may be permitted in accordance with the density prescribed for those lands.

Table 10: Quantum of New Residential Land (zoned C) within the Plan area

Land Use Zoning (Map 7)	Site Area (ha)	Units Granted or Estimate (based on 35 units per ha)
C1	5.2	77 Units Granted
C2*	15.1	190 Units Granted
C3	1.8	63 Units
C4	7.3	242 Units Granted
C5	1.9	67 Units
C6	3.5	123 Units
C7	5.7	200 Units
C8	3.8	133 Units
C9	3.3	116 Units
C10	1.9	54 Units Granted
C11	5.1	179 Units
C12	14.8	518 Units
C13	2.5	87 Units
C14	7.3	255 Units
C15	9.3	325 Units
C16	1.1	20 Units Granted
C17	3.8	133 Units
C18	4.6	79 Units Granted
C19	0.4	23 Units Granted
C20	3.6	126 Units
Total	102 ha	3,010 units^a

**Note lands zoned C2 have a prescribed maximum density of 15 units per ha. Refer to Table 17*

As shown in the table, the estimated number of units to be provided on the entire lands zoned C2 is 190 no. units.

At the time of preparation of the NLAP in 2013 there was an extant permission on the subject lands, which had a low density and resulted in the zoning objective coinciding with the permission at that time (i.e. 190 no. units). This permission has since withered and has been superseded.

However, it is later noted in the NLAP that *a residential density of 30–50 units per hectare will fulfil the potential of suburban sites. Generally higher densities will be considered in town centre locations, and edge of town centre locations close to public transport, with*

medium to lower densities being considered more appropriate at outer suburban and greenfield sites.

Table 11: Indicative Residential Densities (Source CDP 2011–2017)

Location for New Residential Development	General Density Parameters
Town Centre and Brownfield sites	Site specific Higher densities generally promoted e.g. 50 units per ha
At strategic locations including public transport nodes and town centre area.	50 units per ha
Inner Suburban/Infill	Site specific
Outer Suburban/Greenfield, Generally new residential zoning areas.	30–50 units per ha
Outer Edge of Urban-Rural transition	20–35 units per ha

Source: DoEHLG Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas (2009).

The subject site is classified as 'Outer Suburban/Greenfield, Generally new residential zoning areas' and with a proposed density of c.35 units per hectare the proposal is in accordance with the general density parameters set out above.

Planning permission currently exists on the lands for development at a density greater than that indicated in the SLO and Phase 1 of that permission is currently being put into effect. The existing permission on the lands, when remitted to ABP on appeal (Ref. 16/658 ABP-249038) had a density of 15.7 units per hectare. After the initial assessment by the Board, ABP sought a higher density with the following extract from the Board's Direction:-
Having regard to the proposed density of the development, at 15.7 dwelling units per hectare, the Board may consider that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Newbridge Town and to established social and community services in the immediate vicinity.

Furthermore, the Board may consider that such a low density would be contrary to these Ministerial Guidelines, which indicate that net densities of less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

The applicants were asked to respond on the issues of density and provided a revised scheme with a higher density for ABP to consider. The higher density scheme was subsequently granted by ABP for 280 units at a density of 20uph and Phase 1 is currently under construction.

In 2019, An Bord Pleanála refused permission (Ref. 19/710; ABP-305410-19) for a proposal to reconfigure Phase 1 of the permitted development on that part of the land for reasons, inter alia, citing insufficient density of development in the proposal. The proposal provided a density of 22.6 units per hectare in the Phase 1 sector.

It is therefore considered that the specific low density objective provided in the NLAP is not in accordance with the KCDP and Government Guidance and that the density of the proposed development is appropriate.

Apartment/Duplex Units

The NLAP contains the following objective:-

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

The subject site is defined as an outer suburban/greenfield site. In order to achieve a sustainable density and use urban land efficiently apartments and duplexes are provided in the subject proposal. It would not be possible to achieve the densities required in Government guidance without the inclusion of apartments and duplexes on the subject site.

In the previous permission on the lands, the applicants revised the layout to include apartments and duplexes on the site when ABP raised concern about the low density. The permitted development (Ref. 16/658) contains apartments and duplexes. It is therefore considered that the precedent for apartments and duplexes has already been set on the subject site.

Since the adoption of the Newbridge Local Area Plan 2013-2019, a later Kildare County Development Plan 2017 – 2023 has been made. The LAP, according to section 19(2) of the Planning and Development Act 2000 as amended in 2010, should be consistent with the objectives of the County Development Plan including the Core Strategy and should, where inconsistent, be made consistent with the superior plan. This has not been done by the Planning Authority and the duration of the NLAP has been extended to 31st December 2021 without alteration.

Kildare County Development Plan 2017-2023

Density

The Kildare County Development Plan (KCDP) relies on the density guidance provided in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009. Section 4.5 of the KCDP states the following:-

Outer Suburban / 'Greenfield' Sites Outer Suburban or 'Greenfield' sites are the open lands on the edge of large towns. The development of these sites may require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. It is therefore necessary to achieve net residential densities that make efficient use of these lands in the context of their location and provide a variety of housing types in order to justify the development of these sites. In certain cases, to facilitate a choice of housing types within the county, limited provision may be made within large towns for lower density schemes provided that, within a neighbourhood or district as a whole, appropriate densities are achieved.

Table 4.2 of the KCDP is extracted from the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

Table 4.2
Indicative Density Levels

Category	Location for New Residential Development	General Density Parameters (Units per Ha)	
Large Towns (Pop >5,000)	Town Centre & Brownfield Sites	Site Specific	Subject to the design principles and standards set out in:
	Public Transport Corridors	50 units per ha	
	Inner suburban/infill	Site Specific	Chapter 12 Architecture and archaeological Heritage
	Institutional Lands	35-50units per ha	
	Outer Suburban /'Greenfield'	30-50 units per ha	
Small Towns & Villages I (Pop 2,000-5,000) and Small Towns & Villages (Pop 400-2,000)	Centrally located sites within Small Towns/Village	30-40 units per ha	Chapter 17 Development Management Standards
	Edge of centre sites within Small Town/Village	20-35 units per ha	
	Edge of Small Town/Village	15-20 units per ha with lower density in some cases	
Rural Settlements (Pop 50-600)	Infill, backland and edge of centre sites within Rural Settlements	15 units per ha with lower density in some cases	

Source: Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009)

The indicative density for outer suburban/greenfield lands is 30-50 units per hectare. The subject proposal provides a density of 35 dwellings per hectare, which is in accordance with the KCDP and Government Guidance.

Building Height

Section 17.2.1 of the KCDP provides development standards for building heights in Kildare and requires that in general, building heights should respect the local streetscape.

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

- *The prevailing building height in the surrounding area.*
- *The proximity of existing housing.*
- *The formation of a cohesive streetscape pattern, including height and scale of proposed development relative to width of street or area of open space.*

The prevailing building height in the surrounding area is 1-2-storey dwellings along the northern and eastern boundaries of the subject site. There are 2 no. sections of existing housing backing onto the subject site, which is the Elms housing on the eastern boundary and dwellings fronting Standhouse Road to the north. The existing pattern of development has been retained along these boundaries with primarily 2-storey semi-detached dwellings backing onto these boundaries. The subject site is a greenfield site with no existing streetscape pattern.

The proposed development provides a variety of building heights including 2-storey, 3-storey and part 3/ part 4-storey. The 2-storey dwellings are located in proximity to existing dwellings and the part 3/part 4-storey apartment building is located towards the north west of the site and is well positioned away from existing and proposed 2-storey dwellings. It is worth noting that there is a significant level difference between the subject site and the existing Elms housing development on the eastern boundary where the Elms is at a much higher level than the subject site (due to historic permitted sand and gravel extraction).

The building heights proposed are consistent with the guidance contained in Section 28 Building Height Guidelines. Further details are provided below.

Parking

Table 17.9 of the KCDP provides the following standards for car parking in residential developments:-

Residential	
House	2 spaces per unit
Apartment	1.5 spaces per unit + 1 visitor space per 4 apartments

The proposed development provides 2 no. car parking spaces for houses, with the exception of House Type D, which have 1 no. car parking space each.

House Type D is a 2-bed (4 person) house and there are 17 no. House Type D's in the subject proposal.

Car parking for duplexes is provided at a rate of 1.25 spaces per unit, with the exception of 4 no. Duplex Type 1a, which have 1 no. space per unit. Duplex Type 1a are 1-bed (2 person) units and the car parking is provided in accordance with the *Sustainable Urban Housing Design Standards for New Apartments 2020*.

1 car parking space per apartment is provided and 8 no. visitor spaces are also provided. The car parking provided for the apartment units is in accordance with the *Sustainable Urban Housing Design Standards for New Apartments 2020*.

4. National and Regional Planning Framework

Since the adoption of the KCDP and the Newbridge Local Area Plan 2013-2019 the national and regional planning framework has changed considerably, with the publication of *Project Ireland 2040 National Planning Framework*, *EMRA Regional Spatial and Economic Strategy* and Section 28 Guidelines, notably the *Urban Development and Building Heights Guidelines 2018*.

4.1 National Planning Framework

The National Planning Framework (NPF) signals a shift in Government policy towards securing more compact and sustainable urban development, to enable people to live nearer to where jobs and services are located. There will be a major new policy emphasis on renewing and developing existing built-up areas rather than continual expansion and sprawl of cities and towns out into the countryside, with a target of at least 40% of new housing to be delivered within the existing built-up areas of cities, towns and villages.

The National Planning Framework requires that planning and related standards, including car parking, be based on performance criteria. The smaller 2-bedroom houses will have significantly lower occupancy and will generate a lower demand for car parking.

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.

4.2 Eastern Midland Regional Assembly Regional Spatial and Economic Strategy

The *Eastern Midland Regional Assembly Regional Spatial and Economic Strategy* (EMRA RSES), published in November 2018 supports the implementation of National Policy Objectives and targets contained in *Project Ireland 2040 - National Planning Framework* (NPF) and alignment with the investment priorities of the *National Development Plan 2018-27* (NDP).

Newbridge is identified in the EMRA RSES as a large self-sustaining town being part of the Core Region, which is defined as *containing a strong network of county and market towns that have a good level of local employment, services and amenities, which serve not just their resident populations but a wider catchment area. These towns have capacity for continued commensurate growth to become more self-sustaining and to attract high quality knowledge based employment at strategic accessible locations.*

There are strong links between Naas and the nearby settlements of Sallins and Newbridge, with a strong interrelationship of services, employment and education between Naas and Newbridge.

5. Material Contravention Considerations

Having regard to the national and regional policy context outlined above, it is submitted that the proposed apartment development is in accordance with proper planning and sustainable development and permission should be granted in contravention of the density and typology provisions of the Newbridge LAP and the height and parking provisions of the Kildare CDP.

5.1 Strategic or National Importance - 37(2)(b)(i)

The proposed development is considered as a Strategic Housing Development under the Planning and Development (Housing) and Residential Tenancies Act 2016 as it is located on residential zoned land and exceeds 100 no. dwelling units in a large self-sustaining town in the regional Dublin core area, which is served by frequent and high-capacity mainline rail services.

National guidance, such as the NPF and EMRA RSES seek the creation of compact, sustainable residential developments to be located in appropriate urban locations, close to existing/proposed infrastructure and services. The development is located on zoned land in an existing urban settlement and is adjacent to existing infrastructure and services.

It is widely acknowledged that there is a significant shortfall in the delivery of housing to meet the current and projected demand and that land zoned for residential development should be developed at a sustainable density to provide an efficient use of scarce urban land. The proposal will deliver residential units in an existing urban area on lands zoned for residential development, which is in accordance with the broader policies and objectives of the NPF and the EMRA RSES.

It is therefore considered that the subject proposal is of strategic regional importance in delivering much needed residential units in established urban areas in accordance with the EMRA RSES, which gives effect to the NPF within the region and is therefore, also of National importance in delivering what is envisaged in the NPF.

5.2 Conflicting Objectives in Development Plan – 37(2)(b)(ii)

There are numerous conflicts in objectives between and within the statutory plans at this stage. The NLAP is clearly inconsistent with the higher-order KCDP, as originally adopted and as Varied to accommodate the provisions of the RSES in 2020; and with NPF, RSES and Government Guidelines and has not been brought up to date as required by primary legislation.

The site specific limitation on density in relation to the subject lands is inconsistent with the density applied to comparably located lands in Newbridge and the reason for this

conflict is not clearly explained within the plan or by reference to any Government Guidance that applied at the time, such as the Sustainable Residential Development in Urban Areas Guidelines 2009 (DEHLG) and the Urban Design Manual. This conflict also applied to housing typologies that were restricted in the NLAP.

The density required in the KCDP, as Varied to give effect to the EMRA RSES and thereby to the NPF, conflicts with the height standard applied elsewhere in the KCDP, as it is not possible to reach the densities required without building upwards in some places on the subject site.

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

It is clear from the section above that there are conflicting objectives in the development plans and that the objectives are not clearly stated so as to be readily understood and applied in interpretation of the NLAP, KCDP and KCDP as Varied, insofar as the proposed development is concerned.

5.3 Section 28 Guidelines and Relevant Policy – 37(2)(b)(iii)

Sustainable Residential Development in Urban Areas (2009)

These guidelines promote the delivery of sustainable residential developments and provide guidance on the principles of urban design and should have been taken into account by KCC in the preparation of the NLAP.

Outer Suburban / 'Greenfield' sites

These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, 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.

The proposed development is located on a site defined as outer suburban/greenfield and provides a density of 35 units per hectare and a variety of housing types where possible, on a large site in excess of 0.5ha, in accordance with these guidelines.

Sustainable Urban Housing: Design Standards for New Apartments Guidelines 2018 & 2020

The *Sustainable Urban Housing: Design Standards for New Apartments Guidelines 2018 & 2020* call for more compact urban development, particularly in close proximity to public transport. Although these were published after the adoption of the KCDP, they should be taken into account in performance of development management functions by the planning authority.

The subject site can be defined as Peripheral/Less Accessible Urban Location and *such locations are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly <45 dwellings per hectare net), including:*

- *Sites in suburban development areas that do not meet proximity or accessibility criteria;*
- *Sites in small towns or villages.*

Applying these planning principles to the subject site, it is submitted that the proposed development is suitably located within the urban area of Newbridge and is appropriate for a development of a density of 35 units per hectare as proposed.

In relation to car parking, the standard for peripheral/less accessible urban locations is *one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments.*

The standard of car parking outlined in these guidelines has been applied to the apartments and duplexes provided in the proposal.

Urban Development and Building Height Guidelines 2018

The *Urban Development and Building Heights Guidelines for Planning Authorities (2018)* take precedence over the current Development Plan and Local Area Plan standards.

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.

In relation to building heights in suburban/edge locations, these Guidelines recognise that *newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, typically now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments deliver medium densities, in the range of 35-50 dwellings per hectare net. Such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation.'*

The proposed development provides 2-storey detached, semi-detached and terraced dwellings, 2 and 3-storey duplexes and a part 3/part 4-storey apartment building, which results in a density of 35 dwellings per hectare in accordance with the above.

'The forms of development set out above can, where well designed and integrated, also facilitate the development of an attractive street-based traditional town environment with a good sense of enclosure, legible streets, squares and parks and a strong sense of urban neighbourhood, passive surveillance and community.'

‘Development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.’

‘Such development patterns are generally appropriate outside city centres and inner suburbs, i.e. the suburban edges of towns and cities, for both infill and greenfield development and should not be subject to specific height restrictions.’

The proposed height provides an appropriate mix of building heights in accordance with these guidelines. The proposal has been designed to create a number of homezones/shared surfaces and open space is included throughout the site, creating legible streets around parks. The layout provides for excellent passive surveillance with a very limited number of cul-de-sacs in the proposal.

National Planning Framework

As noted under Section 3.1 above, the NPF requires that planning and related standards, including car parking, be based on performance criteria. It is not considered appropriate in this context to apply the same parking standard to all house types, as required by the KCDP. Applying a lower car parking ratio to smaller housing units, which will have a lower occupancy rate, is considered acceptable in accordance with the objectives of the NPF.

It is considered that the proposed building heights are in accordance with the most recent Section 28 Government Guidance, which as stated within the Guidelines, supersedes the KCDP.

5.4 Pattern of Development and permissions granted, in the area since the making of the development plan – 37(2)(b)(iv)

The subject site is zoned for residential development and is capable of accommodating a development of a greater scale than what is prescribed for the lands in the Newbridge LAP. The pattern of development in the Newbridge suburbs in locations equidistant from the town centre since the adoption of the NLAP has been consistently higher simply because a site-specific lower density was applied to the subject lands in the adopted plan.

There is an existing permission on the lands (Ref.16/658 ABP-249038) which was granted since the making of the NLAP and the KCDP and has established the pattern of development appropriate for the subject site that is inconsistent with the density and typology restrictions in the NLAP and the height restrictions of the KCDP. The existing permission, which is being put into effect and which will be modified by the proposed development, includes detached, semi-detached, terraced dwellings, apartments and duplexes. The height of the dwellings in the existing permission ranges from 2-storey dwellings, 3-storey duplexes and 4-storey apartment blocks.

Phase 1 of that permission is currently under construction and the proposed development has been designed to complement the established pattern of development both on the site.

A SHD permission (Ref. 302141) was granted on lands at Athgarvan Road, Kilbelin, Newbridge in 2018 for a development of 343 no. units and a childcare facility. The permitted development provides a density of c.37-39 units per hectare, units ranging in height from 2 to 3-storeys and also includes apartments.

It is also noted that the above SHD permission provided car parking for the apartment units in accordance with the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines*, which is consistent with the subject proposal where parking for the apartment and duplex units is provided in accordance with these guidelines.

It is therefore considered that the proposed development is consistent with the pattern of development and permissions granted in the area since the making of the Development plan and Local Area Plan.

6. Conclusion

Having regard to the strategic nature of the development, which will help to deliver national strategic policy objectives on housing for an increased and urbanised national population in compact urban settlements of scale and sustainable form, as further detailed in the EMRA RSES and in the KCDP Variation and complies with the NPF and Section 28 Guidelines, it is submitted that An Bord Pleanála can grant permission for the proposed development.

The subject proposal is in accordance with the densities prescribed in the KCDP, Sustainable Residential Development in Urban Areas Guidelines and more recent Government Guidance, namely the Urban Development and Building Height Guidelines, which indicate a residential density of 30/35-50 units per hectare in suburban/edge locations. Section 37(2)(b)(ii), (iii) and (iv) are applicable in relation to the density proposed.

The existing permission on the subject site includes duplexes and apartments so it is therefore considered that the precedent has been set and the inclusion of apartments and duplexes is necessary to achieve the sustainable density required. Section 37(2)(b)(ii) and (iv) are applicable in relation to the types of units proposed.

The Urban Development and Building Height Guidelines recommend that building heights should generally be increased to 3 to 4-storeys in areas outside of town centre locations. The subject proposal provides building heights and densities in accordance with these guidelines with the development ranging from 2-storeys to part 3 and part 4-storeys. Section 37(2)(b)(iii) is applicable in relation to building heights.

The car parking proposed is largely in accordance with the KCDP standards and the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines*. Section 37(2)(b)(iii) and (iv) are applicable in relation to parking.

It is therefore submitted that the proposed development is in accordance with latest guidance, which takes precedence over the Kildare County Development Plan 2017-2023, including as Varied and the Newbridge Local Area Plan 2013-2019.

Therefore, the Board may decide to grant permission in a situation where parts of the proposed development are apparently and possibly include material contraventions of the statutory development plans in effect in the area.

Simon Clear

February 2022