

Material Contravention Statement

For Strategic Housing Development at Ballymacaula, Drumbiggle, Keelty, Circular Road, Ennis, Co. Clare.

on behalf of Glenveagh Homes Ltd.

August 2022



McCutcheon Halley
CHARTERED PLANNING CONSULTANTS

Document Control Sheet

Client	Glenveagh Homes Ltd.	
Project Title	Material Contravention Statement	
Document Title	Material Contravention Statement	
Document Comprises	Volumes	-
	Pages (Including Cover)	1-23
	Appendices	
Prepared by	Aoife Browne	
Checked by	Tom Halley	
Office of Issue	Cork	
Document Information	Revision	1
	Status	Final
	Issue Date	August 2022

CORK

6 Joyce House
Barrack Square
Ballincollig
Cork
P31 YX97

T. +353 (0)21 420 8710

DUBLIN

Kreston House
Arran Court
Arran Quay
Dublin 7
D07 K271

T. +353 (0)1 676 6971

www.mhplanning.ie

Contents

1. Introduction	3
1.1 Purpose of the Material Contravention Statement.....	3
1.2 Proposed Development.....	3
2. Site Context.....	5
3. Legislative Context.....	6
4. Policy Context for Proposed Material Contravention	7
4.1 National Planning Framework	7
4.2 Regional Spatial and Economic Strategy for the Southern Region .	8
4.3 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (SRDUA, May 2009)	9
4.4 Design Standards for New Apartments Guidelines for Planning Authorities, 2020.....	11
4.5 Clare County Development Plan 2017-2023	12
4.6 Draft Clare County Development Plan.....	14
4.7 Ennis Municipal District Settlement Plan (Volume 3A)	16
5. Justification of Material Contravention	17
5.1 Zoning and Open Space.....	18
5.2 Car Parking Standards and Regulations	20
6. Conclusion and Material Contravention Statement.....	23

1. Introduction

1.1 Purpose of the Material Contravention Statement

This Material Contravention Statement accompanies a Strategic Housing Development (SHD) application by Glenveagh Homes Ltd. For 289 no. residential units and a creche facility at Ballymacaula, Drumbiggle, Circular Road, Ennis, Co. Clare.

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 makes provision for An Bord Pleanála to grant permission for a development which materially contravenes a Development Plan/Local Area Plan, other than in relation to the zoning of the lands.

Section 37(2)(b) of the Planning and Development Act 2000 also states that the Board may decide to grant permission even if the proposed development contravenes materially the development plan where the proposed development is of strategic or national importance and there are conflicting objectives in the development plan or having regard to the pattern of development/permissions granted in the area.

In the Clare County Development Plan 2017 and Clare County Draft Development Plan 2023-2029, (Volume 3A – Ennis Municipal District), this site is zoned within a ‘Low Density Residential’ which refers to the use of lands to *‘accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed Developments must also be appropriate in scale and nature to the areas in which they are located’*. The Clare County Development Plan 2017-2023 and the Draft Clare County Development Plan 2023-2029 provides a standard of 15 units per hectare on low residential zoned land in Ennis and car parking standards of 1 space per 3 residential units.

This Statement will address where it is considered the proposed development materially contravenes the Clare County Development Plan 2017 and the Ennis Municipal District Settlement Plan and where national guidelines supersede the standards within the CDP and the LAP. This Statement will provide justification for An Bord Pleanála to grant permission for the proposed development.

1.2 Proposed Development

The proposed development is for a Strategic Housing Development at Ballymacaula, Drumbiggle, Keelty, Circular Road, Ennis, Co. Clare. The proposed development will consist of:

1. The construction of 289 no. residential units comprising a mixture of 12 no. 1 bed apartments, 78 no. 2 bed townhouse/duplex units, 165 no. 3 bed dwelling houses, and 34 no. dwelling houses which will have an option of a 3- or 4-bedroom house-type

2. A 400.7m² creche/childcare facility.
3. The provision of landscaping and amenity areas, central open spaces including play/exercise equipment, a linear amenity walkway, informal play areas and local play areas.
4. The provision 2 no. pedestrian pathways to connect to the N85, 2 no. pedestrian pathways to connect into Ballymacaula View Estate, improvements to pedestrian footpaths and upgrades along Circular Road including an uncontrolled pedestrian crossing.
5. All associated infrastructure and services including 1 no. vehicular access point, car parking and bin storage, lighting, 2 no. ESB substations, drainage and 1 pumping station and a pedestrian connection to the Drumbiggle and Cahercalla Road, road boundary treatments at Ballymacaula, Drumbiggle, Circular Road, Ennis, Co. Clare.

An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the proposed development.

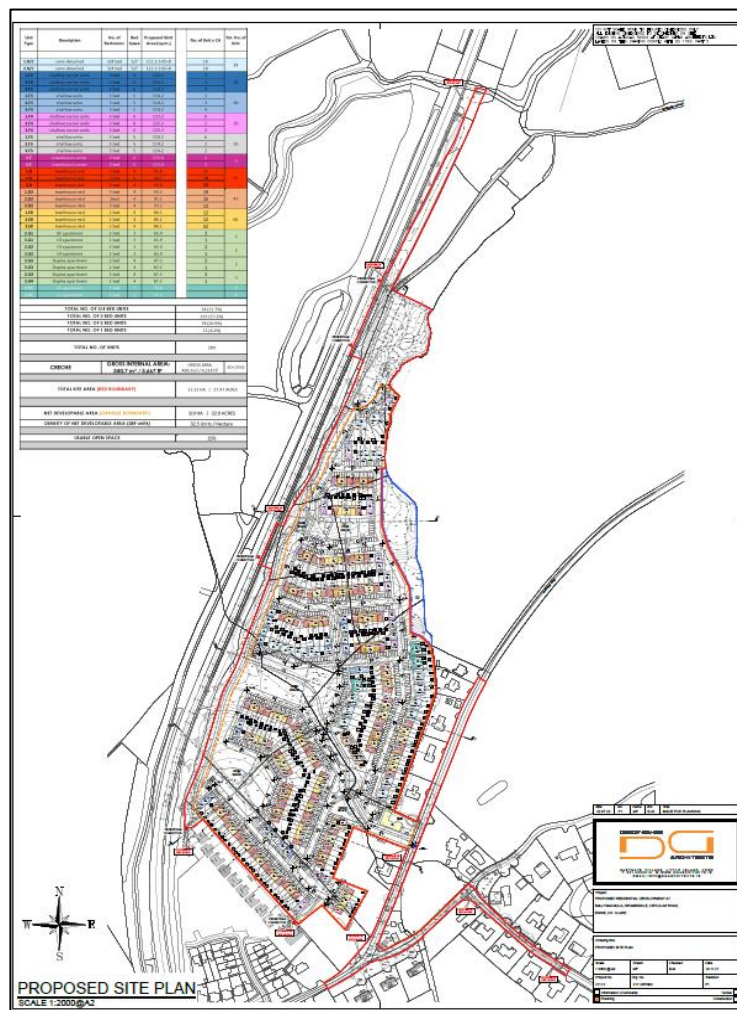


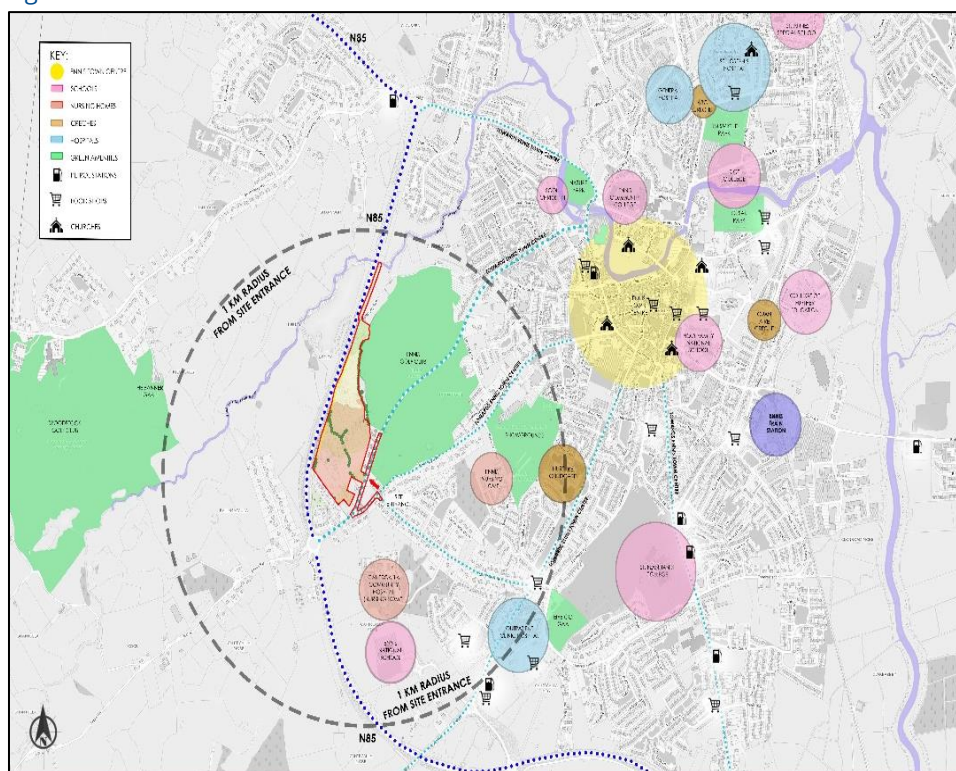
Figure 1: Proposed Site Plan (Outlined in Red)

2. Site Context

The proposed development site is 11.32 ha in area and is located within the settlement boundary of Ennis. The site is subject to land use policies and objectives of Clare County Development Plan 2017, Draft Clare County Development Plan 2023-2028 and also Ennis Municipal District Settlement Plan. The site is located at Ballymacaula, Drumbiggle, Keelty, Circular Road, Ennis, Co. Clare, approximately 2 km to the southwest of Ennis Town Centre. Extending in a linear direction parallel to the N85, the greenfield site is currently in agricultural use.

Figure 2 illustrates the site’s proximity to several amenities, facilities, convenience stores and transport. Most of the amenities are within 1 km walking distance whilst the further ranging to 2 km to a range of facilities in Ennis Town Centre.

Figure 2: Site and Wider Context



To the northeast of the site sits the Ennis Golf Club, whilst to the east of the site the lands join the R474 Regional Road (Circular Road) and there is a handful of one-off houses located immediately to the east of the subject site. To the west of the site is the N85 Ennis Bypass also known as the Western Relief Road. Lands to the South include residential housing estates comprising of over 40 units.

3. Legislative Context

Under Section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, 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 application must include a statement:

(i) setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and

(ii) where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, 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 a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed

development. and demonstrate that the Board should support this SHD application, as the proposal addresses the matters specified in Section 37(2)(b)(iii) and (iv) of the Planning and Development Act 2000 ('the Act').

In this regard, Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers:

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

On determining that point (i) is applicable, it must be determined that one of the sub-sections set out below is relevant:

(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.

4. Policy Context for Proposed Material Contravention

4.1 National Planning Framework

The National Planning Framework (NPF) was published by the Government of Ireland in 2018, with the purpose to provide specifics for national planning and capital expenditure, combining the two to create a robust plan. These plans aim to achieve a strategic balance of regional development amongst rural and urban areas in Ireland. Furthermore, the NPF seek to achieve balanced growth and establish a clear hierarchy for urban areas outside the greater area of Dublin.

As outlined within the National Planning Framework, County Clare along with Limerick, and much of Tipperary comprise the Mid-Western Regional area within the Southern Region. This regional area is supported by the National

Planning Framework as it makes provision for the population growth of 340,000 to 380,000 people. Focusing on the urban cores of the county towns and principal settlements, strengthening these areas to sustain future levels of growth. Outlined in NPF 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 towns, cities, and villages, subject to development meeting appropriate planning standards and achieving targeted growth'.

The NPF seeks to manage the sustainable growth of cities, towns and village and create settlements which are attractive both to live and work. A top priority includes the use of strategically located areas to achieve settlement densities and reduce the urban sprawl of the past. The NPF aims to have up to 40% of future housing developments to be within the '*footprint*' of built-up areas.

Furthermore, the promotion of higher densities as a mechanism to achieve the objectives of compact growth is encouraged by the NPF. The NPF understands that the higher densities within cities, towns and villages encourages a consolidated approach which should be tailored to individual developments and locations. Merging both the concepts of compact growth and sustainable mobility to support the objectives of the NPF.

The NPF endorse a more '*dynamic approach*' to land use and car parking in urban areas. This objective is mirrored in NPO 13, as follow.

*'In urban areas, planning and related standards, including 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' (emphasis added).*

The proposed SHD application is accompanied by a Planning and Design Statement, Statement of Consistency, Traffic & Transport Assessment and Mobility Management Plan which outlines that the proposed development is consistent with the approach recognised by the NPF.

4.2 Regional Spatial and Economic Strategy for the Southern Region

The Regional Spatial and Economic Strategy for the Southern Region 2020 (RSES) transcribes the NPF objectives to the regional level. The RSES is a strategic document, which identifies high-level requirements and policies for the Southern Region, setting out the high-level statutory framework to empower each local authority to develop County Development Plans (CDPs)

and Local Area Plans (LAPs) that are coordinated with regional and national objectives.

Section 3.2 of the RSES supports planning for diverse areas and recognises the strategic role of all areas both urban and rural. It notes that:

'The overall strategy builds on cities and their associated metropolitan areas as engines of growth and seeks in parallel, re-position the Region's strong networks of towns, villages and rural areas in an economically resilient, imaginative and smart way to foster sustainable competitive advantage'

Section 3.5 of the RSES highlights the role of Key Towns and identifies Ennis as a town which attributes a large population scale within a functioning urban centre with the capability of self-sustaining as a regional driver for compact growth and accessibility. It is envisaged that;

'These are major centres for the delivery of public services with large hospital, third level institutions, courts, local and national government functions as well as economic and business roles and higher order retail functions. These Key Towns are self-sustaining regional drivers and have a comparable structure to the five regional drivers and have a comparable structure to the five regional growth centres identified within the NPF. Therefore, given the considerable scope for growth, it is envisaged that local authorities should plan for population growth of more than 30% by 2040.'

RPO 13 of the Southern Regional Assembly highlights the basis of '*supporting Ennis as self-sustaining, regional economic driver and as a key location for investment choice in the Region, to support its enhanced development based on its strategic location*'. It further consolidates the principles of the RSES, to inform the integration of land use and transport planning by ensuring that future development is planned in a connected manner and design to maximise accessibility to towns, cities and villages.

4.3 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (SRDUA, May 2009)

The SRDUA guidelines set out key planning principles for the local planning policy framework and for the assessment of residential development and state that net densities of less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

The Guidelines state that "*small town and villages are defined within Section 6.0 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas as those with a population ranging from 400 to*

5,000 persons" and that "Section 6.11 of the guidance provides a more clearly graduated approach to the application of densities within such locations, namely:

- *Centrally located sites: 30-40+ dwellings per hectare;*
- **Edge of centre sites: 20-35 dwellings per hectare;** (McCutcheon Halley Emphasis)
- *Edge of small town/village: 15 - 20 dwellings per hectare (provided such lower density development does not represent more than about 20% of the total new planned housing stock for the particular town/village).*

The Department of Housing, Local Government and Heritage also issued a Circular (Letter NRUP 02/2021) on 21st April 2021 to provide clarity in relation to the interpretation and application of current statutory guidelines that address sustainable residential development in urban areas, including the SRDUA Guidelines.

The Circular reiterates the above-mentioned guidance in regard to the application of densities and states that "*there is already clear scope for greater variation in density in smaller towns*" and also emphasises that the NPF acknowledges that there is a need for more proportionate and tailored approaches to residential density. This means that it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high-density urban approaches are not applied uniformly, and that development responds appropriately to the character, scale and setting of the town or village.

The SRDUA also notes that the 12 criteria set out in the companion Best Practice Urban Design Manual (UDM) should be used to guide the design/layout of residential development as opposed to the application of rigid development standards. These criteria are:

1. **Context:** How does the development respond to its surroundings.
2. **Connections:** How well connected is the new neighbourhood.
3. **Inclusivity:** How easily can people use and access the development.
4. **Variety:** How does the development promote a good mix of activities.
5. **Efficiency:** How does the development make appropriate use of resources, including land?
6. **Distinctiveness:** How does the proposal create a sense of place?
7. **Layout:** How does the proposal create people-friendly streets and spaces?
8. **Public Realm:** How safe, secure and enjoyable are the public areas?
9. **Adaptability:** How will the buildings cope with change?
10. **Privacy and Amenity:** How does the scheme provide a decent standard of amenity?
11. **Parking:** How will parking be secure and attractive?

12. **Detail Design:** How well thought through is the building and landscape design?

The accompanying Statement of Consistency and Planning and Design Statement provides an assessment of how the proposed development complies with the SRDUA Guidelines and the 12 criteria set out in the UDM.

4.4 Sustainable Urban Housing: Design Standards for New Apartments Guidelines 2020

The Design Standards for New were updated in 020 to account for the changes in projected future housing demands the prevailing housing market, within the context of the National Planning Framework and Rebuilding Ireland. The focus is generally on locationally criteria and accounts for planning standards for apartment developments. Paragraph 2.2 of the Apartment Guidelines state:

' In general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartments developments should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.'

This identifies apartment developments as being crucial and pivotal to the delivery of the NPF targets for compact growth whilst aiding the increasing demand for housing supply in cities and urban areas.

Section 1.11 of the Apartment Guidelines specifies that:

'The guidelines apply to all housing developments that include apartments that may be available for sale, whether for owner occupation or individual lease'.

Section 1.21 of these Guidelines state 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 should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements'

In urban and suburban locations served by public transport the Guidelines state that planning authorities must consider and overall reduction in car parking standards and consider the application of an appropriate maximum car parking standards for 'Peripheral and/or Less Accessible Urban Locations'

section 4.22 of the Guidelines states that a benchmark/guideline for apartments one car parking space per unit, together with an element of visitor parking, should generally be required. Section 4.28 further consolidates the car parking guidelines and refers to car parking quantum's varying with regard to location in cities and towns that may be suitable for apartment development based on proximity and accessibility criteria.

The Clare County Development Plan was adopted a year before the Guidelines were introduced, while the development plan is currently under review and due to be enacted next year (2023), it is necessary in tandem with the strategic planning perspectives of both the NPF and RSES to comply with the Special Planning Policy Requirements for Ministerial Guidelines.

The proposed development will conform with design standards determined within the New Apartment Guidelines 2020. The requirement to comply with these Guidelines in relation to car parking is the key justification for contravening the County Development Plan with regards to the standards outlined within the plan.

4.5 Clare County Development Plan 2017-2023

The Clare County Development Plan (CDP 2017) establishes a hierarchal network of settlements in the County, allocating related population and housing growth projections. Ennis is designated as a Hub Town within the Development Plan and is the largest settlement in County Clare. The strategic aim for Ennis is to ensure the 'hub town' is the driver of growth and development in both County Clare and the wider region. The proposed development has been designed with regard to both local and national policy contexts to create a vibrant, attractive and quality neighbourhood on a strategically located site.

The Clare County Development Plan establishes a core strategy within the development plan to ensure that sufficient land is zoned and serviced in order to accommodate population growth. It is estimated that an additional 3,166 housing units would be required during the period of 2011-2023.

Clare County Development Plan 2017-2023 outlines several policies that support and promote the future development of Ennis:

'To ensure that Ennis, as the County Town and as a designated Hub Town in the NSS, is a driver of County and regional prosperity by harnessing its strategic location and access on the Atlantic Corridor; its strong urban structure, existing retail, service and accommodation base and other competitive advantages'

Policy Objective CDP 4.7 refers to the Housing Mix of the Clare County Development Plan which aims to improve the range of housing choices throughout Clare's County. This policy seeks to ensure that developers secure a mixture of housing types, sizes and needs of the likely future population.

In the CDP 2017, the lands are zoned 'LDR66' for low density residential development. Based on Table 2.4 (a) of the CDP 2017, lands zoned for low density development can provide density of 15 dwellings per hectare.

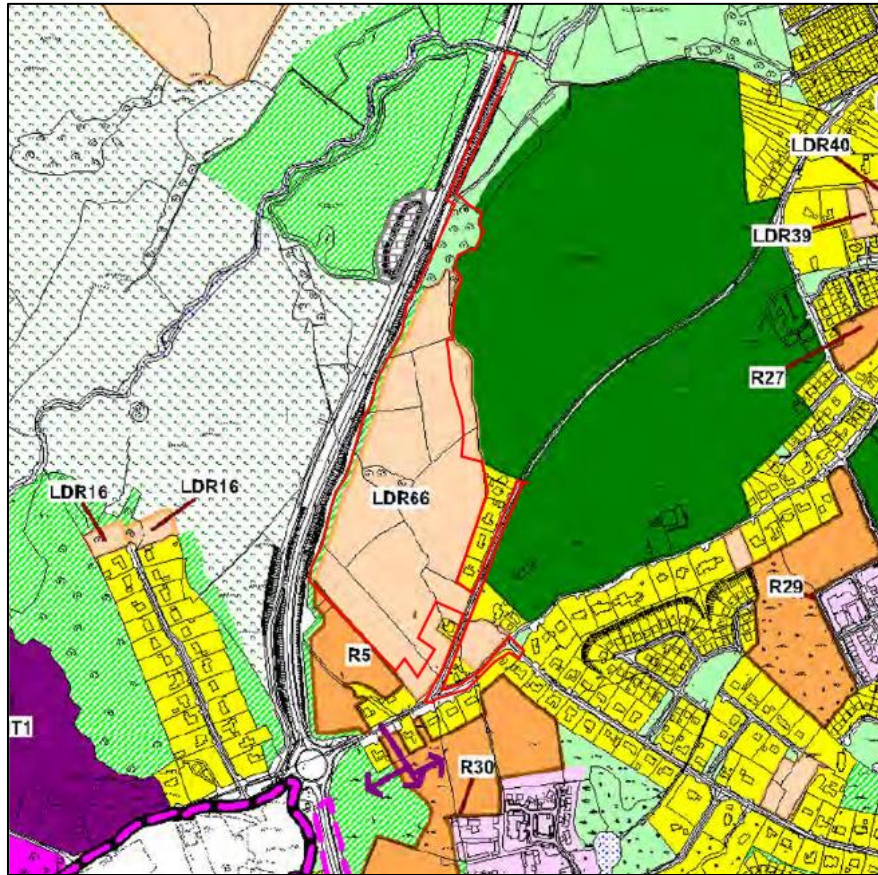


Figure 3: Extract of Zoning Map, Clare County Development Plan 2017-2023 (Subject Lands Outlined in Red)

It is noted that the Clare County Development Plan 2017-2023 was adopted prior to the following publications.

- National Planning Framework (2018);
- Regional Spatial and Economic Strategy for the Southern Region (RSES) (2020); and
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020)

The Clare County Development Plan 2017-2023 sets out policies for the development of Clare until 2023. The CDP 2017 provides minimum standards in relation to car parking for residential developments.

Appendix 1 of the Development Management Guidelines outlines Table 1.9.3 within the Car Parking and Bicycle Parking Standards outlines standards for dwellings, apartments and creches:

Clare Residential	
-------------------	--

Residential Developments – including dwelling house and apartments	1 car space for 1 & 2 bed units 2 car spaces for +3 bed units 1 visitor space per 3 residential units 1 bicycle space per unit
Creches	1 per employee and 0.25 per child 1 bicycle space per employee

Noted within the Section 1.9.3 of the Car Parking Standards and Regulations is reference to the submission of;

‘a road safety audit must be submitted as part of any planning application where the proposed development incorporates new access to a National Road or where it may give rise to an increase in Traffic to a National Road. Road Safety Audits shall be carried out independently by assessors approved by the Transport Infrastructure Ireland’

In accordance with Section 1.9.3 of the Car Parking Regulations, a Traffic and Transport Assessment (TTA) and Stage 1 Road Safety Audit (RSA) is submitted with the planning application.

The proposed development does not meet the minimum car parking standards specified in the Clare County Development Plan for the creche, apartments, duplex, and mid-terrace townhouses. Section 5.1 of this Statement provides an assessment of this material contravention of the Clare County Development Plan and why the Board should support this SHD application having regard to specific criteria specified in Section 37 (2)(b)(ii) of the Planning and Development Act 2000.

The proposed development may also contravene the open space to the north of the site. This area’s topography and location best suits the location of a pumping station; however, the land is zoned ‘open space’, which under Section 19.4 of the Plan refers to;

‘it is intended that land zoned ‘open space’ will be retained as undeveloped open space, mainly for passive open space related activities. The open space/park areas could contain active play facilities such as children’s play areas but these would only be a small component of the overall areas involved’.

4.6 Draft Clare County Development Plan 2023-2029

The Core Strategy of the Draft CDP provides a settlement hierarchy whereby Ennis is identified as a “Key Town” and by far the largest settlement within the County (Table 3.1). The Core Strategy for the County (Table 3.4 of the draft CDP) provides the overall Core Strategy for the County and identifies a population and housing allocation for Ennis of 2,705 and 1,550 respectively.

In the Draft Clare County Development Plan 2023-2029 (Draft CDP) the proposed development' site on the Circular Road is proposed for 'Low Density Residential' development with the following 'LDR7' specific objective:

'Low Density Residential' zoning is defined in the plan as the "use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed developments must also be appropriate in scale and nature to the areas in which they are located."

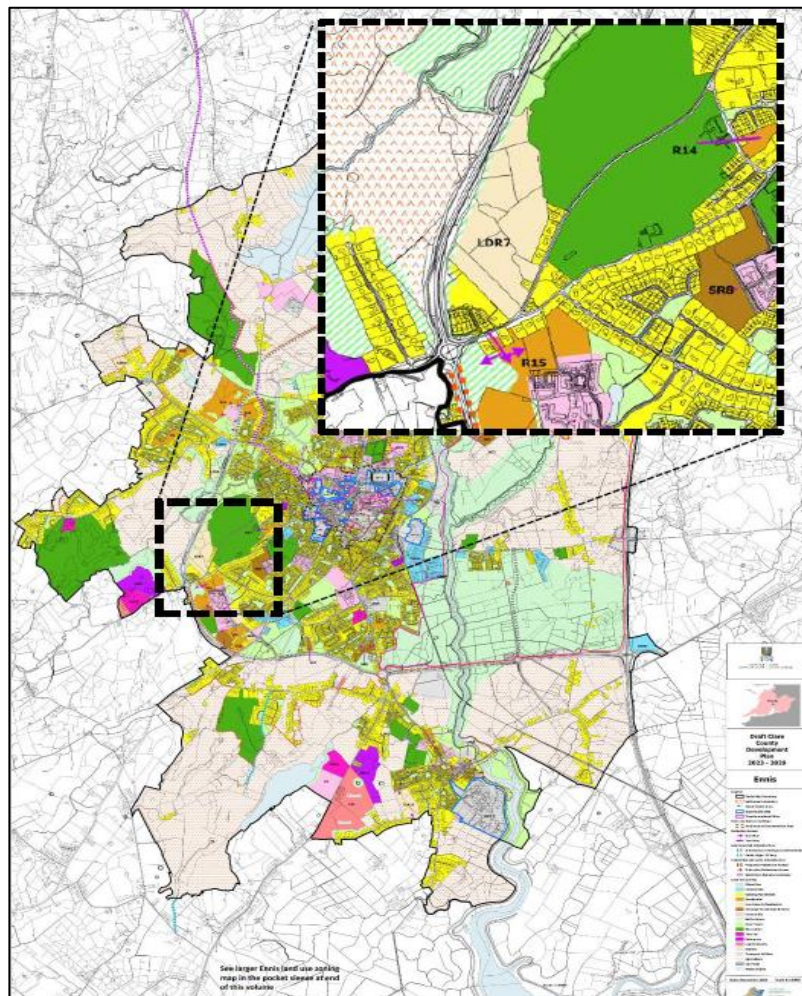


Figure 4: Extract from the Draft CDP Zoning (subject lands labelled LDR7)

The lands to the north are zoned for Open Space which is intended to be retained as undeveloped open space for passive open space related activities and active play facilities and the portion of the lands parallel to the N85 is designated as a Buffer space which are intended for the conservation of biodiversity, visual amenity or green spaces.

Table A3 of the Draft CDP includes “Minimum” car parking standards of 1 space for 1 & 2 bed units and 2 spaces for ≥ 3 bed units. Residential developments also have a further visitor car parking requirement of 1 space per 3 residential units. Note no. 5 of Table A3 states that the “parking requirement for residential developments is a minimum standard and can be exceeded at the discretion of the developer, based on house type, design and layout of the estate.”

4.7 Ennis Municipal District Settlement Plan (Volume 3A)

The Ennis Municipal District Settlement Plan (Volume 3A) focuses on the attributes that Ennis town has in order prosper and grow in a sustainable manner. Reflected from the Clare County Development Plan and RSES Policies, Ennis has potential create future developments which are suitable for the vision of compact growth, encouraging enterprise and enhancing the current environment. In order to achieve this vision, Ennis Local Area Plan has set out a number of ‘Goals and Objectives’ which are developed from the Clare County Development Plan.

It is an objective of the Ennis municipal district plan to establish a framework and settlement strategy that adheres to proper planning whilst creating new residential development in which;

‘achieve a sustainable and balanced population increase by providing a high-quality mix of housing for all members of the community, whilst achieving sustainable neighbourhoods and improving place making’

Is it noted within the Ennis Settlement Plan within Section 1.4 Housing and Sustainable Communities, that in order to achieve the overall goals for future developments, a few strategic aims must be adhered to;

‘Ensure that sufficient lands are zoned for residential use in the settlements of Ennis Municipal District to accommodate the target population growth’

‘Ensure delivery of the physical and social infrastructure necessary to facilitate population growth and community development’

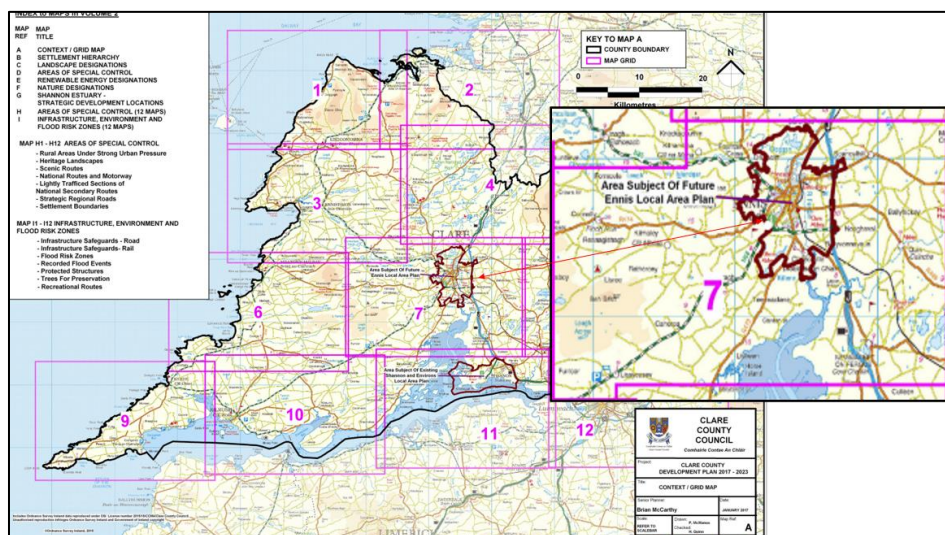


Figure 5: Extract from Clare County Development Plan 2017-2023 highlighting the Ennis LAP Area.

The zoning provisions from the 2017-2023 CDP and Ennis Municipal District with the SHD boundary overlain in Figure 5 above show the site is zoned for residential development with the following specific objective;

‘Low Residential Density – use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed development must be also appropriate in scale and nature to the areas in which they are located’.

5. Justification of Material Contravention

This section provides a justification of the areas where it is considered that the development materially contravenes the relevant plans based on the following information:

- Details the objectives of the 2017- 2023 Clare County Development Plan, Draft Clare County Development Plan 2023-2029 and Ennis Municipal District which will/may be materially contravened by the proposed development.
- Outlines the relevant proposals for the Ennis SHD Development
- Provides justification for the proposed Material Contravention and demonstrates why the Board should support the proposal in the context of in Section 37 (2)(b)(iii) of the Act.

- Provide justification for the inconsistencies between the current CDP and Density and Zoning Guidelines, Apartment Guidelines and the RSES. Zoning Objectives

5.1 Zoning and Open Space

Details how of the development materially contravenes the Clare County Development Plan 2017-2023 and the Draft Clare County Development Plan 2023-2029 Zoning in relation to the '*Low Residential Zoning Objective*' and the justification for same is outlined as follows.

<p>Relevant Objective</p>	<p>In the 2017 Clare County Development Plan and Draft Clare County Development Plan 2023-2029, the site is zoned for 'Low Residential Development' and therefore outlines that '<i>Low Residential Density – use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed development must be also appropriate in scale and nature to the areas in which they are located</i>'</p> <p>Based on Table 2.4 of the of the 2017 CDP and Table 3.4 of the Draft CDP 2023-2029.</p>
<p>Ennis SHD Proposal</p>	<p>The proposed development comprises 289 residential units on a net developable area of 8.9 hectares representing a net residential density of 32.5 units per hectare.</p>
<p>Material Contravention</p>	<p>The proposed development seeks to contravenes the zoning of 'low residential density' of 15 ha.</p>
<p>Justified for Proposed Material Contravention</p>	<p>Based on the SRDUA Guidelines the subject site would be considered an 'Outer Suburban Greenfield' location. Where the Guidelines encourage net residential densities in the general range of 35-50 dwellings per hectare while net</p>

	<p>densities less than 30 dwellings per hectare are generally discouraged in the interests of land efficiency.</p> <p>The SRDUA Guidelines and Circular Letter NRUP 02/2021 also state that large towns range from 5,000 people up to the accepted city scale of 50,000 people and that “given the very broad extent of this range and variety of urban situations in Ireland, it is necessary for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context. Accordingly, the full range of outer suburban density, from a baseline figure of 30 dwellings per hectare (net) may be considered, with densities below that figure permissible subject to Section 5.12 of the Sustainable Residential Development Guidelines.”</p> <p>Taking the above Guideline provisions into account and considering the exigencies of the site which includes the sites suburban location and the existing character of the area, which is generally characterised by lower density housing, it is submitted that a net residential density of 32.5 units per hectare provides an appropriate balance between achieving the higher densities advocated in the SRDUA, whilst also having regard to the site’s context and the Council’s CDP/LAP objectives.</p>
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A pumping station is proposed on the northern portion of the site which is zoned ‘Open Space’. While this is not considered to be a material contravention of the plan, a justification for this component of the proposed development is provided below.

Relevant Objective	In the Clare County Development Plan the northern portion of the site zoned open space where it is <i>'intended those lands zoned open space will be retained as undeveloped open space, mainly for passive open space related activities.</i>
Ennis SHD Proposal	The proposed SHD application required the use of a section of the north open space to fulfill the infrastructural needs for the development in placing a pumping station on these lands.
Material Contravention	It is submitted that the proposed infrastructure (pumping station) is not a material contravention of the 2017 and Draft 2023 CDP's but could be considered a technical contravention of these plans.
Justified for Proposed Material Contravention	The SHD application requires the pumping station to be located at the lowest part of the site (to allow for gravity drainage) on this part of the site is zoned for open space use. As outlined within the Design Statement and LVIA accompanying this application the pumping station will be a subtle addition within the open space area, softened with the use of grass-crete and will have no visual impact on the open space area. It is submitted that while the pumping station may be a technical contravention of the 2017 and Draft 2023 CDP's, it is not considered to be a material contravention as it will not have an adverse visual impact and is the most suitable location for this piece of infrastructure.

5.2 Car Parking Standards and Regulations

In relation to car parking the NPF explicitly endorses a more “dynamic approach” to land use and car parking in urban areas, particularly those that are undergoing change. This position is reflected in NPO 13, as follows:

*“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, provided public safety is not compromised and the environment is suitably protected” (emphasis added).*

The proposed SHD application is accompanied by a Planning and Design Statement, Statement of Consistency and Traffic & Transport Assessment which demonstrate that the proposed development is consistent with the approach endorsed by the NPF.

The details below outlined in the table of how the development materially contravenes the Clare County Development Plan 2017 and Draft Clare County Development Plan 2023-2029 in relation to car parking and the justification for same.

<p>Relevant Objective</p>	<p>Appendix 1 – Table 1.9.3 of the Car Parking Standards for Residential Dwelling Houses/Apartments:</p> <p>1 space for 1 & 2 bed units</p> <p>2 spaces for +3 bed units</p> <p>1 visitor space per 3 residential units</p> <p>Creches/Playschool: 1 per employee and 0.25 per child</p>
<p>Ennis SHD Proposal</p>	<p>Based on the standards set out in the Clare County Development Plan 2017-2023 and Draft Clare County Development Plan 2023-2029, the total car parking requirement for the creche duplexes, apartments, and mid-terrace townhouses.</p> <p>The actual car parking provided for each of these elements is as follows:</p> <p>Total Number of Private Car Parking Spaces (inclusive of EV parking): 488 (including EV charging)</p> <p>Visitors/Disabled Parking: 20</p>

	<p>Creche (60 childcare capacity) Car Parking Space: 11 (including the 2-drop-off area)</p> <p>Total No. of Bike Spaces: 140 spaces</p>
<p>Material Contravention</p>	<p>The proposed SHD provides for car parking spaces, which overall is very marginally below the guidelines set in the 2017 CDP and 2023 Draft CDP. While this departure from the CDP standards is not considered a material contravention, a justification for the proposed car parking provision is included below, in the event that the Board considers it to be a material contravention</p>
<p>Justification for Proposed Material Contravention</p>	<p>National, Regional and Local Planning Policy Guidelines anticipate the promotion of developments that support sustainable mobility including public transport, walking and cycling.</p> <p>Section 4.18 of the Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking and states that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. For 'Peripheral and/or Less Accessible Urban Locations' section 4.22 of the Guidelines states that as a benchmark/guideline for apartments one car parking space</p>

	<p>per unit, together with an element of visitor parking, should generally be required. Section 4.23 of the Guidelines states that for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.</p> <p>The proposed development at Ennis, provides provision of a 3 m-4.3m wide footpath throughout the proposed site. Furthermore, the development is designed to accommodate pedestrian and cycle connectivity extending onto the N85 which has access to Ennis town, nearby amenities, recreational facilities schools and creches. A total of 10 bicycle parking spaces has been provided within the development for the creche and 1 bicycle space per unit, which is in excess of the standards required and will improve the promotion of sustainable mobility. It is considered that the lower car parking provisions associated with the development is lower than standards outline within the Clare County Development Plan 2017-2023 and therefore is justified in this instance and recognises the importance of promoting sustainable transportation options.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

6. Conclusion and Material Contravention Statement

It is considered that the proposed development is a material contravention of the Clare County Development Plan 2017-2023 and Proposed Draft Clare

County Development Plan 2023-2029 in relation to the zoning standards and potentially a material contravention in relation to car parking.

In this regard, Section 37 (2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it is considers:

- (i) *The proposed development is of strategic or national importance*

The proposal is for a significant residential development in one of the main towns in the mid-west/southern regions. The national/strategic importance of residential development in these towns is confirmed in the Government's Rebuilding Ireland 2040 designed to accelerate and improve housing supply and the housing shortage,

On determining that point (i) is applicable, it must be determined that **one** of the subsections below is relevant to the proposed development;

- (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*

It is respectfully submitted that permission should be granted in accordance with sub-section (iii) as the proposed development is consistent with the relevant national and regional planning policies and Section 28 Ministerial Guidelines.

Based on the SRDUA Guidelines the subject site would be considered an 'Outer Suburban Greenfield' location. In such locations the Guidelines encourage net residential densities in the general range of 35-50 dwellings per hectare while net densities less than 30 dwellings per hectare are generally be discouraged in the interests of land efficiency. On this basis, it is submitted that a net residential density of 32.5 units per hectare is justified and appropriate for the site.

In relation to car parking, the development is very marginally below the guidelines set in the 2017 CDP and Draft 2023 CDP. This is not considered to be a material contravention of these plans, but in the event that the Board disagrees, a justification is provided for this aspect of the development in Section 5.2 of this Statement.