



Material Contravention Statement

Proposed Strategic Housing Development (SHD),
Castlelake, Terrysland, Carrigtwohill, Cork

Client: BAM Property Limited

June 2022

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01. Introduction

1.1 PURPOSE OF STATEMENT

HW Planning have been appointed by BAM Property Limited to prepare this statement to address aspects of the proposed Strategic Housing Development at Castle, Terry's-Land and Carrigtwohill (townlands), Carrigtwohill, Co. Cork ("the Castl lake SHD") that may be considered to materially contravene certain non-land use policies and objectives of the Cork County Development Plan 2022 - 2028.

The proposed development materially contravenes policies, objectives and standards contained in the Cork County Development Plan 2022 – 2028 in respect of density.

The Planning and Development (Housing) and Residential Tenancies Act, 2016 ("the 2016 Act"), empowers An Bord Pleanála to grant permission for a strategic housing development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land. In these circumstances, the provisions of Section 9(6) of the 2016 Act are relevant:

(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.

In circumstances where: (i) the Board has the power to decide to grant permission for a proposed SHD where the proposed development contravenes the development plan or local area plan; (ii) the proposed Castl lake SHD does not contravene the development plan or local area plan in relation to the zoning of land; then (iii) the provisions of section 37(2)(b) of the Planning and Development Act 2000 ("the 2000 Act") are relevant to the Board's consideration of this planning application. In this respect, subsection 37(2) 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.

Section 8(1)(iv)(II) of the 2016 Act specifies that, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000. A response to the relevant criteria above is provided in Section 03 of this report and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed Castlelake SHD, thereby enabling the Board to decide to grant permission, notwithstanding the material contravention of the subject policies, objectives and standards of the CDP 2022-2028.

This statement addresses the material contraventions of certain policies, objectives and standards contained in CDP 2022-2028 and sets out the reasons why the Board should nonetheless grant permission, having regard to the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

1.2 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The development will consist of the construction of a strategic housing development of 716 no. units comprising 224 no. houses, 284 no. duplex units and 208 no. apartments provided in 7 no. apartment buildings. A 2 no. storey creche building is also provided. The two storey houses comprise of 48 no. detached, 126 no. semi-detached and 50 no. terraced Houses consisting of 60 no. two bed units, 139 no. three bed units and 25 no. four bed units. The part-one to part-three storey duplex units are contained in 122 no. buildings providing 82 no. one bed units, 142 no. two bed units and 60 no. three bed units. The 7 no. apartments buildings range in height from part-1 to part- 5 no. storeys.

- Block 1 is 4 no. storeys and contains 34 no. units (7 no. one bed units, 19 no. two bed units and 8 no. three bed units).
- Block 2 is part-1 to part-5 no. storeys and contains 42 no. units (15 no. one bed units, 20 no. two bed units and 7 no. three bed units).

- Block 3 is 5 no. storeys and contains 17 no. units (8 no. one bed units and 9 no. two bed units).
- Block 4 is 4 no. storeys and contains 13 no. units (6 no. one bed units and 7 no. two bed units).
- Block 5 is 4 no. storeys and contains 13 no. units (6 no. one bed units and 7 no. two bed units).
- Block 6 is 4 no. storeys and contains 13 no. units (6 no. one bed units and 7 no. two bed units).
- Block 7 is 5 no. storeys over basement and contains 76 no. units (23 no. one bed units, 41 no. two bed units and 12 no. three bed units).

All blocks contain ancillary internal and external resident amenity spaces, and the proposed development also provides for: hard and soft landscaping including Multi Use Games Areas (MUGA's) and associated fencing; boundary treatments; public realm works; car parking; bicycle stores and shelters; bin stores; lighting; photovoltaic panels; plant rooms; and all ancillary site development works above and below ground.

Access to the proposed development will via an extension to Castl lake Avenue with new entrances proposed from the existing Castl lake Avenue, Oakbrook, and Pine Court. 2 no. new entrances are proposed from the Castle Lake to Station Road Link Road currently under construction and permitted by Cork County Council Planning Reference 19/5707. A new entrance is proposed from the North South Link Road, (linking Station Road to the Castle Lake to Station Road Link Road) and permitted by Cork County Council Planning Reference 19/5707. The proposed development also makes provision for the construction of a portion of the Carrigtwohill to Midleton Interurban Cycleway Phase 1 and a portion of the Northern Spine Link Road.

1.3 LAND USE ZONING OBJECTIVE

The Cork County Development Plan 2022 – 2028 came into effect on 6th June 2022 and is therefore the relevant local planning policy document pertaining to the subject lands at the time of determining the application. A Statement of Consistency has been prepared by HW Planning to demonstrate compliance with local planning policy.

The subject lands are principally zoned Residential (CT-R-01), Existing Residential/ Mixed Residential and Other Uses and Town Centre/ Neighbourhood Centres (CT-T-03 and CT-T-02). A small proportion of the Station Road South site is zoned Special Policy Area (CT-X-01). Residential development and childcare facilities are permissible uses in these areas.



Figure 1.1 Figure 1.3 Extract from the Cork County Development Plan 2022 -2028 with the Subject Site Outlined in Red.

Extracts from the Cork County Development Plan 2022-2028 are provided below which demonstrate that the proposed residential and childcare facility are appropriate uses on the land use zoning objectives identified above.

**County Development Plan Objective
ZU 18-11: Residential Areas**

Promote development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area.

Normally discourage the expansion or intensification of existing uses that are incompatible with residential amenity.

Appropriate Uses in Residential Areas

Residential development, residential care, sheltered housing, childcare facilities, education facilities, occasional retail, local centres/neighbourhood centres, places of worship, local medical/healthcare services, open space, recreation and amenity uses, community uses.

**County Development Plan Objective
ZU 18-17: Town Centres/ Neighbourhood Centres**

- a) Promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public. The primary retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each centre and in accordance with the Retail Strategy. Residential development will also be encouraged particularly in mixed use developments while the use of upper floors of retail and commercial premises in town centres for residential use will in particular be encouraged.
- b) Recognise that where it is not possible to provide the form and scale of development

Appropriate Uses in Town Centre/Neighbourhood Centres

Retail, cultural uses, recreation uses, hotel, bed and breakfast, public houses, financial services, professional services, medical and healthcare services, leisure facilities, places of worship, residential, mixed residential, childcare facilities, education facilities, community facilities, civic uses, offices, public transport facilities, car parks, funeral homes.

**County Development Plan Objective
ZU 18-20: Special Policy Areas**

Recognise that there are a small number of sites within the urban areas of the County where the normal land use zoning requirements do not apply. These can be subdivided into 3 distinct categories namely:

- a) Areas suitable for mixed use development (both brownfield and greenfield sites) where the range of uses are outlined.
- b) Areas suitable for mixed use development where further study is required to guide the significant or strategic nature of the site. This will involve the preparation of a master plan, design brief or area action plan before any formal planning application is made for the development. These should be subject to SEA and HDA screening where appropriate.
- c) Areas which require specific policy guidance to protect the unique characteristics of that particular area.

1.4 MATERIAL CONTRAVENTIONS OF THE CORK COUNTY DEVELOPMENT PLAN 2022 - 2028

For the purposes of calculating net density for the overall application site, as noted in the Planning Statement a conservative approach has been taken for transparency. Based on this overall approach the proposed development will provide a density of 43 no. units per ha. comprising 716 no. houses, duplexes and apartments on a developable area of 16.6 ha. In accordance with the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* the developable area does not include the portion of the Northern Spine Link Road, which forms part of the proposed development (Objective CT-U12 of the Cork County Development Plan 2022-2028) and landscape buffer strip beneath the existing pylons.

Due to the fact that the calculation of net density is based on interpretation of Appendix A of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* the proposed SHD may materially contravene Development Plan Objective HOU 4-7: Housing Density on Residentially zoned lands. This statement sets out the how the Board can grant a permission for the proposed strategic housing development having regard to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

Section 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended) directs that An Bord Pleanála can only grant permission for a development that materially contravenes the development plan where “*the proposed development is of strategic or national importance*”. This is demonstrated at Section 3.1 of this statement.

Further to the above, the material contraventions referred to above are discussed in regard to the relevant policies and objectives of the Cork County Development Plan 2022 -2028 are followed by a demonstration of the manner in which Section 37(2)(b)(ii) considerations apply.

02. Policy background

2.1 NATIONAL POLICY

The key National Policies of relevance to the proposed development are:

- Project Ireland 2040: National Planning Framework;
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009);
- Sustainable Urban Housing: Design Standards for New Apartments (2020); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

2.1.1 Project Ireland 2040: National Planning Framework

One of the principal goals of the NPF is to deliver compact growth through the activation of strategic areas and achieving effective density and consolidation. Promoting the compact growth approach rather than a continued sprawl of urban development, is listed as one of the NPF's key priorities and will be achieved by future developments complying with the following National Policy Objectives:

National Policy Objective 2A - *A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.*

National Policy Objective 3B - *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*

National Policy Objective 3C - *Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.*

National Policy Objective 4 - *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*

National Policy Objective 6 - *Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*

National Policy Objective 8 - *Ensure that the targeted pattern of population growth of Ireland's cities to 2040 is in accordance with the targets set out in Table 4.1.*

Figure 2.1 Extract of Table 4.1 Targeted Pattern of City Population Growth contained within the NPF

City	Population 2016	Population Growth to 2040 ²⁷		Minimum Target Population 2040
		% Range	People	
Dublin - City and Suburbs	1,173,000	20-25%	235,000 - 293,000	1,408,000
Cork - City and Suburbs	209,000	50-60%	105,000 - 125,000	314,000
Limerick - City and Suburbs	94,000	50-60%	47,000 - 56,000	141,000
Galway - City and Suburbs	80,000	50-60%	40,000 - 48,000	120,000
Waterford - City and Suburbs	54,000	50-60%	27,000 - 32,000	81,000

National Policy Objective 11 - In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13 - In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 32 - To target the delivery of 550,000 additional households to 2040.

National Policy Objective 33 - To 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.

Key Future Growth Enablers for Cork include.

- Progressing the sustainable development of new greenfield areas for housing, especially those on public transport corridors, such as Monard; and
- Identifying infill and regeneration opportunities to intensify housing development in inner city and inner suburban areas, supported by public realm and urban amenity projects.

2.1.2 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009)

The Sustainable Residential Development in Urban Areas, 2009 provides statutory guidelines which will assist planning authorities, developers, architects and designers in delivering high

quality residential development. The objective of the document is to produce high quality and crucially sustainable developments.

The Guidelines identifies the following key considerations for the development of 'Cities and larger towns':

- The trend towards smaller average household sizes;
- The need to encourage the provision of affordable housing; and
- The need to reduce CO2 emissions by reducing energy consumption and to support a more efficient use of energy in the residential and transport sectors, in line with Ireland's commitments under the Kyoto Protocol.

The Guidelines provide a broad spectrum of criteria that should be considered in the design and assessments of projects including:

- Acceptable building heights (see below);
- Avoidance of overlooking and over shadowing;
- Provision of adequate private and public open space, including landscaping where appropriate and safe play spaces;
- Adequate internal space standards in apartments;
- Suitable parking provision close to dwellings; and
- Provision of ancillary facilities, including childcare.

2.1.3 Sustainable Urban Housing: Design Standards for New Apartments, 2020

The Guidelines refer to the need to significantly increase supply as a key pillar of the overarching Rebuilding Ireland Housing Action Plan. Urban Areas are identified as the most suitable locations for apartments and are divided into 3 categories:

1. Central and/or Accessible Urban Locations,
2. Intermediate Urban Locations; and
3. Peripheral and/ or Less Accessible Urban Locations.

Section 2.4 of the Guidelines define Intermediate Urban Locations as:

"Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;

Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided; and

Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services. The Guidelines also state that:

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other factors.”

The subject lands are within a highly sustainable location, being within a 10-minute walk from both existing public train and bus services. The Cork-Midleton Rail Line extends from Kent Station, in Cork city centre, to Midleton Station, and also serves stations at Little Island, Glounthaune and Carrigtwohill. Carrigtwohill Train Station provides services from c. 6 a.m. to 10.30 p.m., with 30 minutes frequencies during morning and evening peak hours and 60 minutes frequencies during off peak hours. The Cork-Midleton Rail Line links with the Cork-Cobh Rail Line at Glounthaune Train Station, as shown in the Cork train services map provided in Figure 5. The Cork-Cobh Rail Line extends from Kent Station to Cobh and also serves stations at Little Island, Glounthaune, Fota, Carrigaloe and Rushbrooke. Carrigtwohill Main Street is served by the Bus Éireann service numbers 240, 241, 260 and 261.

The Apartment Guidelines are comprehensively addressed in the accompanying Statement of Consistency prepared by HW Planning.

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

The Building Height Guidelines have arisen from a recognition that the ambitious targets contained within the NPF, particularly in relation to accommodating 50% of future growth within the existing footprint of our cities, will not be met unless developments of greater height and scale are supported. The guidelines therefore actively seek increased levels of residential development in our urban centres through increased height and density.

Section 2.2 of the Guidelines outline that:

“At the same time, to meet the needs of a growing population without growing our urban areas outwards requires more focus in planning policy and implementation terms on reusing previously developed ‘brownfield’ land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements.”

Furthermore, SPPR 1 supports the redevelopment of underutilised sites and specifies:

*“In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and **shall not provide for blanket numerical limitations on building heights.**”*

The Building Height Guidelines are comprehensively addressed in the accompanying Statement of Consistency prepared by HW Planning.

2.2 REGIONAL POLICY

The Regional Spatial Economic Strategy: Southern Region (Cork Metropolitan Area Strategic Plan) (2020) represents the relevant regional policy pertaining to the subject site.

2.2.1 Regional Spatial Economic Strategy: Southern Region (Cork Metropolitan Area Strategic Plan) (2020)

The RSES is positioned as an implementing strategy for the NPF that aims to reflect the specific needs of the regions. A key principle in developing the strategy for the RSES is provide more sustainable choices and options for people, businesses and communities that can positively influence more sustainable patterns of living and working which benefit a greater cohort of the population and make the economy more resilient.

Carrigtwohill is situated within the Cork MASP region. Cork MASP Policy Objective 1 states the following overall objectives for the Cork Metropolitan Area Strategic Plan (MASP) area.

“To promote the Cork Metropolitan Area as a cohesive metropolitan employment and property market where population and employment growth is integrated with:(ii) the continued regeneration, consolidation and infrastructure led growth of the city centre, Cork City Docklands, Tivoli and suburban areas (iii) active land management initiatives to enable future infrastructure led expansion of the city and suburbs (to be assessed by Core Strategy initiatives) and (iv) the regeneration, consolidation and infrastructure led growth of metropolitan towns and other strategic employment locations in a sustainable manner.”

The RSES Guidelines are comprehensively addressed in the accompanying Statement of Consistency prepared by HW Planning.

2.3 LOCAL PLANNING POLICY

2.3.1 Cork County Development Plan 2022 -2028

The Cork County Development Plan (CDP) outlines objectives and parameters for housing development in the County for 2022 - 2028 The Plan is underpinned by a number of key principles which include sustainability, social inclusion, high quality design and climate change adaptation. The Plan establishes a hierarchical network of settlements in the County, allocating related population and housing growth projections.

Chapter 2 of the Plan outlines the Core Strategy for the County over the lifetime of the Plan. The strategy identifies a hierarchy in the network of settlements and divides the County into different strategic areas to focus growth in appropriate locations and ensure a sustainable, plan-led future for Cork.

2.3.1.1 Land Use Zoning Objectives

The subject lands are principally zoned Residential, Existing Residential/ Mixed Residential and Other Uses and Town Centre/ Neighbourhood Centres as shown in Figure 2.2. A small proportion of the Station Road South site is zoned Special Policy Area. Residential development and childcare facilities are permissible uses on these zoned lands

The local planning policies pertaining to the subject site are outlined throughout the Planning Statement and Response to An Bord Pleanála Opinion and the accompanying Statement of Consistency and Material Contravention Statement prepared by HW Planning. The material contravention of the recently adopted Cork County Development Plan 2022-2028 relates solely to Objective HOU 4-7.

03. Material Contravention

The proposed development materially contravenes Cork County Development Plan 2022 -2028 Objective HOU 4-7 in respect of high density. An extract from Policy Objective HOU 4-7: Housing Density on Residentially Zoned Land is provided below for reference

County Development Plan Objective			
HOU 4-7: Housing Density on Residentially Zoned Land			
	Min Net Density	Max Net Density	Comment
High	50	No Limit	<ul style="list-style-type: none"> Applicable to town centres of the larger towns with a population >1500 throughout the county and in other areas identified in the Settlement Network normally in close proximity to existing or proposed high quality public transport corridors; This will normally involve a mix of unit formats including terraced housing and/ or apartment units. May include the subdivision of larger dwellings proximate to existing or improved public transport corridors; A minimum 10% open space provision will be required. Subject to compliance with appropriate design/ amenity standards and protecting the residential amenity of adjoining property and the heritage assets of the town centre.

In respect of the above definition of high density, Specific Policy Objective CT-R-01 in the Cork County Development Plan 2022-2028 which applies to a proportion of the subject lands stating that:

“High density residential development. High quality pedestrian and cycle connectivity, particularly to adjoining schools campus and station quarter, to be provided.”

Further to Objective HOU 4-7, Section 4.89 of the Development Plan further explains that:

“Outside town centres, higher density development is generally considered to involve the construction of apartments within the building typologies. In order to align the Plan with Government Guidelines, the minimum threshold is being increased from 35 to 50 units/ha with no upper limit. This zoning category is applicable to suitable lands adjoining existing or planned high frequency public transport stations or bus stops within Metropolitan Cork.”

The planning policy context and justification for deciding to grant permission in circumstances of such a material contravention is set out below, as required under the relevant criteria set out under Section 37(2)(b) of the 2000 Act, as amended.

This section will outline the planning policy context and justification for deciding to grant permission in circumstances of such a material contravention, as required under the relevant criteria set out under Section 37(2)(b) of the 2000 Act, as amended.

3.1 STRATEGIC OR NATIONAL IMPORTANCE - SECTION 37(2)(B)(I) OF THE ACT

Section 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended) directs that An Bord Pleanála can grant permission for a development that materially contravenes the development plan where *“the proposed development is of strategic or national importance”*.

We refer to Part 2, Section 3 of the Planning and Development Tenancies Act, 2016 (as amended) which provides the definition of a Strategic Housing Development as:

“the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses”

The proposed development comprises 716 no. residential units and a creche on appropriately zoned lands as set out at Section 1.3 of this report therefore the proposed application is strategic in nature.

Carrigtwohill due to its location on the Cork Metropolitan rail corridor has been identified for significant growth since the Cork Area Strategic Plan (CASP) proposed the reopening of the Train Station in 2001. Since that time the lag in infrastructure provision has slowed growth, but the implementation of the two recent Part 8 projects being the *Carrigtwohill to Midleton Inter-Urban Cycleway Phase 1* and the *Carrigtwohill Urban Regeneration and Development Fund (URDF) Initiative – Public Infrastructure Bundle* will allow for the accelerated delivery of housing in Carrigtwohill in a sustainable and integrated manner.

The proposed development will benefit from, integrates with and will deliver a portion of the Inter-Urban Greenway. The subject application will allow for the completion of the Castlake Masterplan over twenty years since its inception and will provide a high quality residential community, which will enjoy excellent cycling and pedestrian links to Carrigtwohill Train Station and Town Centre. The proposed development is considered to be of strategic importance for the sustainable growth of Carrigtwohill over the lifetime of the current Development Plan.

Section 32(b)(i) is therefore applicable to the proposed Strategic Housing Development.

3.2 CONFLICTING OBJECTIVES IN THE DEVELOPMENT PLAN - SECTION 37(2)(B)(II) OF THE ACT

Section 37(2)(b)(ii) of the Planning and Development Act, 2000 (as amended) directs that An Bord Pleanála can grant permission for a development that materially contravenes the development plan where *“there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned”* There are conflicting Green Infrastructure and Density policy objectives that prohibit the delivery of High Density development in accordance with HOU 4-7 on CT-R-01 lands.

Section 3.5.20 of the Cork County Development Plan 2022 – 2028 acknowledges that:

“The mix of housing demand is changing dramatically which will need targeted policy intervention to cater for 1-2 person households and the needs of an ageing population across the County. Coupled with this, Ireland has some of the lowest density urban areas in the developed world and this constrains housing delivery.”

For the purposes of calculating net density for the overall application site, it should be noted that a conservative approach has been taken for transparency. Based on this overall approach the proposed development will provide a density of 43 no. units per ha. comprising 716 no. houses, duplexes and apartments on a developable area of 16.6 ha. In accordance with the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* the developable area does not include the portion of the Northern Spine Link Road, which forms part of the proposed development (Objective CT-U12 of the Cork County Development Plan 2022-2028) and landscape buffer strip beneath the existing pylons. In terms of density and housing mix Section 4.7.6 of the Development Plan highlights that the Local Authority aim to:

“...maintain flexibility for developers to adapt to new market conditions and broaden the range of house types that can be built on zoned land so that, in future, more households will be attracted to locate in the County’s towns, especially in the County Metropolitan Area where employment, public transport and community assets are best aligned.”

The proposed mix of unit sizes (153 no. one bed units, 312 no. two bed units, 226 no. three bed units and 25 no. four bed units) and types will meet the needs of a range of family size at different stages of the lifecycle including couples, families and downsizers.

Carrigtwohill is defined as a ‘Main Town’ with a population of 5,080 no. persons at the time of the 2016 census. Table 4.1 of the Development Plan provides guidance on appropriate densities noting that ‘High (50+ units/ha+)’ is applicable in locations close to existing/ future high quality public transport proposals with densities ranging from 30 – 50 no. units per ha applicable generally for for future development.

Settlement Type	Settlement	High (50 units/ha+)	Medium A (30-50 units/ha)	Medium B (20-35 units/ha)	Medium C (5-20 units/ ha)
All Towns	Town Centre Locations	Applicable in town centre locations	--	--	
Towns with proposed high quality Public Transport Corridor Potential	Carrigtwohill Carrigaline Cobh Midleton Passage West/ Glenbrook/ Monkstown Monard SDZ Glounthaune# Little Island#	Applicable in locations close to existing/ future high quality public transport proposals.	Generally applicable for future development with a minimum density of 35 units/ha recommended.	May be applicable in a limited number of peripheral/ sensitive locations.	

Section 4.8.10 of the County Development Plan which states the following applies:

“An increased minimum threshold is proposed for the Medium A Density category to 30 units/ha as per the Guidelines. The category allows for the provision of apartments within the unit typology mix but it is not a requirement. This category is generally applicable to suburban and greenfield sites in larger towns >5,000 population and those planned to grow >5,000 population over the lifetime of the Plan.”

The subject site is part-greenfield part-infill in nature and located within close proximity of Carrigtwohill Town Centre and Carrigtwohill Train Station. Policy Objective HOU 4-7: Housing

Density on Residentially Zoned Land provides further guidance on densities for the application site.

County Development Plan Objective			
HOU 4-7: Housing Density on Residentially Zoned Land			
	Min Net Density	Max Net Density	Comment
High	50	No Limit	<ul style="list-style-type: none"> Applicable to town centres of the larger towns with a population >1500 throughout the county and in other areas identified in the Settlement Network normally in close proximity to existing or proposed high quality public transport corridors; This will normally involve a mix of unit formats including terraced housing and/or apartment units. May include the subdivision of larger dwellings proximate to existing or improved public transport corridors; A minimum 10% open space provision will be required. Subject to compliance with appropriate design/ amenity standards and protecting the residential amenity of adjoining property and the heritage assets of the town centre.

County Development Plan Objective			
HOU 4-7: Housing Density on Residentially Zoned Land			
	Min Net Density	Max Net Density	Comment
Medium A	30	50	<ul style="list-style-type: none"> Applicable to suburban/greenfield lands of the larger settlements with a population > 5,000 and those planned to grow >5,000 population; In towns with an existing/ planned high quality public transport service (e.g. Carrigtwohill), a minimum density of 35 units/ ha is recommended. On former Institutional lands which may require concentration of development in certain areas. A minimum of 20% public open space is required at these locations. This category would be the highest density category applicable to the smaller settlements (< 5,000 in population), and would generally apply to central sites within the core of such settlements, unless otherwise stated or where a higher density approach accords with the existing pattern of development; Must include a broad range of unit typologies and normally involves a combination of unit formats including a higher proportion of terraced units and/or apartment type units.

In response to the above objectives, it should be noted that the application site is made up of a number of parcels of land with varying net densities proposed. Higher density typologies are proposed in closer proximity to existing/future public transport nodes, particularly fronting key roads (i.e. Castl lake South 01 and 02). The Design Team have been cognisant of the existing context of the environs which includes existing 2 no. storey dwelling houses (i.e. Castl lake West), drainage ditches, railway tracks and provisions for an interurban cycle/pedestrian route (i.e. Castl lake North and Blandcrest). It should also be noted that the Central Neighbourhood Park (18,337 sq m) that traverses Castl lake North and Blandcrest has impacts on the net density also. Notwithstanding this, the overall net density of 43.1 no. units per ha. is consistent with Planning Policy Objective HOU 4-7 for which relates to suburban/greenfield lands. A breakdown summary of the key areas is provided below for reference.

Area	Net Area	No. of Units	Density
Castlelake South 01	0.56 ha	34	64 no. units per ha
Castlelake South 02	0.46 ha	42	75 no. units per ha
Castlelake West	0.64 ha	36	39.1 no. units per ha
Blandcrest	6.8 ha	315	46.3 no. units per ha
Castlelake North	6.3 ha	209	33.1 no. units per ha
Station Road North	1.27 ha	51	40.2 no. units per ha
Station Road South	0.52 ha	29	55.8 no. units per ha
Total Developable Area	16.6	716	43.1 no. units per ha

In terms of developing lands zoned Existing Residential (i.e. Castlelake West, Castle Lake South 02, part of Castlelake 01 and part of Castlelake North), the Development Plan notes that they:

“may contain residential development of varied densities ranging from high density historic terraces to more modern lower density housing schemes. The Plan generally supports proposals for increased densities within this category to optimise the development of lands within the built envelope of a settlement, subject to protecting existing residential amenities and adhering to proper planning and development standards.”

In addition, Table 3.1 Principles of Placemaking of the Cork County Development Plan 2022-2028 identifies 7 no. Themes of Strategic Objectives and Local Outcomes. Under the theme of ‘Legibility’ it is an objective:

“to promote legibility through development that provides recognisable routes, intersections and landmarks to help people find their way around’. The local objective pertaining to this is to ‘emphasis the hierarchy of place with a graduation of building heights and density from the core, framing views and landmarks and creating new focal points.”

Furthermore identifying the Local Outcome as follows:

“Activity levels in urban areas are directly linked to their density of development, mix of uses and the design of the urban structure. Pedestrian activity or street life increases in urban areas that can be defined as “walkable” and where residential use is located within the town centre mix.”

The proposed development achieves a net density of 43 no. units per hectare across the 7 no. land parcels and in accordance with the policies and objectives of the County Development Plan the density fluctuates across the site depending on the specific site context. We consider that this is the proper and sustainable response to the delivery of density in this location.

The Planning Inspector in their assessment of the previously proposed scheme (CCC Ref. 17/5399, ABP-301610-18) was of the opinion that:

*“Having regard to national guidance including the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, densities in the range of 50 units per ha are advocated for adjacent to public transport corridors. As noted previously, I acknowledge that densities in this range may not be viable at this location having regard to the existing character and location of Carrigtwohill. In this context, I consider that a density of **38 units per ha as proposed in the revised plans submitted by the applicant is generally appropriate.**” [Emphasis Added].*

As demonstrated in the breakdown of net densities across the application lands greater densities are proposed on lands zoned Town Centre (i.e. Castl lake South 02 - 75 no. units per ha and Station Road South – 55.8 no. units per ha). The overall balance of unit typology and size, and the delivery of high quality and meaningful open spaces positively respond to the receiving environment, have addressed the concerns raised in the previously proposed scheme and are consistent with national planning policy.

The National Planning Framework and Apartment Guidelines 2020 seek increased densities at appropriate locations particularly in locations that are well connected by public transport. The delivery of housing on this site is a vital component to addressing the unfinished nature of the wider Castl lake Development and will contribute to alleviating the prevailing shortage of housing. As demonstrated in the accompanying Statement of Consistency, the subject lands are defined as a ‘Intermediate Urban Location’. The Apartment Guidelines 2020 consider such locations appropriate for smaller-scale, higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent.

Notwithstanding the above, we also acknowledge Specific Policy Objective CT-R-01 in the Cork County Development Plan 2022-2028 which applies to a proportion of the subject lands stating that:

“High density residential development. High quality pedestrian and cycle connectivity, particularly to adjoining schools campus and station quarter, to be provided.”

Further to Objective HOU 4-7, Section 4.89 of the Development Plan further explains that:

*“Outside town centres, higher density development is generally considered to involve the construction of apartments within the building typologies. In order to align the Plan with Government Guidelines, the minimum threshold is being increased from 35 to 50 units/ha with no upper limit. This zoning category is **applicable to suitable lands** adjoining existing or planned high frequency*

public transport stations or bus stops within Metropolitan Cork.” [Emphasis Added].

The application area subject to the CT-R-01 zoning objective traverses 3 no. land parcels: Castl lake North; Blandcrest; and Station Road North, with a combined gross area of 12.1 ha. There are 491 no. units situated on lands zoned CT-R-01. As outlined below there a number of contributing specific circumstances pertaining to the site, and in particular the CT-R-01 zoned lands which prohibit the achievement of high density development as defined in Objective HOU 4-7 (i.e. minimum density of 50 no. units per ha.)

The recently granted Part 8 Carrigtwohill to Midleton Inter-urban Cycleway Phase 1 enters the subject lands to the west of apartment block 7 on lands zoned CT-R-01. The alignment of the internal access road has been incorporated into the site layout as granted by Cork County Council and continues south to connect to the east-west access road currently under construction. In addition, a planted embankment frames the underpass access to provide a safe environment and encourage people and cyclists to use this green infrastructure corridor.

The proposed development also makes provision for the delivery of the southern portion of the Northern Spine Link Road, which is Objective CT-U12 of the Cork County Development Plan 2022-2028. The Northern Spine Link Road will link the Western Spine Link Road proposed within the Urban Expansion Area to the north of the railway line to the Castle Lake to Station Road Link Road, which is currently nearing completion

The Neighbourhood Park is also located on lands zoned on CT-R-01 zoned lands and as iterated throughout the application documentation, a key objective of the scheme is to retain and enhance the ecological value of the site. There is an existing north-south drainage ditch that has been incorporated into the landscape design as a swale feature and which will contribute to the SuDs features on site. The Landscape Design Rational report prepared by Cunnane Stratton Reynolds Landscape Architects explain that:

“The existing drain running through the centre of the site will function as a key SUDs feature. The diversion of water to this drain will reinvigorate it as a bio-diversity corridor, and any excess water will flow into the existing section of stream along the southern boundary which itself flows into nearby existing Castl lake lake.”

The delivery of a neighbourhood park in this area is the most logical and appropriate use of these lands. The neighbourhood park provides vital green infrastructure connections, additional future connectivity to the granted greenway and valuable naturalistic open space to for future residents of the Castl lake SHD. The proposed development adheres to the countywide objectives for green and blue infrastructure as set out in Policy Objective GI 14-1: Countrywide Green and Blue Infrastructure Objectives.

*“a) Create an integrated and coherent green infrastructure for the County by **encouraging the retention and strengthening of substantial networks of green space** in urban, urban fringe and the wider countryside to serve the needs of communities now and in the future and as a key contributor to climate mitigation and climate adaptation.*

*b) Develop the green infrastructure network (including green corridors) to ensure the conservation and enhancement of biodiversity, including the protection of Natura 2000 European Sites, the provision of accessible parks, open spaces and recreational facilities (particularly within settlements), **the***

sustainable management of water, the maintenance of landscape character and the protection and enhancement of architectural and archaeological heritage.

c) Capitalise on and highlight the multifunctional benefits/opportunities (ecosystem services) that green and blue infrastructure can present. Seek to advance the use of nature based solutions as an alternative to traditional infrastructure. Seek to advance an ecosystem services approach and ecosystem services valuation as a decision-making tool in plans and projects.

d) Recognise rivers and streams (and their wider riparian corridors) as one of the natural foundations for multi-functional green and blue infrastructure corridors. Seek to strengthen ecological linkages which watercourses have with other water dependent habitats as well as with hedges/treelines, woodland and scrub in the wider landscape.

e) Ensure that all settlements have an adequate level of quality green and recreational infrastructure (active and passive) taking into account existing deficits, planned population growth as well as the need to serve their surrounding hinterlands.

f) Achieve a net gain in green infrastructure through the protection and enhancement of existing assets and through the provision of new green infrastructure as an integral part of the planning process. Encourage the provision of different green infrastructure elements, such as trees in urban areas and green roofs in town centres, so that a net gain in green infrastructure is achieved over the lifetime of this Development Plan.

g) Seek to increase investment in green infrastructure provision and maintenance by accessing relevant EU funding mechanisms and national funding opportunities including tourism related funding.

h) Integrate the provision of green infrastructure with infrastructure provision and replacement, including walking and cycling routes, as appropriate, while protecting biodiversity and other landscape resources.

i) Support initiatives and programmes which seek to strengthen the green and blue infrastructure and work with communities and other stakeholders in furthering the green and blue infrastructure concept” [Emphasis Added].

Furthermore, Objective G1 14-3: Green Infrastructure and Development requires “... new development and redevelopment proposals, to contribute to the protection, management and **enhancement of the existing green and blue infrastructure of the local area in terms of the design, layout and landscaping of development proposals.**” [Emphasis Added].

As iterated throughout the application documentation, a key concept of the scheme has been to enhance the existing green infrastructure and integrate blue and green infrastructure into the development of this strategically important site. The above Green Infrastructure policy objectives conflict with the achievement of this high density as set out in objective HOU-4-7.

Furthermore, following the Section 5 tripartite meeting, the 2 no. storey creche was relocated to its now proposed location (on CT-R0-01 lands) in response to the council's opinion that it should be provided in a more centrally accessible location for future residents. The now proposed location will provide a complementary use to the education campus that is currently under construction on adjacent lands to the south. The creche will also benefit from the Part 8 Carrigtwohill to Midleton Inter-urban Cycleway Phase 1 which will run along the eastern boundary of the site. The creche is considered to be positioned in the optimal location to cater for the needs of future residents.

In terms of calculating net densities Appendix A of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* anticipates such instances and notes

Selecting the appropriate definition of site / development area is important. Where non-residential uses, such as main roads, retail, employment and major open spaces are being planned in conjunction with housing, an allowance needs to be made in the density assumption for the land that will be occupied by such uses which may be upwards of 25% at the neighbourhood or district scale.

The non-residential uses proposed on the CT-R-01 including the Neighbourhood Park (2.6 ha), the southern portion of the Northern Spine Link Road (0.4 ha) and the Inter Urban Cycleway (0.19 ha) which will serve the wider neighbourhood and town, total 2.47 ha or 20% of the site area. Appendix A of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* indicates that the measurement of net density should exclude

- *major and local distributor roads;*
- *primary schools, churches, local shopping etc.;*
- *open spaces serving a wider area; and*
- *significant landscape buffer strips.*

Based on this we consider that the Northern Spine Link Road (0.42 ha) and the Inter Urban Cycleway (0.19 ha) should be excluded from the net density calculation as they are major and local distributor roads and specific objectives of the Development Plan to serve the wider community. In addition, the Neighbourhood Park (1.86 ha) should also be excluded as it is an open space serving the wider area.

Figure 3.1 below highlights that if these areas were omitted the net developable area would be 9.6 ha.

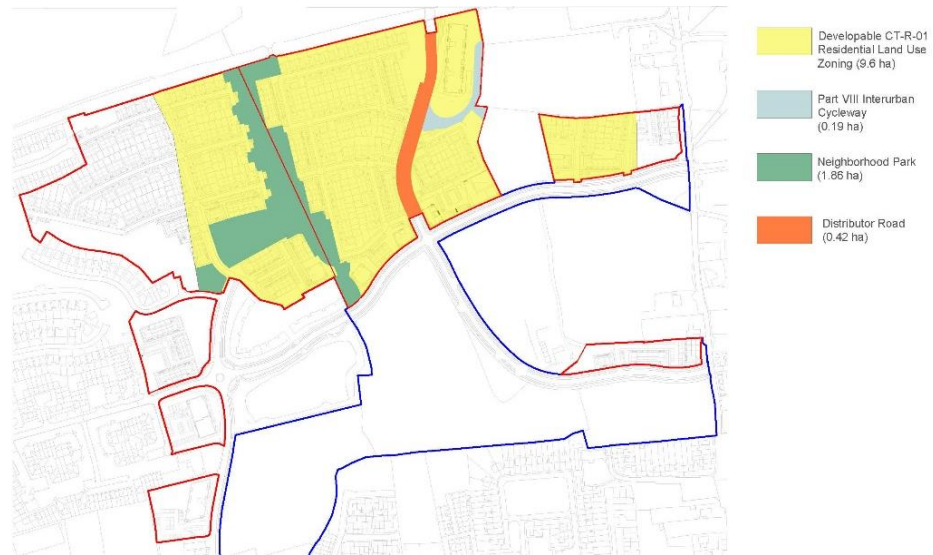


Figure 3.1 Density Calculations for CT-R-01 Zoned Lands

Based on this the 491 no. units situated on lands subject to the CT-R-01 zoning objective would achieve a net density of 51 no. units per ha in accordance with HOU 4-7.

Notwithstanding the above and due to the fact that the calculation of net density is based on interpretation of Appendix A of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009*, this Material Contravention Statement has been prepared as it may be considered that the minimum net density of 50 units per hectare has not been achieved on lands zoned CT-R-01 in accordance with Development Plan Objective HOU 4-7: Housing Density on Residentially zoned lands.

04. Conclusion

Section 8(1)(iv)(II) of the Residential Tenancies Act 2016 (as amended) specifies that, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000

On the basis of the reasons and considerations set out in the report above, sufficient justification exists for An Bord Pleanála to decide to grant permission for the proposed Castlflake SHD, in accordance with section 37(2)(b)(i) and (ii) of the Planning and Development Act, 2000 (as amended), notwithstanding the fact that the proposed SHD materially contravenes the Cork County Development Plan 2022 - 2028 in relation to density.

We consider that An Bord Pleanála should grant permission for the proposed Castlflake SHD having regard to the provisions of section 37(2)(b) of the Planning and Development Act, 2000 (as amended).