

# **MATERIAL CONTRAVENTION STATEMENT**

**Draft South Dublin County Development Plan 2022-2028  
Newcastle LAP 2012 (as Extended)  
South Dublin County Development Plan 2016-2022**

*In respect of*

**Proposed Residential Development at  
Newcastle South**

*Prepared by*

**John Spain Associates**

*On behalf of*

**Cairn Homes Properties Ltd.**

**Prepared by**

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**June 2022**



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**DOCUMENT CONTROL SHEET**

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<b>Project Title:</b>	<b>Newcastle South</b>
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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 at Newcastle South, relating to a proposal for a development of 280 no. dwellings as set out in section 2 of the Planning Report and Statement of Consistency, prepared by John Spain Associates.
- 1.2 This Statement of Material Contravention addresses the Draft South Dublin County Development Plan 2022-2028, the Newcastle LAP 2012-2022 (due to expire December 7<sup>th</sup> 2022) and the South Dublin County Development Plan 2016-2022.
- 1.3 It is noted that at the time this planning application was lodged the Material Alterations to the Draft Development Plan have been published but not adopted. This Statement refers to the Draft South Dublin County Development Plan 2022-2028 and the proposed material amendments. This Statement is provided to deal with a situation where decision is made on the application after the new Development Plan takes effect. The final content of the 2022-2028 CDP is not known at the time of submission.

### 1.1 DRAFT SOUTH DUBLIN COUNTY DEVELOPMENT PLAN 2022-2028

- 1.4 This is addressed in Section 2 of the Statement. It should be noted that the proposed development may be considered to materially contravene the Draft South Dublin County Development Plan 2022-2028 (including Material Amendments, March 2022) in respect of:
- **Core Strategy/Phasing and Non-Compliance with LAP** CS3 Objective 6, CS9 Objective 1, CS9 Objective 4, CS9 SLO3 & CS9 SLO4
  - **Archaeology** NCBH 13 Objective 2, NCBH 13 Objective 3

### 1.2 NEWCASTLE LAP 2012-2022

- 1.5 This is addressed in Section 3 of the Statement. It should be noted that the proposed development may be considered to materially contravene the Newcastle LAP 2012 (as extended to December 7<sup>th</sup> 2022) in respect of:
- **Density and Mix Objectives** LUD 8, LUD 14, LUD16, LUD18, BS7, TC1, TC7, TC9.
  - **Height/Built Form Objectives** BF1 & BF8, BF10
  - **Road Layout** Objectives AM1, AM5, AM10, BF2
  - **Open Space/Play facilities** Objective GI3, TC2

### 1.3 SOUTH DUBLIN COUNTY DEVELOPMENT PLAN 2016-2022

- 1.6 This is addressed in Section 4 of the Statement. It may should be noted that the proposed development may be considered to materially contravene the South Dublin County Development Plan 2016-2022 in relation to:
- **CS Policy 4** Small Towns
  - **CS 6 Policy 6** – Local Area Plans Compliance
  - **CS4 Objective 1** – Phasing and Local Area Plans
  - **CS6 Objective 2** – Local Area Plan Compliance
  - **H8 Objective 5** – Local Area Plan Compliance Density

- **H8 Objective 6 – Local Area Plan Compliance Density**

1.7 It is noted that it is ultimately a matter for An Bord Pleanála as to determine whether it is appropriate to grant permission for the proposed development in material contravention of the above by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).

1.8 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.”*

1.9 Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (“the 2016 Act”), confers the power on An Bord Pleanála to grant permission for a development which materially contravenes a Development Plan or Local Area Plan, other than in relation to the zoning of land. Section 9(6) provides as follows:

*‘(6) (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 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 part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of 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’.*

1.10 Section 37(2)(b) of the Planning and Development Act 2000 (“the 2000 Act”) states:

*‘(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(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 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’.*

## **2.0 DRAFT SOUTH DUBLIN COUNTY COUNCIL DEVELOPMENT PLAN 2022-2028 – MATERIAL CONTRAVENTION STATEMENT**

2.1 The Statement of Consistency addresses the Draft South Dublin County Development Plan 2022-2028. It is noted that at the time this planning application was lodged the Material Alterations to the Draft Development Plan have been published (29<sup>th</sup> March 2022) but not adopted (August 2022). This Statement is provided to deal with a situation where decision is made on the application after the new Development Plan takes effect. The final content of the 2022-2028 CDP is not known at the time of submission.

2.2 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 South Dublin Development Plan 2022-2028 (if adopted at the date of the Board’s decision), 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).

2.3 Having regard to the analysis set out below as to how the proposed development complies with national planning policy and guidelines 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 County Development Plan, by reference to sub-paragraph (i) and (iii) of Section 37(2)(b) for the reasons set out below.

### **2.1 IDENTIFICATION OF MATERIAL CONTRAVENTION ASPECTS**

#### **2.1.1 Core Strategy/Phasing and Non -Compliance with LAP**

2.4 The following objectives and SLOs are noted:

*“CS3 Objective 6*

*To ensure the phased development of new housing areas in tandem with the delivery of physical and social infrastructure provision as identified within Local Area Plans or as informed by assessments carried out by the Planning Authority.*

*CS9 Objective 1*

*To ensure that development proposals provide for infrastructure including community buildings, sports pitches and service provision in line with population growth as set out in the Newcastle LAP (2012 extended to December 2022) or any succeeding plan.*

2.5 The proposed development which includes a creche along with open space areas identified in the LAP. The under construction ‘Graydon’ development by Cairn provides for the reservation of a school site within the development which will be made available to the Department of Education as required. The adjoining Graydon development by Cairn includes some 3.8 hectares of open space. Some elements of the Open space areas identified in the Newcastle LAP are located on either contested lands or on lands

owned by Third Parties (including the Department of Education). The Material Contravention Statement, prepared by JSA provides a justification.

- 2.6 The proposed development delivers key elements of the Local Area Plan for Newcastle. The scheme however is not compliant with the Density and Height Policies as well as the road layout contained in the LAP but is with the relevant policies in relation to density and height in the Development Plan and Ministerial Guidelines.

*CS9 Objective 4: To facilitate and commit to the delivery of new residential development in a coordinated manner, ensuring alignment with investment infrastructure and supporting amenities and services. Such measures shall be delivered through appropriate phasing in line with CS9 SLO1, SLO2, SLO3 and SLO4.*

*CS9 SLO3: A sequentially phased programme to be submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described*

- 1) No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south
- 2) Urban Park/Square c. 1ha in size (Burgage South Park),
- 3) East-West Link Street,
- 4) Sean Feirm Park c. 0.2ha in size,
- 5) a portion of Tower House Park c. 0.1ha.

*All applications shall demonstrate to the satisfaction of the Planning Authority how they are supporting the delivery of North South Street connections to the Main Street.*

*With regards delivery of a new primary school at Taobh Chnoic, the timing of this will be subject to educational needs in consultation with the Department of Education. Prior to completion of 200 units confirmation to be provided from the Department of Education on the transfer of lands to provide for the school, subject to their confirmation of need.”*

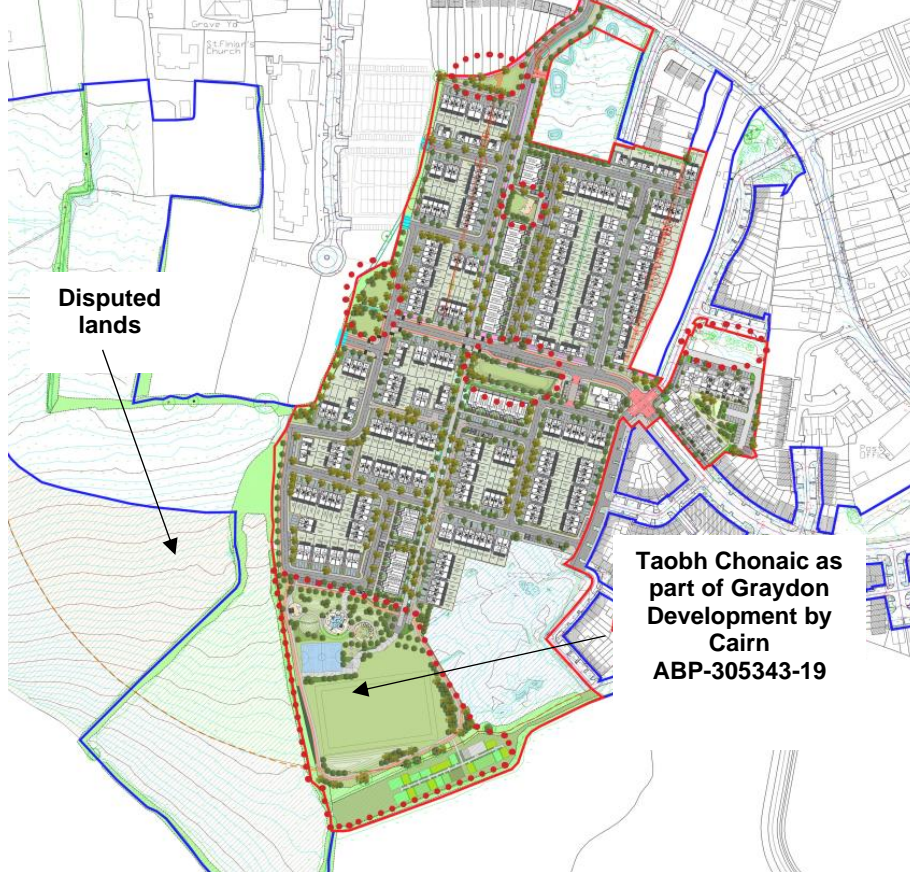
*CS9 SLO4: To commit to only facilitate the delivery of Phase 2 residential lands once identified infrastructure comprising of the Urban Park/Square c. 1ha in size, the additional 1.4ha for Taobh Chnoic Park and the East/West Link Street required within Phase 1 have been delivered to the satisfaction of the Planning Authority.*

- 2.7 The following provides some commentary:
- 2.8 CS9 Objective 4 seeks the delivery of infrastructure and supporting amenities and services which “shall be delivered through appropriate phasing in line with CS9 SLO1, SLO2, SLO3 and SLO4.”
- 2.9 The proposed development contravenes elements of the phasing contained in SLO3 as outlined below:

**CS9 SLO3 (1) Taobh Chnoic Park**

- 2.10 With reference to CS9 SLO3 (1), it is noted that the ownership of the remainder of the Taobh Chnoic Park (see figure below) lands in LAP area are in dispute, and not within our client’s ability to include in a planning application.

**Figure 2.1 – Graydon Development with Open Space Areas**



2.11 The permitted 'Graydon' development by Cairn provides for the delivery of 3.8 ha of open space providing a range of spaces and plan areas and experiences, which includes the eastern portion of Taobh Chnoic (some 2.7 hectares, detailed below).

**Figure 2.2 – Eastern Portion of Taobh Chonaic Park**



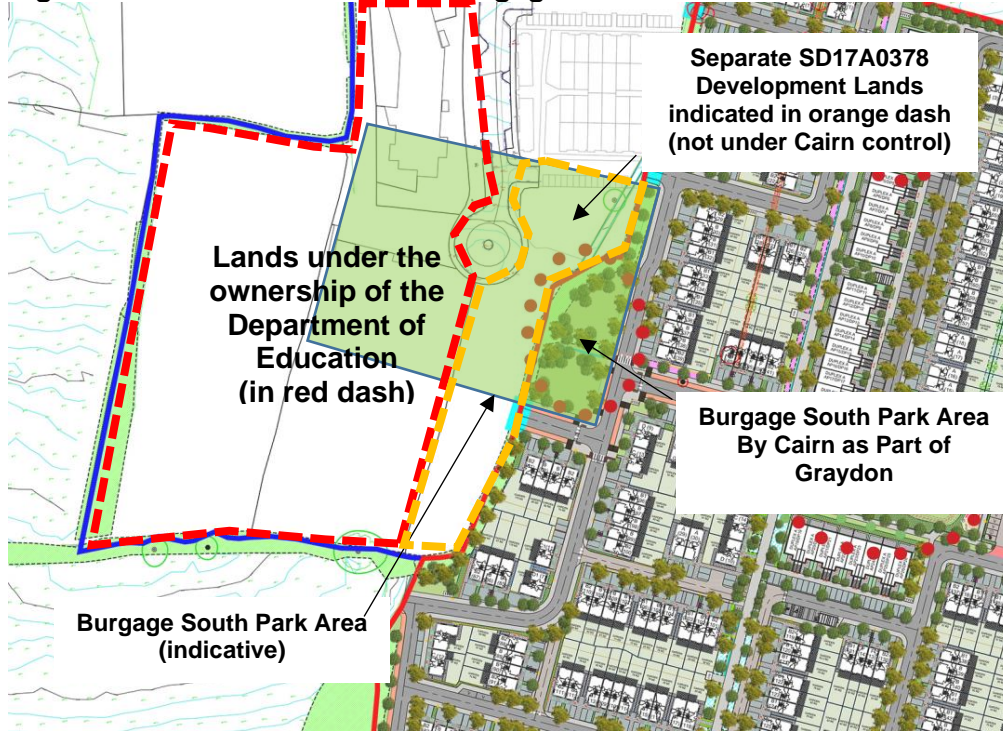
Source Murray Associates ABP-305343-19

2.12 It is evident that CS9 SLO3 Part 1 is not capable of implementation due to ownership as the western portion of the Taobh Chonaic lands are not within Cairn's control to deliver in a planning application.



**CS9 SLO3 Part 2 Urban Park/Square c. 1ha in size (Burgage South Park).**

- 2.13 It is noted the majority of the Burgage South Park Lands are under the ownership of the Department of Education. Cairn delivered a portion the Burgage South Park Lands on the eastern side of the park as part of the Graydon Development. However as can be seen from the graphic below, St. Finian's School (Building and road including roundabout), encroaches significantly into Burgage South Park.

**Figure 2.3 – Land Ownership – Burgage Park South**

- 2.14 Cairn has provided c. 0.19 hectares of Burgage South Park as part of the Graydon application (see above). It is further noted that the north eastern portion of the Burgage South Park was permitted under an adjoining development to the north. However, the remainder of the lands are under the ownership of the Department of Education and Skills and therefore not within Cairn's control to deliver as part of any future planning application.

- 2.15 CS9 SLO4 seeks:

*“To commit to only facilitate the delivery of Phase 2 residential lands once identified infrastructure comprising of the Urban Park/Square c. 1ha in size, the additional 1.4ha for Taobh Chnoic Park and the East/West Link Street required within Phase 1 have been delivered to the satisfaction of the Planning Authority.”*

- 2.16 With reference to the above, we would note that there are no Phase 2 residential lands identified on the land use zoning maps. As noted above, the ownership of the 1.4 hectares relating to the remainder of Taobh Chnoic Park is currently in dispute. An east west link street is provided in the current SHD (to connect to Graydon to the east). The link in the LAP, to the north is not on Cairn Lands (it runs across the Department of Education lands), and outside the control of Cairn to deliver.

## 2.2 JUSTIFICATION FOR MATERIAL CONTRAVENTION DRAFT 2022-2028 PLAN

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

2.17 The section below demonstrates how the proposed development and the contravention of phasing, height, density and open space is justified by reference to sub-paragraph (i) *'the proposed development is of strategic or national importance'* of Section 37(2)(b). It is respectfully submitted that the proposed development is of national importance for the reasons set out below. This justification applies to all of the material contraventions identified herein.

2.18 The proposed development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act (2016), as amended, and delivery on the Government's policy to increase the delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing Homelessness 2016.

2.19 It is submitted that unduly constraining the delivery of the 280 no. units by CS9 SLO3 1), to 200 no. units until Taobh Chnoic Park is delivered on disputed lands (in terms of ownership) is not appropriate in respect of the strategic policy supporting the rapid delivery of much needed houses. Cairn have an excellent track record of delivering high quality open space with their developments – unfortunately in this instance Cairn are not able to include in a planning application. Similarly in relation to Burgage South Park, the existing St. Finian's Primary School (constructed and operational) is located on a portion of the park, and the site is within the ownership of the Department of Education.

2.20 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:

*"An Act to facilitate the implementation of the document entitled "Rebuilding Ireland – Action Plan for Housing and Homelessness" that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters."*

2.21 The significant shortfall in housing output to address current and projected demand is recognised as a national issue, having social and economic ramifications for sustainable national growth.

2.22 Increasing housing output is seen as a key priority for Government in strategic policy documents have been prepared to specifically address this concern, these include:

- Housing for All, A New Housing Plan for Ireland (effectively replacing 'Rebuilding Ireland');
- Rebuilding Ireland – Action Plan for Housing and Homelessness
- Project Ireland: National Planning Framework 2040;

#### 2.2.1.1 Housing for All, A New Housing Plan for Ireland

2.23 Launched in September 2021, *'Housing for All, A new Housing Plan for Ireland'* is the Government's new plan (which in effect replaces *'Rebuilding Ireland'*) to significantly increase the supply of housing to 2030; to increase availability and affordability of housing; and to create a sustainable housing system into the future.

- 2.24 The aim of the plan is that everyone should have access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life.
- 2.25 The plan contains a range of actions and measures to ensure over 300,000 new social, affordable, cost rental and private homes are built by 2030. The actions outlined in the Plan are backed by over €4 billion in annual guaranteed State investment in housing over the coming years, including through Exchequer funding, the Land Development Agency and Housing Finance Agency investment. The plan commits to over €20 billion in State investment in housing over the next five years. The plan is set out across four pathways to address the pressing housing challenges facing the State:
- “Pathway to supporting homeownership and increasing affordability
  - Pathway to eradicating homelessness, increasing social housing delivery and supporting social inclusion
  - Pathway to increasing new housing supply
  - Pathway to addressing vacancy and efficient use of existing stock”
- 2.26 These pathways are underpinned by long-term actions to address systemic challenges. It aims to create a housing system which has environmental, social and economic sustainability at its heart and which meets the needs of all.
- 2.27 The proposed development will support the achievement of this Plan by providing housing at an appropriate scale and location including social housing. While the detail of this plan has yet to be fully developed, this application is in accordance with the intention and ambition of the plan.
- 2.28 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in South Dublin County. The proposed development consists of 280 new dwelling units, supplied with a mix of apartments which could help alleviate the demand for housing within South Dublin. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.

#### **2.2.1.1.1 Evidence of Clear Shortfall in Housing Delivery**

- 2.29 The Parliamentary Budget Office published a Snapshot of the Housing Market in 2021, (6th December 2021) which gives an overview of recent trends in supply etc., and highlights:

*“Since 2011, national house prices have risen by over 85%, while rents have doubled in price.*

*20,535 properties were built in 2020, less than a quarter of what was constructed during the height of the housing boom in 2006.*

*The National Planning Framework estimates that structural demand for new housing, based on demographics, is between 25,000 - 35,000 per year.*

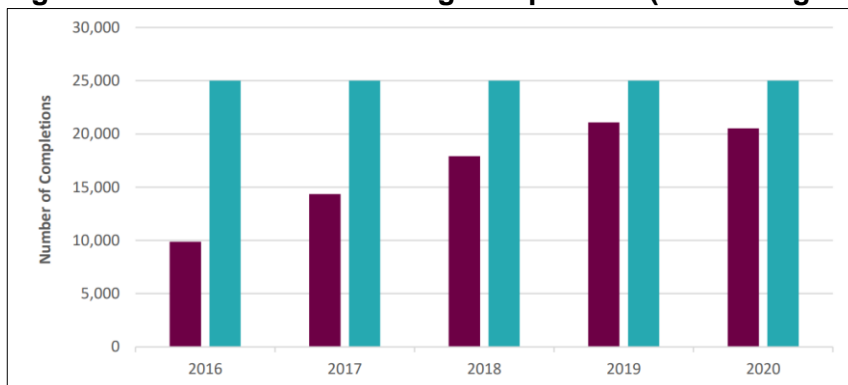
*Rebuilding Ireland failed to meet its annual target every year since it was implemented and was 41,000 units below its overall target.*

*Cumulative annual deficits in new dwelling completions have amplified trends in rents, house prices, and homelessness.*

*Supply side constraints include skilled labour shortages, rising costs of construction, and excessive lead times are limiting the affordability of new dwellings.”*

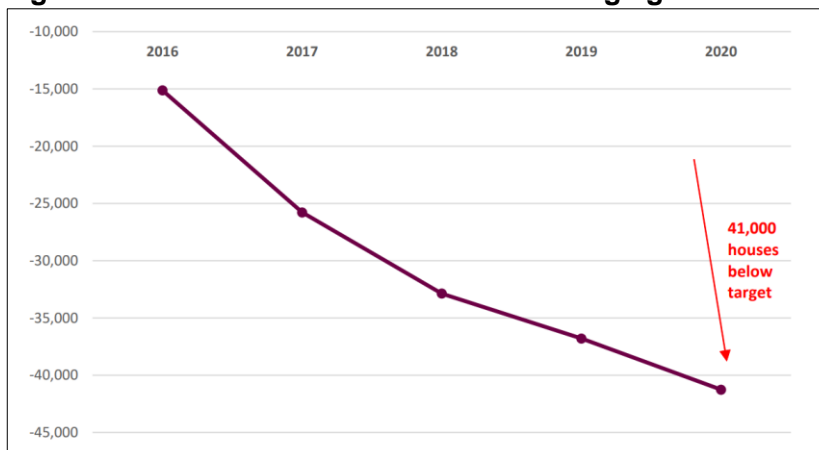
- 2.30 Rebuilding Ireland was a €6 billion action plan, which aimed to increase the overall supply of new homes to 25,000 per annum by 2020. It aimed to deliver an additional 50,000 social housing units in the period to 2021; and meet the housing needs of an additional 87,000 households through the Housing Assistance Payment (HAP) scheme and the Rental Accommodation Scheme.
- 2.31 Rebuilding Ireland failed to reach its annual target every year since it was implemented, while national house prices continued to rise by over 35% between 2015 and 2020 and the figures below shows the collective shortfall of 41,000 in new dwellings completed compared to Rebuilding Ireland targets.

**Figure 2.4 – Shortfall in Housing Completions (Rebuilding Ireland)**



Source: Snapshot of the Housing Market in 2021

**Figure 2.5 – Cumulative Shortfall of Housing against Rebuilding Ireland Targets**



Source: Snapshot of the Housing Market in 2021

- 2.32 The figures above demonstrate that the cumulative shortfall in delivery between 2016 and 2020 is contributing to a lack of supply of dwellings and this shortfall is likely to be even greater as the modest target of 25,000 units per annum is considered an under-estimation. Before the COVID-19 outbreak, real housing demand in Ireland was estimated to range between 32,000 (European Commission (2020) Housing affordability in Ireland) and 50,000 units per year (Lyons, R. (2018) Is there any hope for Rent Pressure Zones?).

### 2.2.1.2 Rebuilding Ireland – Action Plan for Housing and Homelessness

- 2.33 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.
- 2.34 Rebuilding Ireland is set around 5 no. pillars of proposed actions summarised as follows:
- Pillar 1 – Address Homelessness: Provide early solutions to address the unacceptable level of families in emergency accommodation; deliver inter-agency supports for people who are currently homeless, with a particular emphasis on minimising the incidence of rough sleeping, and enhance State supports to keep people in their own homes.
  - Pillar 2 – Accelerate Social Housing: Increase the level and speed of delivery of social housing and other State – supported housing
  - Pillar 3 – Build More Homes: Increase the output of private housing to meet demand at affordable prices.
  - Pillar 4 – Improve the Rental Sector: Address the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.
  - Pillar 5 – Utilise Existing Housing: Ensure that existing housing stock is used to the maximum degree possible – focusing on measures to use vacant stock to renew urban and rural areas.
- 2.35 The proposed development is consistent with Pillars 2,3 and 4 to accelerate social housing, build more homes and improve the rental sector. The provision of the 280 no. residential units will substantially add to the residential accommodation availability in the area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.

### 2.2.1.3 Housing for All, A New Housing Plan for Ireland

- 2.36 Launched in September 2021, '*Housing for All, A new Housing Plan for Ireland*' is the Government's new plan (which in effect replaces '*Rebuilding Ireland*') to significantly increase the supply of housing to 2030; to increase availability and affordability of housing; and to create a sustainable housing system into the future.
- 2.37 The aim of the plan is that everyone should have access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life.
- 2.38 The proposed development will support the achievement of this Plan by providing housing at an appropriate scale and location including social housing. While the detail of this plan has yet to be fully developed, this application is in accordance with the intention and ambition of the plan.

### 2.2.1.4 National Planning Framework (NPF) 2040

- 2.39 The National Planning Framework (NPF) 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.

2.40 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.

#### **2.2.1.4.1 National Strategic Outcomes**

2.41 The NPF states that carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. Section 2.6 of the NPF seeks to provide compact and sustainable growth.

2.42 Chapter 4 of the National Planning Framework seeks to make urban places stronger *"to enhance people's experience of living and working in and visiting urban places in Ireland."*

2.43 The following is outlined:

##### 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."*

2.44 Justification: The proposed development will provide for a high quality of residential units in accordance with the Apartment Guidelines 2020. The proposed materials and finishes will also be of a high-quality standard in order to create a unique quality urban place. the proposed development will create a high-quality, attractive and liveable place for future residents. The landscaping proposal will provide high-quality public and communal open spaces for the residents to enjoy.

##### 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 enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieved targeted growth and that protect the environment"*.

2.45 Justification. The high-quality design along with proposed density (33.1 units per hectare Gross (37.1 net) and a range of heights of the development (2, 3 and 5 storeys) is considered appropriate for the location of the site and the availability of public transport facilities and proximity to supporting services and amenities. The proposed development is therefore in accordance with the objectives of the NPF in this regard.

2.46 The proposed development 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 that the location of new housing be prioritised in existing settlements.

2.47 The NPF also states that *"to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas"*.

##### National Policy Objective 27

*“Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.”*

2.48 Justification. The proposed development is designed to minimise reliance on private car use and encourage sustainable modes of transport. The car parking provision proposed (423 no. spaces), and high levels of cycle parking (370 no. spaces) is to encourage a sustainable alternative mode of transport to the motorcar. The NPF seeks to minimise car-parking in accessible locations and to maximise a modal shift to public transport.

2.49 In accordance with the NPF’s strategy of compact growth, it is proposed to develop new homes within an infill site.

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.*

2.50 Justification. The proposed new homes will be provided at a sustainable location, with access to existing services and facilities, including Newcastle town centre as well as Dublin Bus services (along the R405). In accordance with National Policy Objective 35, the proposal will increase residential density within an existing settlement.

National Policy Objective 34

*Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.*

2.51 Justification. Homes will have the potential to be extended within the character of the types, layout and outdoor space. The structure of the homes is designed so that they can in most situations be adapted to allow for ever changing family dynamics. Various house types allow for the roof space to be easily adapted into living accommodation. The variety of house and apartment/duplex types within the scheme also provide the possibility for residents to move within the development as their living and or family situation change.

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.*

2.52 Justification. The proposed density of 33.1 units per hectare Gross (37.1 net) along with duplex apartment and apartment buildings of 3 and 5 storeys is in accordance with NPO 35 which sees to increase residential density in settlements through a range of measures including a range of increased heights from 2, 3 and 5 storeys.

2.53 The proposed development for a residential scheme on this underutilised site within the development envelope of Newcastle represents an excellent opportunity to provide for much needed housing development in the urban extent of an existing settlement as required by the Core Strategy of the Development Plan.

2.54 Further the proposed development is in accordance with National Policy Objectives set out in the NPF. The scheme will deliver on National Planning Policy Objectives to increase the output of residential development on zoned serviced lands and address identified housing shortages. In summary, the argument for consideration of the proposed development as of national importance can be summarised as follows:

- The Government's policy to provide more housing set out in the National Planning Framework, Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing For All – Ireland's New Plan for Housing.
- The proposed development addresses identified housing need in the area and meets key housing delivery objectives in the South Dublin County Development Plan

2.55 Having regard to the foregoing, it is considered that the proposal is of national importance. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All, A New Housing Plan for Ireland.

2.56 It is submitted that the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on the Government's policy to increase the delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016. The proposed development is therefore considered to be strategic in nature.

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

2.57 With reference to CS9 Objective 4, CS9 SLO3 & CS9 SLO4, (phasing in the Draft Plan) it is submitted that they are not clearly stated in respect of the ability of the landowners to deliver open space on lands that are, in relation to Burgage South Park, not deliverable due to the fact that a proportion of the Burgage South Park has been built on (arising from the construction of St. Finian's Primary School and associated road/roundabout. Furthermore, as noted above, the lands relating to Burgage South Park are not within the ownership of Cairn.

2.58 With regard to CS9 SLO3 (1), (relating to phasing that no more than 200 units to be permitted before the commencement of Taobh Chnoic Park) it is noted that the ownership of the remainder of the Taobh Chnoic Lands in LAP area are in dispute, and not within our client's ability to include in a planning application.

**2.2.3 (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**

**2.2.3.1 Project Ireland 2040 - National Planning Framework**

2.59 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.

2.60 The National Planning Framework was published in its final form on the 16th of February 2018 following a process of consultation. The final National Planning Framework (NPF) document incorporates significant amendments to the Draft NPF document.



2.61 The following is outlined in the Framework:

- National Policy Objective 3a of the 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’.
- NPO 5 - develop cities and towns of sufficient scale and quality
- 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.’

2.62 The National Strategic Outcomes set out in the NPF are:

- Compact Growth;
- Enhanced Regional Accessibility;
- Strengthened Rural Economies and Communities;
- High-Quality International Connectivity;
- Sustainable Mobility;
- A Strong Economy, supported by Enterprise, Innovation and Skills;
- Enhanced Amenities and Heritage;
- Transition to a Low Carbon and Climate Resilient Society;
- Sustainable Management of Water, Waste and other Environmental Resources;
- Access to Quality Childcare, Education and Health Services.

2.63 The subject development of 280 no. dwellings which includes apartments, 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 housing is prioritised within the existing settlement of Newcastle. The proposed apartments and associated increase in density aligns with national policy guidance and is considered suitable and appropriate development on serviced zoned lands. The proposed development will provide a continuous built form adjacent to the existing and permitted built up area and within Newcastle.

2.64 With reference to density and mix, the inclusion of apartments in response to the NPF, 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.” The proposed development will include apartments and duplex apartments which will result in a variety of house types to accommodate a mix of household types, suitable for a variety of household sizes in order to ensure a social mix and balance is achieved.

- 2.65 The proposal for 380 no. dwellings will result in the appropriate development of the subject lands, in proximity c. 600m to the main street and its wide range of amenities as well as public transport. The inclusion of apartments and duplex apartments in the design is required to provide a sustainable density to comply with the provisions of the National Planning Framework such as in relation to National Policy Objectives 34 and 35 as well as in relation to NPO 33.

### **Building Heights and Density**

- 2.66 In relation to residential development the NPF states:

*'A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites'.* (Emphasis added)

- 2.67 The following objectives in the NPF are of particular relevance: "In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc".
- 2.68 It is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres. As such, it is submitted the proposed building heights are in line with government guidance and emerging trends for sustainable residential developments.
- 2.69 The proposed density (33.1 units per hectare Gross (37.1 net). and height (3 no. 3 storey duplex buildings and 2 no. 5 storey buildings) of the development is considered appropriate for serviced zoned land the location of the site and the availability of public transport provided within the area. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 2.70 Objective 4 of the NPF seeks to "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".
- 2.71 The proposed development will provide high quality residential apartments and Part V units at a highly accessible and well-designed urban environment.
- 2.72 Residents will benefit from a range of private and communal amenity spaces through the provision of balconies and roof terraces. This is complemented by a range of residential facilities and amenities, whilst along benefitting from the wide variety of services located within Newcastle.
- 2.73 The proposed materials and finishes will also be of a high-quality standard in order to create a unique quality urban place which will provide a contrast in style to the Graydon development (under construction) to the east and the rear of the main street to the north.
- 2.74 It is considered that the proposed Newcastle South development provides for the creation of an attractive, high quality, sustainable housing scheme within existing built-

up urban area within Newcastle. The provision of the new sustainable development is therefore designed in such a manner as to fulfil objective 4 of the NPF.

- 2.75 Having regard to the relevant objectives above, the proposed development is fully consistent with the NPF and in particular with its principles of compact growth and the reinforcement of the country's existing urban structure at all levels.

### **Density**

- 2.76 It is also clear that there is a strong emphasis on increasing the density of development at appropriate locations which are well served by public transport. In relation to compact growth, the National Planning Framework states:

*“Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.”*

- 2.77 The proposed development represents the achievement of effective density (The proposed development proposes a 33.1 units per hectare Gross (37.1 net), with the higher density element (apartments) located closer to the town centre, and lower density development in the remaining portion of the subject lands) which is well served in terms of the necessary facilities, infrastructure, and amenities to facilitate a higher density development such as that proposed. The proposed development directly responds to National Policy Objective 5 via the provision of a higher density residential development within an existing built-up area, which has public transport.

**Objective 32:** *To target the delivery of 550,000 additional households to 2040.*

- 2.78 The proposals consist of 380 no. dwellings which will assist in achieving the target delivery of 550,000 additional households to 2040 and is directed to achieving the objective of the NPF in this respect.

**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.*

- 2.79 In accordance with National Policy Objective 33, new homes will be provided at a sustainable location, with access to existing services and facilities, close to the town centre of Newcastle.

- 2.80 The NPF also states that that “to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”.

- 2.81 Objective 35 states that it is an objective to: “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”.

- 2.82 The proposed development for a residential development scheme on this underutilised site represents an excellent opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives.

### **2.2.3.2 Rebuilding Ireland – Action Plan for Housing and Homelessness**

- 2.83 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.
- 2.84 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.
- 2.85 The inclusion of apartments and duplex apartments within the subject site, will deliver much needed housing in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3, which seeks to build more homes.

### **2.2.3.3 Urban Development and Building Height Guidelines 2018**

- 2.86 The Urban Development and Building Height Guidelines (2018) ('the Building Height Guidelines') set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework, Project Ireland 2040 and the Regional Spatial and Economic Strategy 2019.
- 2.87 The Building Height Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the opportunities for increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 2.88 Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the building height guidelines and to comply with any applicable specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.
- 2.89 Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 provides as follows:

*“(3)(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.*

*(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.*

*(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”*

- 2.90 SPPRs (as stated in the Building Heights Guidelines) take precedence over any conflicting, policies and objectives of development plans and local areas plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead.
- 2.91 The Building Height Guidelines also state that the implementation of the National Planning Framework requires increased density, scale and height of development in town and city cores with an appropriate mix of uses, and increased flexibility in terms of development standards and reduced car parking provision having regard to location and proximity to public transport links.
- 2.92 The Building Height Guidelines also place significant emphasis on promoting development within the existing urban footprint, utilising the existing sustainable mobility corridors and networks where it states:
- “In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks”* (section 2.4).
- 2.93 The Guidelines acknowledge that some Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built-up area in accordance with National Planning Policy.
- 2.94 The Guidelines inter alia emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities is not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 2.95 Section 1.14 of the Guidelines confirm that:
- “where SPPRs are stated in this document, **they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes**. Where such conflicts arise, such plans/ schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements.”* (emphasis added)
- 2.96 Having regard to the above, it is noted that SPPR 4 requires densities 30-50 dph which are higher than those identified in the Newcastle LAP as the density standard relates to the subject lands. The proposed gross density of 33.1 units per hectare and net density of development at 37.1 units per hectare is in compliance with SPPR4 as it relates to density and therefore compliant with national strategic planning policy and Section 28 guidelines, which ‘take precedence’ over policies and objectives of Development Plans and Local Area Plans.
- 2.97 The Urban Development and Building Heights 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.” (emphasis added).

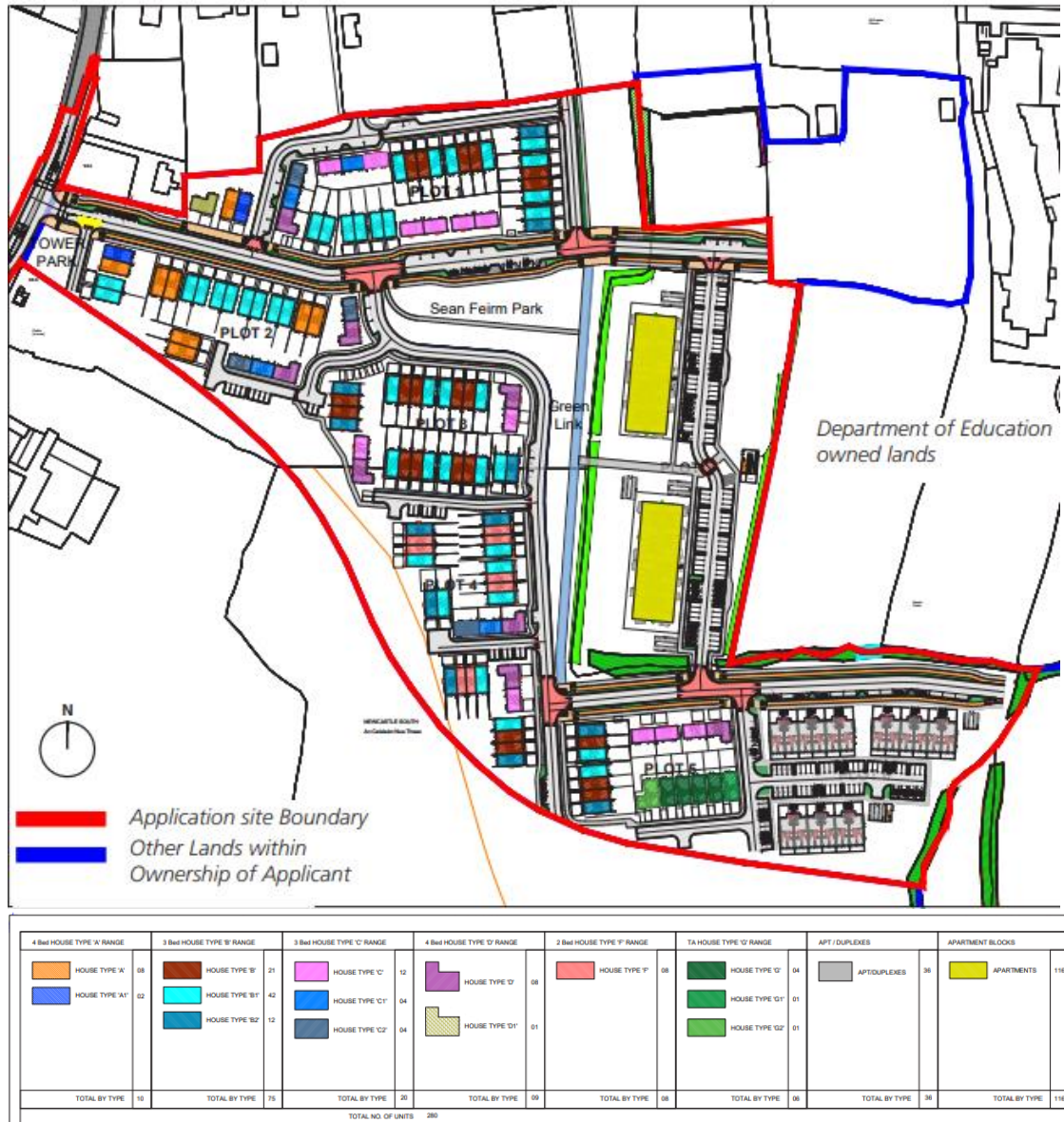
- 2.98 With reference to compliance with point 1 of SPPR4, the proposed development provides an appropriate density (33.1 gross units per hectare & 37.1 units per hectare net) in compliance with the content of the SRD 2009 and Circular 02/2021 (Circular Letter: NRUP 02/2021 published April 2021) and is therefore consistent with relevant government policy and guidelines.
- 2.99 In relation to compliance with point 2 of SPPR4, the proposal includes a mix of building heights and typologies comprising 128 (45.7%) no. 2 storey houses, 36 no. duplex apartments (12.6%) in 3 no. 3 storey duplex buildings, and 116 no. apartments (41.4%) in 2 no. 5 storey apartment buildings, located centrally within the subject site.
- 2.100 The overall mix of apartments within the proposed scheme is noted as follows:

**Table 2.1 – Overall Mix of Units**

	1 bed	2 bed	3 bed	4 bed	5 bed	Overall	% Split
Houses		8	94	25	1	128	45.7%
Apartment s	54	62				116	41.4%
Duplex Apartment s		18	18			36	12.6%
Total	54	88	112	25	1	280	
Overall Mix %	19.2%	31.4%	40%	8.9%	0.3%		

Source: Mola Architects

Figure 2.6 – Mix of Units/Typologies



2.101 With regard to compliance with point 3 of SPPR4 which seeks to avoid mono-type building typologies, the proposed development includes 3 no. 3 storey duplex apartment buildings, as well as 2 no. 5 storey apartment buildings. The apartments comprise 41.4% of the overall no. of units and the duplex apartments comprise 12.6% of the total, which complies with SPPR4.

**2.2.3.4 Sustainable Urban Housing: Design Standards for New Apartments (2020);**

2.102 Section 2 of the Apartment Guidelines note that to meet housing demand in Ireland, it is necessary to significantly increase supply. In this regard, the Apartment Guidelines state that “increased housing supply must include a dramatic increase in the provision of apartment development.”

2.103 In addition, section 2 of the Apartment Guidelines outlines that “it is critical to accommodate the needs of increasingly more diverse household types in the context of a growing and ageing population.”

2.104 The Apartment Guidelines note that:

*“Demographic trends indicate that two-thirds of households added to those in Ireland since 1996 comprise 1-2 persons, yet only 21% of dwellings completed in Ireland since then comprise apartments of any type. The 2016 Census also indicates that, if the number of 1-2 person dwellings is compared to the number of 1-2 person households, there is a deficit of approximately 150%, i.e. there are approximately two and half times as many 1-2 person households as there are 1-2 person homes.”*

2.105 The Apartment Guidelines state that:

*“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.”*

### **2.2.3.5 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

2.106 The proposed development accords with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

2.107 It is considered that the most appropriate categorisation of the subject lands is as ‘small town or village’ category. Chapter 6 of the Guidelines deals with small towns and villages and sections 6.9 to 6.12 sets out the density standards for (a) centrally located sites, (b) edge of centre sites and (c) edge of small town/village sites.

2.108 It is considered that the proposed development is a mixture of (a) (b) and (c).

2.109 With regard to “centrally located sites”, the density standards in the SRD note that:

*“However, within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate or for more mixed use schemes. There is also the potential for schemes of particularly high architectural and design quality to suggest densities higher than the range suggested above.”*

2.110 For “edge of centre” sites the SRD notes that:

*“The emphasis will be on achieving successful transition from central areas to areas at the edge of the smaller town or village concerned. 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.”*

2.111 The SRD note that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

2.112 With regard to the above within the Burgage South area, which is considered to be a centrally located site, where densities of 40+ are encouraged in the SRD. This element of the site comprises c. 1.6 hectares which results in a density of c. 72.5 units per hectare.

2.113 Within the other two areas of the subject lands the density comprises c. 29.4 units per hectare for the Taobh Chnoic Character area (as it relates to the Cairn lands) and c. 21.2 units per hectare for the Sean Feirm Character area (as it relates to Cairn lands).



The average density across the area is c. 25.2 hectares across the 2 no. character areas.

- 2.114 In this regard the average density proposed is c. 33.1 units per hectare Gross (37.1 net) for the Newcastle South lands which takes into account the different contexts within the site and the density ranges contained in the SRD.
- 2.115 Having regard to the location of the site, national strategic guidance contained in the SRD and clarification in Circular 02/2021 (see below), and also to An Bord Pleanála precedent, the proposed net density of c.37.1 dph is appropriate in this instance and the design of the scheme with different densities in different locations, strikes a balance between providing a sustainable density and also the local context.
- 2.116 The design approach is based on a need to protect the amenities of the surrounding residential development and the design intent is to protect the amenities of the adjoining neighbours and general character of the area and its amenities. While the Local Area Plan indicates a density of c. 15 – 30 units per hectare (net – depending on Neighbourhood), it is considered, that having regard to the location of the site, and national strategic guidance contained in the SRD, the densities proposed within the subject lands are appropriate.
- 2.117 The proposed development conforms to the more detailed guidance within the Guidelines on layout, design, and density – by making effective use of the site; making a positive contribution to its surroundings; having a sense of identity and place; providing for effective connectivity and featuring a design which is guided by the principles of passive surveillance. The proposed development meets the 12 criteria for sustainable residential development contained within the Urban Design Manual (2009), a companion document to the SRD Guidelines, examined below and set out in the MOLA design statement.

### **2.2.3.6 Design Manual for Urban Roads and Streets (DMURS) (2013)**

- 2.118 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 2.119 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 2.120 The DMURS Compliance Statement (technical note) prepared by DBFL Consulting Engineers provides detail in respect of the consistency of the proposed development with DMURS (extract below).
- 2.121 The Technical Note states that *“the proposed residential development is consistent with both the principles and guidance outlined within the Design Manual for Urban Roads and Streets (DMURS) 2019. The scheme proposals are the outcome of an integrated design approach that seeks to implement a sustainable community connected by well-designed streets which deliver safe, convenient, and attractive networks in addition to promoting a real and viable alternative to car-based journeys.”*
- 2.122 According to the DBFL report, maximises connectivity between key local destinations and constructed development through the provision of a high degree of permeability

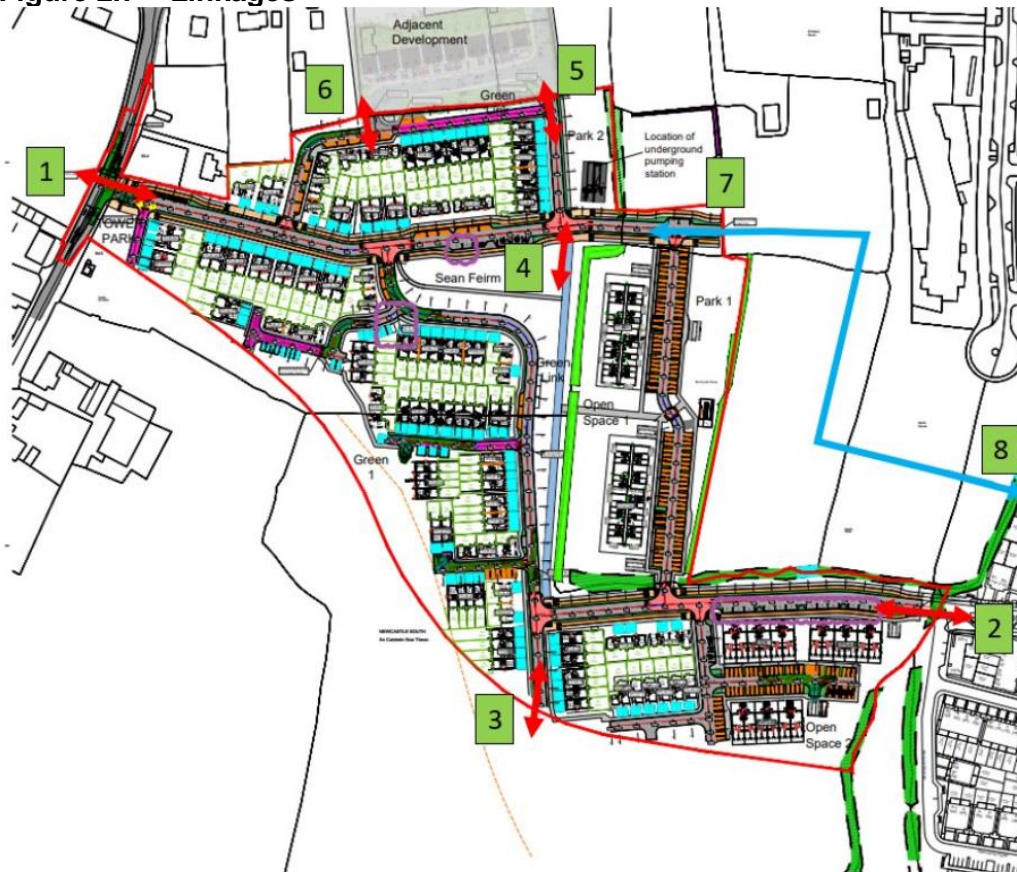
and legibility for all network users particularly for sustainable forms of travel. Accordingly, the proposed residential scheme delivers greater mode and route choices along direct, attractive and safe linkages to a range of amenities and local service destinations.

- 2.123 Arterial links adjacent to the subject site, include the Athgoe Road to the west and Newcastle Main Street to the north. A Link street will provide access between the Athgoe Road and the Graydon Development. These Arterial links provide important connections with local centres and community infrastructure such as Newcastle Village, schools, public transport connections, retail and sports clubs.
- 2.124 The internal road network within the site has been designed to deliver a hierarchy of Local streets and Homezones that provide appropriate access within / across the proposed new residential communities and the road network external to the site. The movement function of each internal street network has sought to respect the different levels of motorised traffic and catering for higher number of pedestrians and cyclists. In parallel the adopted design philosophy has sought to consider the context / place status of each residential Local and Homezone street in terms of level of connectivity provided, quality of the proposed design, level of pedestrian / cyclist activity and vulnerable users requirements whilst identifying appropriate 'transition' solutions between different street types.

#### **2.2.3.6.1 Linkages**

- 2.125 The street layout was derived from several factors which include, Local Area Plan, boundary conditions, existing road network, future and existing development and topography. This has led to the creation of a street network that is predominantly a grid pattern with some curvilinear sections in specific areas. As part of the design and development of the street network, cycle and pedestrian linkages were through the development to link the existing Link street provided from Graydon development (Newcastle Boulevard) to the Athgoe Road Arterial route. Below is a figure of the proposed and potential external linkages which are proposed to be facilitated by the subject development.
- Link 1 will provide an important vehicular, pedestrian and cycle link between the development and the Athgoe Road.
  - Link 2 provide an important vehicular, pedestrian and cycle link between the development and the Graydon development providing a continuation of Newcastle Boulevard.
  - Link 3 and 4 will provide cyclist and pedestrian links from the north to the south of the development by way of a 4m wide shared surface "Green link".
  - Link 5 and 6 will provide vehicular, cyclist and pedestrian links to the adjoining residential development.
  - Link 7 and 8 may provide future vehicular, pedestrian and cyclist access to the Graydon Development which is compatible with the Newcastle LAP roads objective.

Figure 2.7 – Linkages



2.126 The key principle is that the proposed development layout can facilitate enhanced linkages over and above the considerable improvement in permeability through the site arising from the scheme. The linkages detailed above demonstrate that permeability has been considered from a very early stage in the design and all links that can be provided by the applicant, have been accommodated.

#### 2.2.3.6.2 Design Parameters

2.127 The adopted design approach successfully achieves the appropriate balance between the functional requirements of different network users whilst enhancing the sense of place. The implementation of self-regulating streets actively manages movement by offering real modal and route choices in a low speed high quality residential environment. Specific attributes of the schemes design which contribute to achieving this DMURS objective include;

*a) The potential dominance of on-street car parking for the apartments is actively managed through the provision of landscaped buffers and the provision of large street trees in addition to individual bays of perpendicular parking spaces being restricted to no more than 6 no. parking spaces as per DMURS.*

*b) On-street activity is promoted internally along the residential streets through the adoption of 'own-door' dwellings.*

*c) The proposed design has sought to specify minimal signage and line markings along the internal Local streets and Homezones with such treatments used sensitively throughout.*

- d) *Footpaths of generally 2.0m width and are provided throughout the scheme with connections / tie-in to existing external pedestrian networks.*
- e) *Appropriate clear unobstructed visibility splays, as per DMURS requirements; are provided / safeguarded at all internal nodes and at the site access junctions to the external road network.*
- f) *Well designed and frequently provided pedestrian crossing facilities are provided along key travel desire lines throughout the scheme in addition to those located at street nodes. All courtesy crossings are provided with dropped kerbs or a raised flat top treatment thereby allowing pedestrians to informally assert a degree of priority.*
- g) *All informal pedestrian crossing facilities are at least 2.0m wide.*
- h) *With the objective of encouraging low vehicle speeds and maximising pedestrian safety and convenience, corner radii at Local / Homezone / Link nodes have been specified as 4.5m as per DMURS guidance.*
- i) *Contrasting materials are specified in the 'Homezones' to distinguish a change in street hierarchy.*
- j) *Internally within the development carriageway kerb heights have been specified as 100mm in accordance with the objectives of DMURS.*
- k) *Along the lightly trafficked internal Local streets, cyclists will share the carriageway with other street users as per the NCM guidance for such low speed environments.*
- l) *The proposed residential developments internal hierarchy of Primary Homezone streets comprise up to 4.8m wide with 1.5m wide vulnerable user strips.*
- m) *The proposed residential developments internal hierarchy of Primary Local streets comprise of carriageways 5.5m to 6.0m wide with 2m wide footpaths.*
- n) *The proposed residential developments internal hierarchy of Primary Link streets comprise of carriageways up to 6.5m wide with 2m wide footpaths and 2m wide cycle paths.*
- o) *The main access routes (e.g. leading to/from the site access nodes with Link streets) of internal street network of Local streets will be formed using standard macadam / asphalt finishes, however for Homezone streets, a colour contrast is to be achieved by way of a buff macadam finish in order to lower design speed in these areas.*
- p) *Horizontal deflections in the form of meandering bends have been strategically placed across the internal street network to promote lower design speeds.*
- q) *In accordance with DMURS perpendicular parking spaces are a minimum of 5m long x 2.4 m wide and parallel parking spaces are a minimum of 6m long x 2.4 m wide.*
- r) *A 4m wide shared path is provided from the Link Road to the south to the north of the site to provide pedestrian and cyclist connectivity. The 4m wide shared facility is designed in accordance with the NCM"*

## 2.3 IDENTIFICATION OF MATERIAL CONTRAVENTION - ARCHAEOLOGY

### 2.3.1 Archaeology

2.128 The following objectives are outlined:

*“NCBH 13 Objective 2 To ensure that development is designed to avoid impacting on archaeological heritage including previously unknown sites, features and objects.*

*NCBH 13 Objective 3 To protect and enhance sites listed in the Record of Monuments and Places and ensure that development in the vicinity of a Recorded Monument or Area of Archaeological Potential does not detract from the setting of the site, monument, feature or object and is sited and designed appropriately.”*

2.129 As set out in the Archaeological report from IAC, the Archaeological Investigations revealed a number of features of probable archaeological origin, including an industrial kiln, walls, ditches, metalled surfaces and a pit collectively referred to as Archaeological Area 1 (AA1). Most of the features identified, date from the medieval period and are associated with the recorded tower house. The archaeological features and deposits within AA1-4 will be subject to archaeological preservation by record (prior to the commencement of construction). This will be carried out under licence to the National Monuments Service of the DoH/LGH. The proposed development materially contravenes NCBH 13 Objective 2 in this regard.

2.130 Careful consideration has been given to the location of the Tower House where the proposed entrance has been moved further to the north (Compared to the indicative location in the LAP/Development Plan) and an additional open space area is provided to mitigate the potential impacts on the protected structure. Notwithstanding this, significant residual indirect negative effect on the setting of the Tower House is predicted. The proposed development could be said to materially contravene NCBH 13 Objective 3.

## 2.4 JUSTIFICATION FOR MATERIAL CONTRAVENTION – ARCHAEOLOGY

### 2.4.1 (i) the proposed development is of strategic or national importance.

2.131 The proposed development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act (2016), as amended, and delivery on the Government’s policy to increase the delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing Homelessness 2016.

2.132 The significant shortfall in housing output to address current and projected demand is recognised as a national issue, having social and economic ramifications for sustainable national growth.

2.133 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in South Dublin County. The proposed development consists of 280 new dwelling units, supplied with a mix of apartments which could help alleviate the demand for housing within South Dublin. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.

2.134 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.

2.135 The proposed development is consistent with Rebuilding Ireland. The provision of the 280 no. residential units will substantially add to the residential accommodation availability in the area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.

2.136 The proposed development is in accordance with National Policy Objectives set out in the NPF. The scheme will deliver on National Planning Policy Objectives to increase the output of residential development on zoned serviced lands and address identified housing shortages. In summary, the argument for consideration of the proposed development as of national importance can be summarised as follows:

- The Government's policy to provide more housing set out in the National Planning Framework, Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing For All – Ireland's New Plan for Housing.
- The proposed development addresses identified housing need in the area and meets key housing delivery objectives in the South Dublin County Development Plan

2.137 Having regard to the foregoing, it is considered that the proposal is of national importance. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All, A New Housing Plan for Ireland.

**2.4.2 (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**

#### **2.4.3 Framework and Principles Protection of the Archaeological Heritage (1999)**

2.138 Section 3.5 of the document notes that whenever the archaeological heritage is affected, or proposed to be affected, by development the approach to be followed must ***be preservation in-situ or preservation by record through archaeological excavation and recording.***

2.139 The document sets out that:

*Where archaeological sites or monuments (or portions of such) are to be removed due to development then it is essential that the approach of preservation by record be applied.*

2.140 While the document outlines that there should always be a presumption in favour of avoidance of developmental impacts on the archaeological heritage and preservation in-situ of archaeological sites and monuments must be presumed to be the preferred option, *“where archaeological sites or monuments (or portions of such) have to be removed due to development then it is essential that the approach of preservation by*

record be applied, i.e. that appropriate archaeological excavation and recording take place.”

2.141 It is submitted that the rigid application of the Policy NCBH 13 Objective 2 to all development sites would result in the potential sterilisation of large areas of zoned land in the County as the Objective does not include any flexibility in terms of the significance of the “*previously unknown sites, features or objects*”. This “*blanket*” classification has the potential to lead to unsustainable forms of development, and contrary to the principles of compact form of development. Furthermore, Policy NCBH 13 Objective 2 places additional strain on the County’s ability to deliver sustainable developments with appropriate densities

2.142 The EIAR notes the following mitigation

*Whilst it is acknowledged that the preservation in-situ of archaeological remains is considered the best practise with regards to conserving the archaeological resource, the required layout of the development (and the attenuation requirements located within greenfield areas) means that the archaeological features and deposits within AA1-4 will be subject to archaeological preservation by record (prior to the commencement of construction). This will be carried out under licence to the National Monuments Service of the DoHLGH. Full provision will be made available for the resolution of the archaeological remains, both on site and during the post-excavation process.*

*All topsoil stripping will be subject to archaeological monitoring by a suitably qualified archaeologist. Should any archaeological remains be identified, consultation will be required with the National Monuments Service of the DoHLGH as to whether preservation by record or in-situ is carried out.*

*No mitigation is required along the existing haulage road or within the south-eastern section of the development area as these areas have already been subject to full archaeological excavation and preservation by record.*

2.143 The residual impacts are outlined as follows:

*“Following implementation of mitigation measures, no significant negative impacts are predicted upon the archaeological resource. There will be a residual indirect moderate negative impact on the recorded tower house, due to the effects the development will have on the setting of the structure.*

2.144 The preservation in situ would lead to a substandard form of development in respect of layout (lack of passive surveillance & potential for antisocial behaviour), which could lead to negative impacts on the upstanding remains of the Tower House. Having regard to the location of the underground features, and associated constraints, the design team found it difficult to accommodate particularly in respect of providing a legible layout and also the attenuation location. The in situ preservation would result in effectively sterilising a large portion of the site and militate against providing a coherent layout.

2.145 It is acknowledged that preservation in situ of archaeological remains is the preferable option wherever possible. However, given the difficulties of redesigning the layout of the development, as outlined above, coupled with the truncated nature of the remains on site, it is considered by the Archaeological Consultant that that preservation by record of the features would be an acceptable form of archaeological mitigation. This should be carried out by a licence eligible archaeologist in consultation with the

National Monuments Service of the Department of Housing, Local Government and Heritage.

#### **2.4.4 Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

2.146 The AHPG (2011) note that: *“The extent of the potential impact of proposals will depend on the location of the new works, the character and quality of the protected structure, its designed landscape and its setting, and the character and quality of the ACA. Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.”*

2.147 The Architectural Heritage Chapter of the EIAR notes that:

*“No mitigation is required to reduce the indirect effect on the setting of Newcastle Farm at operational phase other than good quality design of the boundary to Athgoe Road.*

*No mitigation is possible to reduce the indirect effects of the proposed development on the setting of the tower house at BH-03 other than the designed layout of the proposed development to keep houses back from the area immediately to the front of the tower house. This has included a restriction in height of the proposed houses nearest to the tower house to two storeys in addition to setting the houses back from the street and from the vicinity of the tower house. There will be a moderate residual indirect negative effect on the setting of BH-02, Newcastle Farm, There will be a significant residual indirect negative effect on the setting of BH-03, the tower house.*

2.148 With reference to the ACA, the Architectural Heritage Chapter outlines that:

*“It is noted that the inclusion of the 2 five-storey apartment buildings and the 3 three-storey duplex buildings, will not result in any additional negative indirect effects on the tower house, Newcastle Farm or the architectural conservation area over and above the potential operational phase effects arising from the development of the lands in accordance with the layouts and scale, massing etc, envisaged in the Newcastle LAP, as those heritage elements are at a distance from the proposed buildings, as outlined above in section 14.6.*

2.149 It is submitted that the proposed development provides an appropriate balance between protecting the setting of the Tower house and also providing sufficient passive surveillance to the adjoining structure. Furthermore, it is noted access to the site from the Athgoe Road has been moved further to the north away from the Tower House so as to reduce the direct impact (from vibration) and indirect impact relating to the setting of the Tower House.

2.150 By moving the design of the layout further away from the Tower House would lead to a substandard form of development in respect of layout (lack of passive surveillance & potential for antisocial behaviour), which could lead to negative impacts on the upstanding remains of the Tower House. The dwellings to the south east provide an appropriate active frontage directly towards the Tower House, ensuring that passive surveillance is provided.



### 3.0 NEWCASTLE LAP 2012 – MATERIAL CONTRAVENTION STATEMENT

#### 3.1 IDENTIFICATION OF MATERIAL CONTRAVENTION ASPECTS

3.1 The Newcastle Local Area Plan was adopted in May 2012 and was extended until 7<sup>th</sup> of December 2022.

##### 3.1.1 Density and Mix

3.2 Within the LAP and 3 no. local framework areas, the LAP includes references to density/mix as follows:

**Objective LUD8:**

*“Residential development within the settlement edge shall consist of low density detached and semi-detached residential housing (15-20 dwellings per Hectare) on large garden plots. Such housing shall provide an appropriate and soft transition with the adjoining open countryside and shall be set amongst generously planted streets and open spaces that includes semi-mature planting.”*

**Objective LUD14**

*Restrict apartments/duplexes only to small gateway and landmark sites and to developments that include an element of retail or service (financial, professional or other) floorspace within the Village Core and the site of the Ballynakelly Local Centre. Such developments shall be of a small scale and shall fulfil a clear aesthetic or way-finding function...”*

**Objective LUD16**

*Ensure that at least 90% of dwellings in any residential scheme have two or more bedrooms with the exception of independent housing schemes for older people.*

**Objective LUD18**

*“The density of development across the Plan lands shall accord with that identified for each character area under table 5.3 of this Plan. The density of development on sites that are subject to extant permissions should be amended accordingly, where possible. Extensions of duration of permission should only be granted where development granted prior to the adoption of this Plan accords with this Local Area Plan’s density strategy or the densities recommended for small towns and villages under Sustainable Residential Development in Urban Areas (2009)”*

**Objective BS7**

*“Development within the Burgage South Neighbourhood shall provide for residential uses including housing for older people at a maximum density of circa 30 dwellings per hectare. Local shop and/or service units of not more than 100 sq.m (net) each are permissible at street corners, junctions and adjacent to parklands.”*

**Objective TC1**

*Largely comprise (of) detached and semi-detached dwellings on large garden plots that are set back from street edges by front gardens.*

**Objective TC7**

*“Residential development within the Taobh Chnoic Neighbourhood shall be carried out at a maximum density of circa 20 dwellings per hectare.”*

**Objective TC9**

*In order to provide an appropriate transition with the rural hinterland including the Countryside Village Park (Taobh Chnoic Park) and to ensure for the provision of low density housing as an alternative to rural housing, development of the Taobh Chnoic Neighbourhood shall only comprise detached and semi-detached houses.*

- 3.3 The proposal will comprise a residential development of 280 no. dwellings. The proposed development provides densities in accordance with the SRD Guidelines 2009, 33.1 units per hectare Gross (37.1 net).

**3.1.2 Height/Built Form**

- 3.4 With reference to height/built form, the LAP states that:

*Development shall present key building frontages to the street edge within the Village Core and Village Expansion areas in accordance with the requirements of this Local Area Plan. Landscape Frontages shall be presented to the street edge in the Settlement Edge. Active frontages should be promoted as much as possible especially along Main Street. (Objective BF8)*

*“New development shall be a maximum of two storeys in height with limited exceptions for buildings on landmark sites designated within the village core and expansion area where there is scope for landmark buildings to include elements that reach a maximum height of between 9 and 12 metres depending on location” (Objective BF8)*

*Gateway and landmark features/structures shall only be developed at the identified locations and shall be appropriate to the scale and character of surrounding development. (Objective BF10)*

- 3.5 The proposed development includes 3 storey duplex buildings and 5 storey apartment buildings within the overall subject lands.

**3.1.3 Road Layout**

- 3.6 The LAP includes the following objectives:

**Objective AM1**

*All relevant development proposals especially street proposals shall implement and adhere to the street hierarchy detailed in Table 5.3 and shall largely comply with the street designs detailed in Appendix 3.*

**Objective AM5**

*Pedestrian and cycle routes shall be provided in accordance with the street typologies and cross sections illustrated in Appendix 3 to include for the provision of cycle and pedestrian paths/tracks on both sides of most street types. Access Streets shall be designed for speeds conducive to shared pedestrian, cycle and vehicular movements.*

**Objective AM10**

*That traffic calming mechanisms and contemporary solutions detailed in Section 7 and Appendix 3 of this Local Area Plan will be carefully incorporated within development proposals at the design stage.*

**Objective BF2**

*All streets are designed in accordance with the Street Hierarchy set out in the Accessibility and Movement Strategy of this Plan and the relevant design and cross section details set out in Appendix 3 of this Plan.”*

The proposed development provides a street hierarchy which has taken into account SDCC Roads Department commentary and also the ownership in the southern LAP area, and while not fully consistent with the Roads layout in the LAP (including Appendix 3) it is in compliance with DMURs.

### **3.1.4 Open Space – Play Equipment**

3.7 The LAP notes the following:

#### **Objective GI3**

*Play facilities shall be provided at a rate of 3 sq.m per dwelling and in accordance with Planning Guidance on Provision of Children’s Play Facilities in New Developments, 2007.*

#### **Objective TC2:**

*Provide for a large countryside park along the southern fringe of the Plan Lands that will act as the main primary open space for active recreation for Newcastle Village; a point of convergence for pedestrian and cycle paths that permeate the Plan Lands; and a landscaped buffer to the open countryside with the inclusion of Children’s Play Facilities, MUGAs including all-weather playing pitches, pedestrian and cycle routes, existing hedgerows, heritage trails and woodland planting.*

3.8 With reference to Objective GI3, based on 280 dwellings the provision would require c. 840 sq. m whereas 650 sq. m is provided. The quantum of both playground space and play equipment proposed in the application, although substantial and capable of serving the needs of the residents of the proposed housing scheme, is less than the standard set out in the LAP.

3.9 Notwithstanding that the proposal proposes higher densities, a greater range of mix of units, and heights in exceedance of the LAP, and also different road specifications, contained in the LAP, it is respectfully suggested that that permission for the proposed development should be granted pursuant to the provisions of Section 9(6) of the 2016 Act.

### **3.1.5 Archaeology**

3.10 The LAP notes the following:

*An Archaeological Assessment Report shall be submitted with all planning applications within the Zone of Archaeological Potential. All such reports shall fully assess the archaeological implications of the proposed development. Where archaeological features are discovered it shall be demonstrated how the design and layout of the development protects, incorporates and enhances these features. (Objective GI21)*

3.11 As set out in the Archaeological report from IAC, the Archaeological Investigations revealed a number of features of probable archaeological origin, including an industrial kiln, walls, ditches, metalled surfaces and a pit collectively referred to as Archaeological Area 1 (AA1). Most of the features identified, date from the medieval period and are associated with the recorded tower house. . The archaeological features and deposits within AA1-4 will be subject to archaeological preservation by record

(prior to the commencement of construction). This will be carried out under licence to the National Monuments Service of the DoHLGH. The proposed development materially contravenes (Objective GI21).

### 3.2 JUSTIFICATION FOR MATERIAL CONTRAVENTION (DENSITY, MIX, HEIGHT)

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

- 3.12 The proposed development of 280 no. dwellings falls within the definition of “strategic housing development” in accordance with the definition of same in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. Strategic housing development also comes within the definition of “*strategic infrastructure development*”. It can therefore be deemed of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government’s Action Plan for Housing and Homelessness – Rebuilding Ireland.
- 3.13 The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing in the Metropolitan Dublin Area, of which Newcastle forms a part of, having social and economic ramifications for sustainable national growth. On this basis, it is submitted that the proposed development is, by definition, of strategic and national importance.
- 3.14 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:
- “An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”***
- 3.15 Due to the strategic importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.
- 3.16 Having regard to this legislative and policy context, the proposed Strategic Housing Development at Newcastle South is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act.
- 3.17 The Rebuilding Ireland Action Plan, and consequently the 2016 Act, recognise the strategic and national importance of larger residential developments in addressing the ongoing housing and homelessness crisis, which effects communities across the country in an effort to increase housing supply.
- 3.18 It is noted the national importance of the shortage of housing and how the accelerated delivery of housing is set out in the Forward of “Rebuilding Ireland” by An Taoiseach where the housing challenge was going to be addressed *“fully and finally which is why it was positioned as a key objective in the Programme for a Partnership Government.”*
- 3.19 The commentary from the Taoiseach in Rebuilding Ireland further states that:

*“This Plan sets out a clear roadmap to achieve the Government’s goals to significantly increase and expedite the delivery of social housing units, boost private housing construction, improve the rental market, and deliver on the commitment to see housing supply, in overall terms, increase to some 25,000 new homes every year by 2020.”*

- 3.20 The national importance of the delivery of housing ‘as a *critical national ambition*’ is set out in the following statement by an Taoiseach contained in Rebuilding Ireland:

*This is a cross-Government plan, which also stretches beyond into the local government and voluntary sectors. I am committed to ensuring that it results in us achieving our **critical national ambition** of ensuring that all of our people have access to quality and affordable housing, either through their own endeavours or with the support of the State.(emphasis added).*

- 3.21 The increase in housing output is seen as a “*key priority*” for Government and “*is one of the greatest challenges*” where Rebuilding Ireland 2016 states:

*“Accelerating delivery of housing for the private, social and rented sectors is a key priority for the Government. Ensuring sufficient stable and sustained provision of housing that is affordable, in the right locations, meets peoples different needs and is of lasting quality is one of the greatest challenges facing the country at present.”*

- 3.22 There is an adopted focus on design driven by creating sustainable communities and with the average site delivering in excess of 400 new homes. Cairn has the capacity to deliver these new homes in the short-medium term. To date, Cairn have delivered c. 3,175 new homes across the Greater Dublin Area in the space of 5 years, with 743 of these delivered in 2020. Cairn, as a homebuilder of national scale, are uniquely positioned to help address the chronic housing shortage due to their strategic landbank, and ability to deliver large high-quality developments quickly. Cairn aim to deliver 2,500 new homes before the end of 2022.

- 3.23 While no one housing scheme can deliver the number of houses required, nevertheless Strategic Housing Developments are considered to be of national importance insofar as collectively a series of larger scale developments have the potential to deliver a sufficient number of houses to address the chronic shortfall in housing (which is of national and strategic importance). Having regard to the above, it is considered that the proposal is of national importance. The application site has the potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

- 3.24 The proposed density (The proposed development proposes a 33.1 units per hectare Gross (37.1 net), with the higher density element (apartments) located closer to the town centre, and lower density development in the remaining portion of the subject site) on lands zoned for residential development, is in compliance with the National Planning Framework 2040 as well as National Policy Objectives 33 and 35, which seek to:

*“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, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’.*”

3.25 Furthermore, we would note that the recently published '*Housing for All: A New Housing Plan for Ireland*', reinforces the critical and strategic need for new dwellings where it is a target to provide 300,000 housing units by the year 2030.

3.26 In summary, the proposed development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

### **3.3 JUSTIFICATION FOR MATERIAL CONTRAVENTION (DENSITY, MIX, HEIGHT, ROAD LAYOUT)**

**3.3.1 (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**

3.27 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 for the proposed development 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 Spatial and Economic Strategy 2019;
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Sustainable Urban Housing: Design Standards for New Apartments (2020); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).
- Design Manual for Urban Roads and Streets (DMURS) (2013)

#### **3.3.1.1 Project Ireland 2040 - National Planning Framework**

3.28 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.

3.29 The National Planning Framework was published in its final form on the 16th of February 2018 following a process of consultation. The final National Planning Framework (NPF) document incorporates significant amendments to the Draft NPF document.

3.30 The following is outlined in the Framework:

- National Policy Objective 3a of the 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’.
- NPO 5 - develop cities and towns of sufficient scale and quality
- 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.’

3.31 The National Strategic Outcomes set out in the NPF are:

- Compact Growth;
- Enhanced Regional Accessibility;
- Strengthened Rural Economies and Communities;
- High-Quality International Connectivity;
- Sustainable Mobility;
- A Strong Economy, supported by Enterprise, Innovation and Skills;
- Enhanced Amenities and Heritage;
- Transition to a Low Carbon and Climate Resilient Society;
- Sustainable Management of Water, Waste and other Environmental Resources;
- Access to Quality Childcare, Education and Health Services.

3.32 The subject development of 280 no. dwellings which includes apartments, 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 housing is prioritised within the existing settlement of Newcastle. The proposed apartments and associated increase in density aligns with national policy guidance and is considered suitable and appropriate development on serviced zoned lands. The proposed development will provide a continuous built form adjacent to the existing and permitted built up area and within Newcastle.

3.33 With reference to density and mix, the inclusion of apartments in response to the NPF, 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.”* The proposed development will include apartments and duplex apartments which will result in a variety of house types to accommodate a mix of household types, suitable for a variety of household sizes in order to ensure a social mix and balance is achieved.

3.34 The proposal for 380 no. dwellings will result in the appropriate development of the subject lands, in proximity c. 600m to the main street and its wide range of amenities as well as public transport. The inclusion of apartments and duplex apartments in the design is required to provide a sustainable density to comply with the provisions of the

National Planning Framework such as in relation to National Policy Objectives 34 and 35 as well as in relation to NPO 33.

### **Building Heights**

- 3.35 In relation to residential development the NPF states:
- ‘A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites’.* (Emphasis added)
- 3.36 The following objectives in the NPF are of particular relevance: *“In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”.*
- 3.37 It is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres. As such, it is submitted the proposed building heights are in line with government guidance and emerging trends for sustainable residential developments.
- 3.38 The proposed density (33.1 units per hectare Gross (37.1 net). and height (3 no. 3 storey duplex buildings and 2 no. 5 storey buildings) of the development is considered appropriate for serviced zoned land the location of the site and the availability of public transport provided within the area. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 3.39 **Objective 4** of the NPF seeks to *“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”.*
- 3.40 The proposed development will provide high quality residential apartments and Part V units at a highly accessible and well-designed urban environment.
- 3.41 Residents will benefit from a range of private and communal amenity spaces through the provision of balconies and roof terraces. This is complemented by a range of residential facilities and amenities, whilst along benefitting from the wide variety of services located within Newcastle.
- 3.42 The proposed materials and finishes will also be of a high-quality standard in order to create a unique quality urban place which will provide a contrast in style to the Graydon development (under construction) to the east and the rear of the main street to the north.
- 3.43 It is considered that the proposed Newcastle South development provides for the creation of an attractive, high quality, sustainable housing scheme within existing built-up urban area within Newcastle. The provision of the new sustainable development is therefore designed in such a manner as to fulfil objective 4 of the NPF.



- 3.44 Having regard to the relevant objectives above, the proposed development is fully consistent with the NPF and in particular with its principles of compact growth and the reinforcement of the country's existing urban structure at all levels.

### **Density**

- 3.45 It is also clear that there is a strong emphasis on increasing the density of development at appropriate locations which are well served by public transport. In relation to compact growth, the National Planning Framework states:

*“Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.”*

- 3.46 The proposed development represents the achievement of effective density (The proposed development proposes a 33.1 units per hectare Gross (37.1 net), with the higher density element (apartments) located closer to the town centre, and lower density development in the remaining portion of the subject lands) which is well served in terms of the necessary facilities, infrastructure, and amenities to facilitate a higher density development such as that proposed. The proposed development directly responds to National Policy Objective 5 via the provision of a higher density residential development within an existing built-up area, which has public transport.

**Objective 32:** *To target the delivery of 550,000 additional households to 2040.*

- 3.47 The proposals consist of 380 no. dwellings which will assist in achieving the target delivery of 550,000 additional households to 2040 and is directed to achieving the objective of the NPF in this respect.

**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.*

- 3.48 In accordance with National Policy Objective 33, new homes will be provided at a sustainable location, with access to existing services and facilities, close to the town centre of Newcastle.

- 3.49 The NPF also states that that *“to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”*.

- 3.50 Objective 35 states that it is an objective to: *“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”*.

- 3.51 The proposed development for a residential development scheme on this underutilised site represents an excellent opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives.

### **3.3.1.2 Rebuilding Ireland – Action Plan for Housing and Homelessness**

- 3.52 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.
- 3.53 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.
- 3.54 The inclusion of apartments and duplex apartments within the subject site, will deliver much needed housing in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3, which seeks to build more homes.

### 3.3.1.3 Regional Spatial and Economic Strategy 2019

- 3.55 The Regional Economic and Spatial Strategy (RSES), which was 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.
- 3.56 The proposed development will consolidate the existing built-up area and promote sustainable compact growth with access to the Town Centre of Newcastle.

### 3.3.1.4 Urban Development and Building Height Guidelines 2018

- 3.57 The Urban Development and Building Height Guidelines (2018) (“the Building Height Guidelines”) set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework, Project Ireland 2040 and the Regional Spatial and Economic Strategy.
- 3.58 The Building Height Guidelines state that it is Government policy to promote increased building height in locations with good public transport services.
- 3.59 The Building Height Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the opportunities for increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 3.60 Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the building height guidelines and to comply with any applicable specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.
- 3.61 Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 provides as follows:
- “(3)(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.*

*(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those*

requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

*(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”*

3.62 SPPRs (as stated in the Building Heights Guidelines) take precedence over any conflicting, policies and objectives of development plans and local areas plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead.

3.63 The Building Height Guidelines also state that the implementation of the National Planning Framework requires increased density, scale and height of development in town and city cores with an appropriate mix of uses, and increased flexibility in terms of development standards and reduced car parking provision having regard to location and proximity to public transport links.

3.64 The Building Height Guidelines also place significant emphasis on promoting development within the existing urban footprint, utilising the existing sustainable mobility corridors and networks where it states:

*“In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks” (section 2.4).*

3.65 Section 3.1 of the Urban Development and Building Heights Guidelines 2018 refers to the development management principles to be applied:

*“In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:*

*Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

*Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

*Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?”*

3.66 The proposed development therefore represents an opportunity to provide for increased building heights and densities at this location which represents an excellent opportunity for compact growth at a highly accessible central site. This is consistent with the objectives of the 2016-2022 and Draft 2022-2028 South Dublin County Development Plans.

### **3.3.1.5 Sustainable Urban Housing: Design Standards for New Apartments (2020)**

3.67 Section 2 of the Apartment Guidelines note that to meet housing demand in Ireland, it is necessary to significantly increase supply. In this regard, the Apartment Guidelines state that *“increased housing supply must include a dramatic increase in the provision of apartment development.”*

3.68 In addition, section 2 of the Apartment Guidelines outlines that *“it is critical to accommodate the needs of increasingly more diverse household types in the context of a growing and ageing population.”*

3.69 The Apartment Guidelines note that:

*“Demographic trends indicate that two-thirds of households added to those in Ireland since 1996 comprise 1-2 persons, yet only 21% of dwellings completed in Ireland since then comprise apartments of any type. The 2016 Census also indicates that, if the number of 1-2 person dwellings is compared to the number of 1-2 person households, there is a deficit of approximately 150%, i.e. there are approximately two and half times as many 1-2 person households as there are 1-2 person homes.”*

3.70 The Apartment Guidelines state that:

*“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.”*

3.71 Section 2.13 of the Apartment Guidelines states that urban housing supply “especially the provision of apartments in our key cities, is a critical strategic competitiveness issue that statutory Development Plans must address.”

3.72 Having regard to the above, it is considered that the inclusion of apartments is supported by the Apartment Guidelines for all location types identified (central and accessible, intermediate, and peripheral) in the Apartment Guidelines.

3.73 Full details on consistency with the Apartment Guidelines 2020 are set out in the Planning Report / Statement of Consistency and the MOLA HQA submitted with the application.

### **3.3.1.6 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

3.74 The proposed development accords with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

3.75 It is considered that the most appropriate categorisation of the subject lands is as ‘*small town or village*’ category. Chapter 6 of the Guidelines deals with small towns and villages and sections 6.9 to 6.12 sets out the density standards for (a) centrally located sites, (b) edge of centre sites and (c) edge of small town/village sites.

- 3.76 It is considered that the proposed development is a mixture of (a) and (b).
- 3.77 With regard to “centrally located sites”, the density standards in the SRD note that:
- “However, within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate or for more mixed use schemes. There is also the potential for schemes of particularly high architectural and design quality to suggest densities higher than the range suggested above.”*
- 3.78 For “edge of centre” sites the SRD notes that:
- 3.79 *“The emphasis will be on achieving successful transition from central areas to areas at the edge of the smaller town or village concerned. 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.”*
- 3.80 The SRD note that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 3.81 The design approach is based on a need to protect the amenities of the surrounding residential development and the design intent is to protect the amenities of the adjoining neighbours and general character of the area and its amenities. While the Local Area Plan indicates a density of c. 15 – 30 units per hectare (net – depending on Neighbourhood), it is considered, that having regard to the location of the site, and national strategic guidance contained in the SRD, the densities proposed within the subject lands are appropriate. With regard to the above within the Burgage South area, which is considered to be a centrally located site, where densities of 40+ are encouraged in the SRD. This element of the site comprises c. 1.6 hectares which results in a density of c. 72.5 units per hectare.
- 3.82 Within the other two areas of the subject lands the density comprises c. 29.4 units per hectare for the Taobh Chnoic Character area (as it relates to the Cairn lands) and c. 21.2 units per hectare for the Sean Feirm Character area (as it relates to Cairn lands). The average density across the area is c. 25.2 hectares across the 2 no. character areas.
- 3.83 In this regard the average density proposed is c. 33.1 units per hectare Gross (37.1 net) for the Newcastle South lands which takes into account the different contexts within the site and the density ranges contained in the SRD.
- 3.84 Having regard to the location of the site, national strategic guidance contained in the SRD and clarification in Circular 02/2021 (see below), and also to An Bord Pleanála precedent, the proposed net density of c.37.1 dph is appropriate in this instance and the design of the scheme with different densities in different locations, strikes a balance between providing a sustainable density and also the local context.
- 3.85 In this regard the density proposed is 33.1 units per hectare Gross (37.1 net), which takes into account the different contexts within the site and the density ranges contained in the SRD.
- 3.86 The proposed development conforms to the more detailed guidance within the Guidelines on layout, design, and density – by making effective use of the site; making

a positive contribution to its surroundings; having a sense of identity and place; providing for effective connectivity and featuring a design which is guided by the principles of passive surveillance. The proposed development meets the 12 criteria for sustainable residential development contained within the Urban Design Manual (2009), a companion document to the SRD Guidelines, examined below and set out in the MOLA design statement.

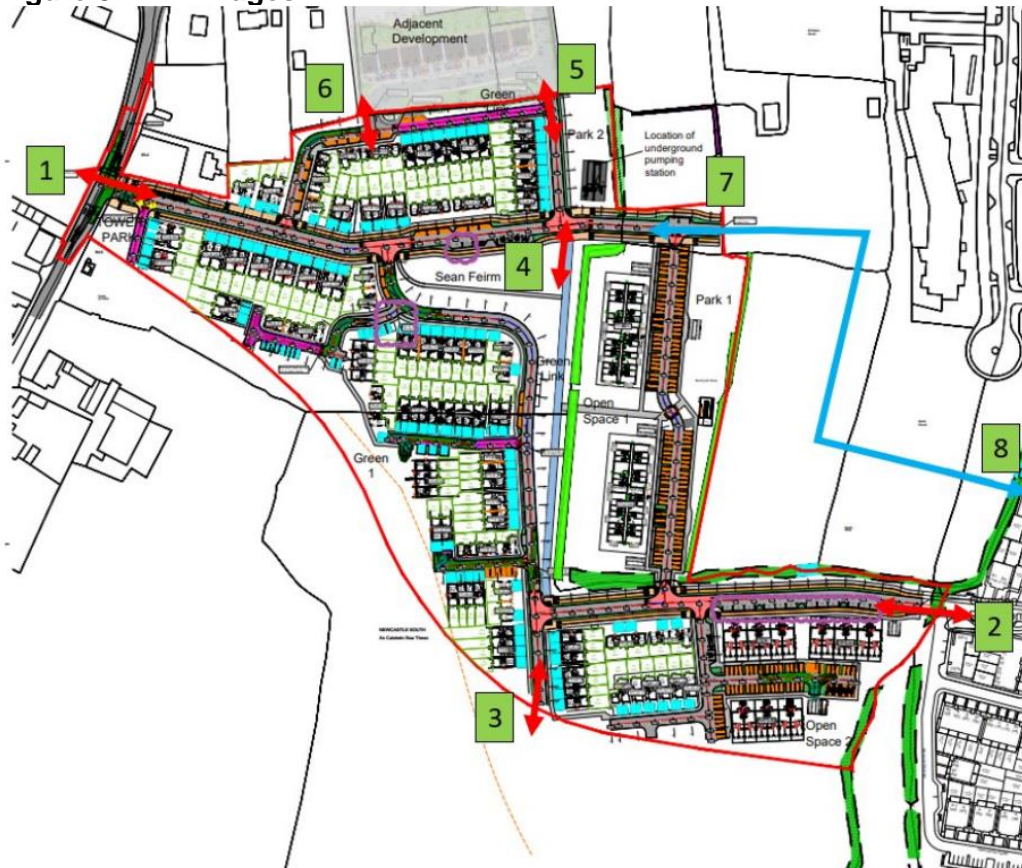
### 3.3.1.7 Design Manual for Urban Roads and Streets (DMURS) (2013)

- 3.87 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 3.88 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 3.89 The DMURS Compliance Statement (technical note) prepared by DBFL Consulting Engineers provides detail in respect of the consistency of the proposed development with DMURS (extract below).
- 3.90 The Technical Note states that *“the proposed residential development is consistent with both the principles and guidance outlined within the Design Manual for Urban Roads and Streets (DMURS) 2019. The scheme proposals are the outcome of an integrated design approach that seeks to implement a sustainable community connected by well-designed streets which deliver safe, convenient, and attractive networks in addition to promoting a real and viable alternative to car-based journeys.”*
- 3.91 According to the DBFL report, maximises connectivity between key local destinations and constructed development through the provision of a high degree of permeability and legibility for all network users particularly for sustainable forms of travel. Accordingly, the proposed residential scheme delivers greater mode and route choices along direct, attractive and safe linkages to a range of amenities and local service destinations.
- 3.92 Arterial links adjacent to the subject site, include the Athgoe Road to the west and Newcastle Main Street to the north. A Link street will provide access between the Athgoe Road and the Graydon Development. These Arterial links provide important connections with local centres and community infrastructure such as Newcastle Village, schools, public transport connections, retail and sports clubs.
- 3.93 The internal road network within the site has been designed to deliver a hierarchy of Local streets and Homezones that provide appropriate access within / across the proposed new residential communities and the road network external to the site. The movement function of each internal street network has sought to respect the different levels of motorised traffic and catering for higher number of pedestrians and cyclists. In parallel the adopted design philosophy has sought to consider the context / place status of each residential Local and Homezone street in terms of level of connectivity provided, quality of the proposed design, level of pedestrian / cyclist activity and vulnerable users requirements whilst identifying appropriate ‘transition’ solutions between different street types.

### 3.3.1.7.1 Linkages

3.94 The street layout was derived from several factors which include, Local Area Plan, boundary conditions, existing road network, future and existing development and topography. This has led to the creation of a street network that is predominantly a grid pattern with some curvilinear sections in specific areas. As part of the design and development of the street network, cycle and pedestrian linkages were through the development to link the existing Link street provided from Graydon development (Newcastle Boulevard) to the Athgoe Road Arterial route. Below is a figure of the proposed and potential external linkages which are proposed to be facilitated by the subject development.

**Figure 3.1 – Linkages**



- Link 1 will provide an important vehicular, pedestrian and cycle link between the development and the Athgoe Road.
- Link 2 provide an important vehicular, pedestrian and cycle link between the development and the Graydon development providing a continuation of Newcastle Boulevard.
- Link 3 and 4 will provide cyclist and pedestrian links from the north to the south of the development by way of a 4m wide shared surface “Green link”.
- Link 5 and 6 will provide vehicular, cyclist and pedestrian links to the adjoining residential development.

- Link 7 and 8 may provide future vehicular, pedestrian and cyclist access to the Graydon Development which is compatible with the Newcastle LAP roads objective.
- 3.95 The key principle is that the proposed development layout can facilitate enhanced linkages over and above the considerable improvement in permeability through the site arising from the scheme. The linkages detailed above demonstrate that permeability has been considered from a very early stage in the design and all links that can be provided by the applicant, have been accommodated.

### 3.3.1.7.2 Design Parameters

The adopted design approach successfully achieves the appropriate balance between the functional requirements of different network users whilst enhancing the sense of place. The implementation of self-regulating streets actively manages movement by offering real modal and route choices in a low speed high quality residential environment. Specific attributes of the schemes design which contribute to achieving this DMURS objective include;

- a) The potential dominance of on-street car parking for the apartments is actively managed through the provision of landscaped buffers and the provision of large street trees in addition to individual bays of perpendicular parking spaces being restricted to no more than 6 no. parking spaces as per DMURS.*
- b) On-street activity is promoted internally along the residential streets through the adoption of 'own-door' dwellings.*
- c) The proposed design has sought to specify minimal signage and line markings along the internal Local streets and Homezones with such treatments used sensitively throughout.*
- d) Footpaths of generally 2.0m width and are provided throughout the scheme with connections / tie-in to existing external pedestrian networks.*
- e) Appropriate clear unobstructed visibility splays, as per DMURS requirements; are provided / safeguarded at all internal nodes and at the site access junctions to the external road network.*
- f) Well designed and frequently provided pedestrian crossing facilities are provided along key travel desire lines throughout the scheme in addition to those located at street nodes. All courtesy crossings are provided with dropped kerbs or a raised flat top treatment thereby allowing pedestrians to informally assert a degree of priority.*
- g) All informal pedestrian crossing facilities are at least 2.0m wide.*
- h) With the objective of encouraging low vehicle speeds and maximising pedestrian safety and convenience, corner radii at Local / Homezone / Link nodes have been specified as 4.5m as per DMURS guidance.*
- i) Contrasting materials are specified in the 'Homezones' to distinguish a change in street hierarchy.*
- j) Internally within the development carriageway kerb heights have been specified as 100mm in accordance with the objectives of DMURS.*



k) *Along the lightly trafficked internal Local streets, cyclists will share the carriageway with other street users as per the NCM guidance for such low speed environments.*

l) *The proposed residential developments internal hierarchy of Primary Homezone streets comprise up to 4.8m wide with 1.5m wide vulnerable user strips.*

m) *The proposed residential developments internal hierarchy of Primary Local streets comprise of carriageways 5.5m to 6.0m wide with 2m wide footpaths.*

n) *The proposed residential developments internal hierarchy of Primary Link streets comprise of carriageways up to 6.5m wide with 2m wide footpaths and 2m wide cycle paths.*

o) *The main access routes (e.g. leading to/from the site access nodes with Link streets) of internal street network of Local streets will be formed using standard macadam / asphalt finishes, however for Homezone streets, a colour contrast is to be achieved by way of a buff macadam finish in order to lower design speed in these areas.*

p) *Horizontal deflections in the form of meandering bends have been strategically placed across the internal street network to promote lower design speeds.*

q) *In accordance with DMURS perpendicular parking spaces are a minimum of 5m long x 2.4 m wide and parallel parking spaces are a minimum of 6m long x 2.4 m wide.*

r) *A 4m wide shared path is provided from the Link Road to the south to the north of the site to provide pedestrian and cyclist connectivity. The 4m wide shared facility is designed in accordance with the NCM”*

### **3.4 JUSTIFICATION FOR MATERIAL CONTRAVENTION OPEN SPACE - PLAY EQUIPMENT NEWCASTLE LAP 2012-2022**

3.96 The following section shall demonstrate how the quantum of open space is justified in the context of Section 37 (2)(b)(iii) of the 2000 Act for the reasons set out below in the context of current National Planning Policy, namely Sustainable Residential Development in Urban Areas Guidelines (2009). The proposed development will provide for a high quality of open space in accordance with the guidelines on Sustainable Residential Development in Urban Areas (2009).

3.97 The proposed development will provide for a high quality of open space in accordance with the guidelines on Sustainable Residential Development in Urban Areas (2009). The Guidelines recommend the following quantitative standard: “In green-field sites or those sites for which a local area plan is appropriate, public open space should be provided at a minimum rate of 15% of the total site area. This allocation should be in the form of useful open spaces within residential developments and, where appropriate, larger neighbourhood parks to serve the wider community;”

3.98 While the proposed development does not meet the quantitative standards set out within the LAP (in respect of play equipment), the proposed development will provide for a high quality of open space in accordance with the guidelines on Sustainable Residential Development in Urban Areas (2009), we refer to the qualitative standards contained within these guidelines:

***Design: The layout and facilities – particularly in larger parks –should be designed to meet a range of user needs, including both active and passive***

**recreation, as identified in the city/county strategy referred to above. Users should feel safe at all times within parks; adequate supervision, passive surveillance, boundary treatment and public lighting contribute to creating a sense of security. Public open spaces should be suitably proportioned; narrow tracts or 'left over spaces' which are difficult to manage should not be acceptable. Materials should be chosen for their durability.**

**Response:** We refer the Board to the Murray Associates Landscape Design Report which sets out the landscape design for the proposal including the use of robust materials. The proposed development includes a series of public open spaces distributed evenly throughout the subject site, which are overlooked; with passive surveillance incorporated into the design, through the use of dual frontage units. Public (bat sensitive) lighting is included in the design. Overall the proposed landscaping provides both active (play equipment) as well passive recreational areas.

**Accessibility: Local parks should be located to be within not more than 10 minutes' walk of the majority of homes in the area; district parks should be on public transport routes as well as pedestrian/cycle paths. Playgrounds should be carefully sited within residential areas so that they are both easily accessible and overlooked by dwellings, while not causing a nuisance to nearby residents. Variety: A range of open space types should be considered having regard to existing facilities in the area and the functions 15 With particular relevance to Section 48 schemes 33 Planning Guidelines the new spaces are intended to provide. A balance will be required between the provision of active and passive recreational facilities. •**

**Response:** We refer the Board to the Murray Associates Landscape Design Report which sets out the landscape design for the proposal, which includes a series of open spaces (c. 1.71 hectares), well distributed within the scheme (c. 22.2% of the main development site). The local parks are located within a short walk of the residents within the scheme. Additional open space areas of c. 3.8 hectares are to be provided in Graydon located to the east of the development.

**Shared use: The potential for maximising the use of open space facilities (such as all-weather pitches) should be explored, for example, by sharing them with nearby schools.**

**Response:** The Graydon SHD development by Cairn located to the east included a MUGA and playing pitch, which is conveniently located between an existing Primary School (St. Finian's) and a site reserved for a Primary School (on Cairn lands).

**Biodiversity: Public open spaces, especially larger ones, should provide for a range of natural habitats and can facilitate the preservation of flora and fauna. • Sustainable Urban Drainage Systems (see para 4.29) are often used to reduce the impact of urban runoff on the aquatic environment.**

**Response:** The landscape layout includes SUDs through swales as well as preserving the Burgage Field Plots, providing a range of public open spaces interconnected using the hedgerows.

**Provision for allotments and community gardens: Allotments are small plots of land which are let (usually by a local authority) to individuals for the cultivation of vegetables and plants. They are of particular value in higher density areas.**

**Response:** The Graydon SHD development by Cairn located to the east included allotments.

- 3.99 We note Section 4.21 of the Sustainable Residential Developments in Urban Areas Guidelines for Planning Authorities (May 09) state: It will be necessary for planning authorities to take a more flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards outlined above. Where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution towards public open space or recreational facilities in the wider area in lieu of public open space within the development.
- 3.100 The proposed development clearly meets the requirements of the Sustainable Residential Development in Urban Areas (2009) through the provision of 22.2% of the site area as public open space. On the basis of the high quality recreational spaces provided as described in detail above and illustrated below, we submit that the proposed development will provide for the play needs of its future population.

### **Summary in Relation to Section 37 (2)(b)(iii) – Play Equipment**

- 3.101 The proposed provision of open space is justified in the context of the National Planning Framework and the Sustainable Residential Development in Urban Areas (2009). The proposed open space has been designed in proportion to the scale of the development, the site context and the needs of future / existing residents. The proposed development will result in the provision of high quality open space which has been designed as part of the urban design strategy. Additional open space would provide a poor urban design response to the site resulting in a sub-optimal use of land and would reduce the proposed density below an acceptable standard.
- 3.4.1 (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’.**
- 3.102 The subject site is located on lands zoned Res N. The proposed built form is entirely appropriate for the area and will integrate seamlessly within the permitted Graydon (SHD-ABP-305343-19) development to the east, as well as the wider Ballinakelly neighbourhood, which comprises 2, 3 storey (and 4 storey permitted) development.
- 3.103 It is noted the context for the wider area comprises three storey apartment blocks back onto and front Main Street from the Newcastle Manor, Parson’s Court and the Ballinakelly housing estates. The variation in building heights is most apparent near the entrance of the Ballinakelly Estate junction between Main Street and Aylmer Road where three storey apartment blocks in the Ballinakelly Estate back onto single storey cottages along Main Street. The adjoining Graydon development that is nearing completion to the east has a mix of two storey semidetached and terraced housing, three storey Duplex blocks and an apartment block, Ballinakelly Gate, that is a split level 4 storey apartment building with 2 adjoining three storey Duplex blocks.
- 3.104 In summary, the proposed development will be in keeping with the scale of the existing pattern of development in the locality. It is submitted that 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 Newcastle LAP.

## **3.5 JUSTIFICATION FOR MATERIAL CONTRAVENTION – ARCHAEOLOGY**

### **3.5.1 (i) the proposed development is of strategic or national importance.**

- 3.105 The proposed development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act (2016), as amended, and delivery on the Government's policy to increase the delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing Homelessness 2016.
- 3.106 The significant shortfall in housing output to address current and projected demand is recognised as a national issue, having social and economic ramifications for sustainable national growth.
- 3.107 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in South Dublin County. The proposed development consists of 280 new dwelling units, supplied with a mix of apartments which could help alleviate the demand for housing within South Dublin. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.
- 3.108 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.
- 3.109 The proposed development is consistent with Rebuilding Ireland. The provision of the 280 no. residential units will substantially add to the residential accommodation availability in the area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.
- 3.110 The proposed development is in accordance with National Policy Objectives set out in the NPF. The scheme will deliver on National Planning Policy Objectives to increase the output of residential development on zoned serviced lands and address identified housing shortages. In summary, the argument for consideration of the proposed development as of national importance can be summarised as follows:
- The Government's policy to provide more housing set out in the National Planning Framework, Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing For All – Ireland's New Plan for Housing.
  - The proposed development addresses identified housing need in the area and meets key housing delivery objectives in the South Dublin County Development Plan
- 3.111 Having regard to the foregoing, it is considered that the proposal is of national importance. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All, A New Housing Plan for Ireland.
- 3.5.2 (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

### 3.5.3 Framework and Principles Protection of the Archaeological Heritage (1999)

3.112 Section 3.5 of the document notes that whenever the archaeological heritage is affected, or proposed to be affected, by development the approach to be followed must be preservation in-situ or preservation by record through archaeological excavation and recording.

3.113 The document sets out that:

*Where archaeological sites or monuments (or portions of such) are to be removed due to development then it is essential that the approach of preservation by record be applied.*

3.114 While the document outlines that there should always be a presumption in favour of avoidance of developmental impacts on the archaeological heritage and preservation in-situ of archaeological sites and monuments must be presumed to be the preferred option, “where archaeological sites or monuments (or portions of such) have to be removed due to development then it is essential that the approach of preservation by record be applied, i.e. that appropriate archaeological excavation and recording take place.”

3.115 It is submitted that the rigid application of the Policy NCBH 13 Objective 2 to all development sites would result in the potential sterilisation of large areas of zoned land in the County as the Objective does not include any flexibility in terms of the significance of the “previously unknown sites, features or objects”. This “blanket” classification has the potential to lead to unsustainable forms of development, and contrary to the principles of compact form of development. Furthermore, Policy NCBH 13 Objective 2 places additional strain on the County’s ability to deliver sustainable developments with appropriate densities

3.116 The EIAR notes the following mitigation

*Whilst it is acknowledged that the preservation in-situ of archaeological remains is considered the best practise with regards to conserving the archaeological resource, the required layout of the development (and the attenuation requirements located within greenfield areas) means that the archaeological features and deposits within AA1-4 will be subject to archaeological preservation by record (prior to the commencement of construction). This will be carried out under licence to the National Monuments Service of the DoHGLH. Full provision will be made available for the resolution of the archaeological remains, both on site and during the post-excavation process.*

*All topsoil stripping will be subject to archaeological monitoring by a suitably qualified archaeologist. Should any archaeological remains be identified, consultation will be required with the National Monuments Service of the DoHGLH as to whether preservation by record or in-situ is carried out.*

*No mitigation is required along the existing haulage road or within the south-eastern section of the development area as these areas have already been subject to full archaeological excavation and preservation by record.*

3.117 The residual impacts are outlined as follows:

*“Following implementation of mitigation measures, no significant negative impacts are predicted upon the archaeological resource. There will be a residual indirect moderate negative impact on the recorded tower house, due to the effects the development will have on the setting of the structure.*

3.118 The preservation in situ would lead to a substandard form of development in respect of layout (lack of passive surveillance & potential for antisocial behaviour), which could lead to negative impacts on the upstanding remains of the Tower House. Having regard to the location of the underground features, and associated constraints, the design team found it difficult to accommodate particularly in respect of providing a legible layout and also the attenuation location. The in situ preservation would result would be to effectively sterilise a large portion of the site and militate against providing a coherent layout.

3.119 It is acknowledged that preservation in situ of archaeological remains is the preferable option wherever possible. However, given the difficulties of redesigning the layout of the development, as outlined above, coupled with the truncated nature of the remains on site, it is considered by the Archaeological Consultant that that preservation by record of the features would be an acceptable form of archaeological mitigation. This should be carried out by a licence eligible archaeologist in consultation with the National Monuments Service of the Department of Housing, Local Government and Heritage.

#### **3.5.4 Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

3.120 The AHPG (2011) note that: “The extent of the potential impact of proposals will depend on the location of the new works, the character and quality of the protected structure, its designed landscape and its setting, and the character and quality of the ACA. Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.”

3.121 The Architectural Heritage Chapter of the EIAR notes that:

*“No mitigation is required to reduce the indirect effect on the setting of Newcastle Farm at operational phase other than good quality design of the boundary to Athgoe Road.*

*No mitigation is possible to reduce the indirect effects of the proposed development on the setting of the tower house at BH-03 other than the designed layout of the proposed development to keep houses back from the area immediately to the front of the tower house. This has included a restriction in height of the proposed houses nearest to the tower house to two storeys in addition to setting the houses back from the street and from the vicinity of the tower house. There will be a moderate residual indirect negative effect on the setting of BH-02, Newcastle Farm, There will be a significant residual indirect negative effect on the setting of BH-03, the tower house.*

3.122 With reference to the ACA, the Architectural Heritage Chapter outlines that:

*“It is noted that the inclusion of the 2 five-storey apartment buildings and the 3 three-storey duplex buildings, will not result in any additional negative indirect effects on the tower house, Newcastle Farm or the architectural conservation area over and above the potential operational phase effects arising from the development of the lands in accordance with the layouts and*

*scale, massing etc, envisaged in the Newcastle LAP, as those heritage elements are at a distance from the proposed buildings, as outlined above in section 14.6.*

- 3.123 It is submitted that the proposed development provides an appropriate balance between protecting the setting of the Tower house and also providing sufficient passive surveillance to the adjoining structure. Furthermore, it is noted access to the site from the Athgoe Road has been moved further to the north away from the Tower House so as to reduce the direct impact (from vibration) and indirect impact relating to the setting of the Tower House.
- 3.124 By moving the design of the layout further away from the Tower House would lead to a substandard form of development in respect of layout (lack of passive surveillance & potential for antisocial behaviour), which could lead to negative impacts on the upstanding remains of the Tower House. The dwellings to the south east provide an appropriate active frontage directly towards the Tower House, ensuring that passive surveillance is provided.

## 4.0 MATERIAL CONTRAVENTION STATEMENT 2016-2022 COUNTY DEVELOPMENT PLAN

### 4.1 IDENTIFICATION OF MATERIAL CONTRAVENTIONS

4.1 The following objectives are noted in the County Development Plan 2016-2022:

*“CORE STRATEGY (CS) Policy 4 Small Towns*

*It is the policy of the Council to support the sustainable long term growth of Small Towns based on local demand and the ability of local services to cater for growth.*

*CS4 Objective 1: To support and facilitate development on zoned lands on a phased basis subject to approved Local Area Plans*

*CS4 Objective 1: To support and facilitate development on zoned lands on a phased basis subject to approved Local Area Plans*

*CORE STRATEGY (CS) Policy 6 Local Area Plans*

*CS6 Objective 2: To support a plan led approach in Local Area Plan areas by ensuring that development complies with the specific local requirements of the Local Area Plan, in addition to the policies and objectives contained in this Development Plan.*

*H8 Objective 5: To ensure that developments on lands for which a Local Area Plan has been prepared comply with the local density requirements of the Local Area Plan.*

*H8 Objective 6: To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns/ Villages in the County.”*

4.2 With reference to CS6 Objective 2, it is highlighted that Section 3 sets out where there is specific non-compliance in relation to density, height, mix, and road layout.

4.3 In relation to H8 Objective 5, Section 3 sets out where there is specific non-compliance in relation to density.

4.4 While the proposed development is in accordance with the density range contained in the SRD 2009, the lands are also subject to the lower density requirements of the Newcastle LAP 2012.

### 4.2 JUSTIFICATION FOR MATERIAL CONTRAVENTION

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

4.5 The proposed development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act (2016), as amended, and delivery on the Government’s policy to increase the delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing Homelessness 2016.

4.6 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:

*“An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the*



*Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”*

- 4.7 The significant shortfall in housing output to address current and projected demand is recognised as a national issue, having social and economic ramifications for sustainable national growth.
- 4.8 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in South Dublin County. The proposed development consists of 280 new dwelling units, supplied with a mix of apartments which could help alleviate the demand for housing within South Dublin. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.
- 4.9 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.
- 4.10 The proposed development is consistent with Rebuilding Ireland. The provision of the 280 no. residential units will substantially add to the residential accommodation availability in the area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.
- 4.11 The proposed development is in accordance with National Policy Objectives set out in the NPF. The scheme will deliver on National Planning Policy Objectives to increase the output of residential development on zoned serviced lands and address identified housing shortages. In summary, the argument for consideration of the proposed development as of national importance can be summarised as follows:
- The Government's policy to provide more housing set out in the National Planning Framework, Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing For All – Ireland's New Plan for Housing.
  - The proposed development addresses identified housing need in the area and meets key housing delivery objectives in the South Dublin County Development Plan
- 4.12 Having regard to the foregoing, it is considered that the proposal is of national importance. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All, A New Housing Plan for Ireland.
- 4.2.2 (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**

#### 4.2.2.1 National Planning Framework

- 4.13 The subject development of 280 no. dwellings which includes apartments, 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 housing is prioritised within the existing settlement of Newcastle. The proposed apartments and associated increase in density aligns with national policy guidance and is considered suitable and appropriate development on serviced zoned lands. The proposed development will provide a continuous built form adjacent to the existing and permitted built up area and within Newcastle.
- 4.14 With reference to density and mix, the inclusion of apartments in response to the NPF, 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.” The proposed development will include apartments and duplex apartments which will result in a variety of house types to accommodate a mix of household types, suitable for a variety of household sizes in order to ensure a social mix and balance is achieved.
- 4.15 The proposal for 380 no. dwellings will result in the appropriate development of the subject lands, in proximity c. 600m to the main street and its wide range of amenities as well as public transport. The inclusion of apartments and duplex apartments in the design is required to provide a sustainable density to comply with the provisions of the National Planning Framework such as in relation to National Policy Objectives 34 and 35 as well as in relation to NPO 33.

#### 4.2.2.2 Building Heights and Density

- 4.16 In relation to residential development the NPF states:

***‘A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites’.*** (Emphasis added)

- 4.17 The following objectives in the NPF are of particular relevance: *“In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”.*
- 4.18 It is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres. As such, it is submitted the proposed building heights are in line with government guidance and emerging trends for sustainable residential developments.
- 4.19 The proposed density (33.1 units per hectare Gross (37.1 net). and height (3 no. 3 storey duplex buildings and 2 no. 5 storey buildings) of the development is considered appropriate for serviced zoned land the location of the site and the availability of public

transport provided within the area. The proposed development is therefore in accordance with the objectives of the NPF in this regard.

#### 4.2.2.3 Urban Development and Building Height Guidelines 2018

- 4.20 The Urban Development and Building Height Guidelines (2018) ('the Building Height Guidelines') set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework, Project Ireland 2040 and the Regional Spatial and Economic Strategy 2019.
- 4.21 SPPRs (as stated in the Building Heights Guidelines) take precedence over any conflicting, policies and objectives of development plans and local areas plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead.
- 4.22 Section 1.14 of the Guidelines confirm that:
- "where SPPRs are stated in this document, **they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.** Where such conflicts arise, such plans/ schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements."* (emphasis added)
- 4.23 Having regard to the above, it is noted that SPPR 4 requires densities 30-50 dph which are higher than those identified in the Newcastle LAP as the density standard relates to the subject lands. The proposed gross density of 33.1 units per hectare and net density of development at 37.1 units per hectare is in compliance with SPPR4 as it relates to density and therefore compliant with national strategic planning policy and Section 28 guidelines, which 'take precedence' over policies and objectives of Development Plans and Local Area Plans.
- 4.24 With reference to compliance with point 1 of SPPR4, the proposed development provides an appropriate density (33.1 gross units per hectare & 37.1 units per hectare net) in compliance with the content of the SRD 2009 and Circular 02/2021 (Circular Letter: NRUP 02/2021 published April 2021) and is therefore consistent with relevant government policy and guidelines.
- 4.25 In relation to compliance with point 2 of SPPR4, the proposal includes a mix of building heights and typologies comprising 128 (45.7%) no. 2 storey houses, 36 no. duplex apartments (12.6%) in 3 no. 3 storey duplex buildings, and 116 no. apartments (41.4%) in 2 no. 5 storey apartment buildings, located centrally within the subject site.
- 4.26 With regard to compliance with point 3 of SPPR4 which seeks to avoid mono-type building typologies, the proposed development includes 3 no. 3 storey duplex apartment buildings, as well as 2 no. 5 storey apartment buildings. The apartments comprise 41.4% of the overall no. of units and the duplex apartments comprise 12.6% of the total, which complies with SPPR4.

**4.2.2.4 Sustainable Urban Housing: Design Standards for New Apartments (2020);**

- 4.27 Section 2 of the Apartment Guidelines note that to meet housing demand in Ireland, it is necessary to significantly increase supply. In this regard, the Apartment Guidelines state that “increased housing supply must include a dramatic increase in the provision of apartment development.”
- 4.28 In addition, section 2 of the Apartment Guidelines outlines that “it is critical to accommodate the needs of increasingly more diverse household types in the context of a growing and ageing population.”

**4.2.2.5 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

- 4.29 The proposed development accords with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- 4.30 It is considered that the most appropriate categorisation of the subject lands is as ‘small town or village’ category. Chapter 6 of the Guidelines deals with small towns and villages and sections 6.9 to 6.12 sets out the density standards for (a) centrally located sites, (b) edge of centre sites and (c) edge of small town/village sites.
- 4.31 Local Area Plan indicates a density of c. 15 – 30 units per hectare (net – depending on Neighbourhood), it is considered, that having regard to the location of the site, and national strategic guidance contained in the SRD, the densities proposed within the subject lands are appropriate.
- 4.32 In this regard the density proposed is 33.1 units per hectare Gross (37.1 net), which is takes into account the different contexts within the site and the density ranges contained in the SRD.

**4.2.2.6 Design Manual for Urban Roads and Streets (DMURS) (2013)**

- 4.33 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 4.34 The Design Manual for Urban Roads and Streets (DMURS), 2013 (updated in 2019), sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas.
- 4.35 The DMURS Compliance Statement (technical note) prepared by DBFL Consulting Engineers provides detail in respect of the consistency of the proposed development with DMURS (see extract above in section 3.3).

## 5.0 CONCLUSIONS

- 5.1 In accordance with the provisions of section 9(6) of the 2016 Act an Bord Pleanála may grant permission for a strategic housing development which materially contravenes a Development Plan or Local Area Plan, other than in relation to the zoning of land by reference to the criteria set out in section 37(2)(b).
- 5.2 We acknowledge that the function lies with An Bord Pleanála to determine whether the proposed development materially contravenes the relevant objectives of the Development Plan and/or the Local Area Plan. If minded to grant permission, it is required to provide its rationale for granting permission having regard to the specific considerations set out under Section 37(2)(b) of the Planning Act. We trust that this report is of assistance to the Board in respect of its assessment and determination of the matter
- 5.3 It is considered that based upon the National Planning Policy and Section 28 Guidelines discussed in this report the development meets all the objectives of sustainable development and proper planning in providing much needed quality housing.
- 5.4 Table 5.1 below summarises the relevant justification for each potential Material Contravention in the context of the Section 37(2)(B) criteria.

**Table 5.1: Summary of Justification for Potential Material Contraventions**

<b>Potential Material Contraventions of the Development Plan (as set out in Section 1, 2.1, 3.1, and 4.1 of this Report)</b>	<b>Justification for Material Contravention in Context of Section 37(2)(B) Criteria</b>
<p><b>1. Draft South Dublin County Development Plan 2022-2028. Core Strategy/Phasing and Non-Compliance with LAP</b> (CS3 Objective 6, CS9 Objective 1, CS9 Objective 4, CS9 SLO3 &amp; CS9 SLO4)</p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (ii) – justified in the context of objectives not clearly stated insofar as the proposed development is concerned.</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, the SRD 2009, the Apartment Guidelines 2020, DMURS 2013 and the Building Heights Guidelines</li> </ul>
<p><b>2. Draft South Dublin County Development Plan 2022-2028</b> (Archaeology NCBH 13 Objective 2 &amp; NCBH 13 Objective 3)</p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of Framework and Principles Protection of the Archaeological Heritage (1999) &amp; Architectural Heritage Protection Guidelines for Planning Authorities (2011)</li> </ul>
<p><b>3. Newcastle LAP 2012-2022 Density and Mix Objectives</b> (LUD 8, LUD 14, LUD16, LUD18, BS7, TC1, TC7, TC9)</p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF and the Apartment Guidelines 2020.</li> </ul>

	<ul style="list-style-type: none"> <li>Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
<p><b>4. Newcastle LAP 2012-2022 Height/Built Form Objectives</b> (BF1 &amp; BF8, BF10)</p>	<ul style="list-style-type: none"> <li>Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>Section 37(2)(b)-Part (ii) – justified in the context of conflicting objectives between the Development Plan and Local Area Plan</li> <li>Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, Sustainable Residential Development in Urban Areas Planning Guidelines 2009, the Apartment Guidelines 2020 and the Building Heights Guidelines</li> <li>Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
<p><b>5. Newcastle LAP 2012-2022 Road Layout Objectives</b> AM1, AM5, AM10, BF2</p>	<ul style="list-style-type: none"> <li>Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being considered to be of strategic and national importance</li> <li>Section 37(2)(b)-Part (iii) – justified in the context of DMURS.</li> <li>Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area.</li> </ul>
<p><b>6. Newcastle LAP 2012-2022 Open Space/Play facilities Objective</b> GI3, TC2</p>	<ul style="list-style-type: none"> <li>Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being considered to be of strategic and national importance</li> <li>Section 37(2)(b)-Part (iii) – justified in the context of SRD 2009.</li> <li>Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
<p><b>7. Newcastle LAP 2012-2022 Archaeology Objective</b> GI21</p>	<ul style="list-style-type: none"> <li>Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being considered to be of strategic and national importance.</li> <li>Section 37(2)(b)-Part (iii) – justified in the context of Framework and Principles Protection of the Archaeological Heritage (1999)</li> <li>Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
<p><b>8. South Dublin County Development Plan 2016-2022 CS Policy 4 Small Towns CS 6 Policy 6 – Local Area Plans Compliance</b></p>	<ul style="list-style-type: none"> <li>Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being considered to be of strategic and national importance.</li> </ul>

<p><b>CS4 Objective 1</b> – Phasing and Local Area Plans  <b>CS6 Objective 2</b> – Local Area Plan Compliance  <b>H8 Objective 5</b> – Local Area Plan Compliance Density  <b>H8 Objective 6</b> – Local Area Plan Compliance Density</p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, Sustainable Residential Development in Urban Areas Planning Guidelines 2009, the Apartment Guidelines 2020 and the Building Heights Guidelines</li> <li>• Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
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5.5 An appropriate justification is set out within this statement which justifies granting permission for the proposed development where the contravention does not relate to the zoning of land, should An Bord Pleanála consider the proposed development a material contravention. The statement demonstrates that the proposed density, height and inclusion of apartments is appropriate on the subject lands in line with amongst other things, relevant Section 28 Guidelines and the National Planning Framework 2040.

5.6 Having regard to:

- National importance in the accelerated delivery of housing;
- The provisions of Project Ireland 2040 National Planning Framework with regard to compact growth and the provision of new homes within existing settlements, in particular Objectives 27 and 33;
- Objectives 3a, 3b, 10, 11 and 35 of the National Planning Framework;
- The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021
- The provisions of the Design Manual for Urban Roads and Streets (DMURS)
- The Sustainable Residential Development in Urban Areas (2009);
- Framework and Principles Protection of the Archaeological Heritage (1999) & Architectural Heritage Protection Guidelines for Planning Authorities (2011)
- The Apartment Guidelines (2020);
- The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018
- The pattern of existing and permitted development in the area, including the adjoining Graydon.

5.7 We respectfully submit that, should the Board consider the proposed development is a material contravention of specific Development Plan and / or Local Area Plan objectives, that there is reasonable justification to grant permission, having regard to the relevant criteria under Section 37(2)(b) of the Planning and Development act 2000, as amended.