



**ARMSTRONG
FENTON**
ASSOCIATES

**PROJECT: STRATEGIC HOUSING DEVELOPMENT AT
SEASON PARK, NEWTOWNMOUNTKENNEDY, CO. WICKLOW.**

REPORT: MATERIAL CONTRAVENTION STATEMENT

APPLICANT: DWYER NOLAN DEVELOPMENTS LTD

DATE: 26|03|2022

**Planning &
Development
Consultants**



Table of Contents

1.0.	Purpose of Report.....	3
2.0	Proposed Development.....	4
3.0	Potential Material Contraventions	5
4.0.	Material Contravention Justification	7
5.0.	Conclusion	17



1.0. Purpose of Report

- 1.1. This Material Contravention Statement (hereafter 'statement') has been prepared by Armstrong Fenton Associates, Planning & Development Consultants, on behalf of Dwyer Nolan Developments Ltd (the applicant) to accompany the application for a Strategic Housing Development submitted to An Bord Pleanála in respect of a site measuring c. 8.5 hectares, located south of Season Park Road, in the townland of Season Park, Newtownmountkennedy, Co. Wicklow.
- 1.2. The subject application comprises a Strategic Housing Development as defined within Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereafter 'Act of 2016') and has been prepared in accordance with the requirements of the Planning and Development (Strategic Housing Development) Regulations 2017.
- 1.3. Under Section 8(1)(a)(iv)(II) of the Act of 2016, an applicant for a strategic housing development is directed to submit a statement, and publish notice of same, indicating why permission should be granted in cases where a proposed development may materially contravene the relevant development plans and/or local area plan other than in relation to the zoning of the land. This statement is submitted to An Bord Pleanála in accordance with same.
- 1.4. In accordance with Section 9(6) of the Act of 2016, An Bord Pleanála (hereafter 'the Board') may grant permission for a proposed Strategic Housing Development that materially contravenes the development plan and/or local area plan, other than in relation to zoning, i.e. *"(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."*
- 1.5. Furthermore, Section 9(6)(c) of the Act of 2016 states the Board may only grant permission for a development that materially contravenes a development plan (other than in relation to the zoning of the land) where it considers that, if Section 37(2)(b) of the Planning and Development Act 2000 (as amended) (hereafter 'Act of 2000') were to apply, it would grant permission for the proposed development.
- 1.6. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan / local area plan, the Board may only grant permission 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."*
- 1.7. This statement has been prepared in order to address matters which may be deemed by the Board to materially contravene the provisions of the existing Wicklow County Development Plan 2016-2022 (hereafter 'CDP'), and the Newtownmountkennedy Local Area Plan 2008-2018 (hereafter 'LAP') in accordance with the Act of 2016. In the context of Section 37(2)(b) of the Act of 2000, it is considered that the proposed development can be granted permission by the Board notwithstanding the potential material contraventions of the CDP and LAP detailed in Section 3 of this statement. Section 4 of this statement details the justification for same.



2.0 Proposed Development

2.1. The subject application for Strategic Housing Development is detailed in full below, as per the public notices:

Dwyer Nolan Developments Ltd intends to apply to An Bord Pleanála for permission for a strategic housing development on a site located on lands at Season Park, Newtownmountkennedy, Co. Wicklow. The site is bounded by Season Park Road (L1037) to the north, by agricultural lands to the west and south, although the latter has permission for development under Ref. No.'s 06/6101, PL27.227704 & 18/381.

The development will consist of 179 no. dwellings, comprised of 121 no. houses, 6 no. duplex units & 52 no. apartments. The houses are comprised of 2 storey detached, semi-detached & terraced houses with 4 no. 2 beds, 86 no. 3 beds and 31 no. 4 beds. The duplex units are accommodated in 3 storey buildings (i.e. Type H) and are comprised of 6 no. 3 bed units at first & second floor. There are 6 no. 1 bed apartments and 46 no. 2 bed apartments (i.e. Types G, H, J & J1), accommodated in 20 no. 3 storey buildings. The proposed development also provides for a crèche (189.9m²), with community use facility overhead (99.45m²) in a 3 storey building.

Access to the development will be via (i) a new vehicular entrance point off Season Park Road to the north, and (ii) via a proposed road extending south and east of the proposed housing, connecting into Main Street, Newtownmountkennedy at Fisher's Corner (as previously permitted under Ref.s 06/6101 & PL27.227704).

The proposed development provides for (i) all associated site development works above and below ground, (ii) public open spaces (9,819m²) and communal open spaces (886m²), (iii) hard & soft landscaping and boundary treatments, (iv) surface car parking (Total: 339 no. spaces), (v) bicycle parking (Total: 158 no. spaces), (vi) bin storage, (vii) public lighting (viii) substation (24m²) all on an overall application site area of 8.5Ha.



3.0 Potential Material Contraventions

3.1. In the context of Section 9(6) of the Act of 2016, this report seeks to address the issue of potential material contraventions of the Wicklow County Development Plan 2016-2022 and the 2008 Newtownmountkennedy Local Area Plan in relation to density, quantum of development, and phasing / sequential approach. These potential material contraventions are detailed in Sections 3.2. - 3.4. below.

3.2. Density

The existing CDP, and Appendix 1: Development & Design Standards sets out the criteria for density and for “housing only greenfield”. The CDP requires a maximum plot ratio of 0.35 or 3,500sq.m of development per hectare on greenfield sites.

As per the LAP, the subject site is zoned R1: Proposed Residential, the objective of which is: *“To protect, provide and improve residential amenities”*. The LAP identifies five action areas, with the subject lands at Season Park located within action area 1 (hereafter ‘AA1’). All of the applicant’s lands are zoned R1 within AA1.

The LAP also states that *“An action area plan was agreed for these lands (as set out in the 2002 LAP) in August 2006. Any application for permission on new lands included in this action area shall comply with the phasing / infrastructure conditions and other requirements of the agreed action plan”*.

Under said 2002 LAP, the subject site was identified as R2 lands and section 1.4.1 of the LAP “Density / Design” states: *“density on R2 lands shall not exceed 20/Ha (typical house of 125sq.m) for detached and semi-detached dwellings and 25/Ha (typical house of 125 sq.m) for terraced dwellings. It also states that “a maximum gross floor area of 210sq.m of apartments floor area and a maximum of 4 apartments may be permitted for each house permissible on the site. For clarity, duplex units are considered “houses” for the purpose of density requirements”*.

The proposed strategic housing development consists of 179 no. dwellings on a net developable area of 5.5Ha thus producing a net density of 32.5 units per hectare. The gross residential floor area of the proposed dwellings is 19,657.69sq.m which produces a plot ratio of 0.35, which accords with the CDP, however, the density of 32.5 units per hectare exceeds the density for housing identified in the agreed action area in the 2002 LAP which was also incorporated into the 2008-2018 LAP.

3.3 Quantum of Development

Section 4 of the LAP “Residential Development” contains the following policies / objectives: *“The maximum size for any single residential estate is 100 houses / 200 apartments. Within each estate, a range of unit types / sizes shall be provided, within an overall unified design concept. Estates shall be differentiated from each other by the use of materially different design themes and names”*.

Section 11 of the LAP provides details for the five action areas identified in the Plan. The subject site is located within AA1, and under same, the LAP states: *“To achieve a sense of place and allow for visual diversity any residential application should provide for a number of identifiable and distinct housing estates (not exceed 100 houses / 200 apartments), each containing materially different house designs within an overall unified theme. An appropriate mix of dwelling types should be proposed, not just within the overall development, but also throughout the development”*.

The proposed development provides for 179 no. dwellings comprised of 121 no. houses, 6 no. duplex units and 52 no. apartments.



3.4 Phasing / Sequential Development

The AA1 lands are to be phased as follows, as set out in the agreed Action Area in 2006, that formed part of the 2002 Newtownmountkennedy LAP. At that time the lands were identified as Z1 lands of approx. 112 acres (45.5Ha) including various land uses:

- OS – to preserve / provide open space – 29.87 acres;
- EC1 – to provide for educational, community and institutional uses – 10.37 acres;
- R2 – to provide for a new comprehensive integrated residential development, including adjoining open space and educational facilities (EC10 and R3 – 62.17 acres;
- R3 – low density residential urban / rural transition fringe – 9.787 acres.

Section 1.3 of the agreed action area sets out the phasing of the above lands as follows:

Phase 1 2007-2011

- a) *Up to a maximum of 600 units, not exceeding 200 units p.a.;*
- b) *Generally located on the southern part of the Action Area;*
- c) *Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link;*
- d) *Provision of the by-pass route of the existing houses along the Actions Area southern boundary;*
- e) *Provision of improvements to the R765 as far as the church and improvements to the access arrangements for the schools and community facilities;*
- f) *Provision of revised access arrangements for schools and existing sports grounds;*
- g) *Provision of water storage facilities;*
- h) *Satisfactory progress in the expansion of educational / community facilities e.g. sale/transfer of lands to educational organisation or community / sporting organisation;*
- i) *Completion of public park, including all landscape manipulation and landscaping.*

Phase 2 2011-2016

- a) *No development shall be permitted in Phase 2 until all of the elements set out in Phase 1 above have been substantially completed, to the satisfaction of the Planning Authority;*
- b) *Up to a maximum of 350 units;*
- c) *Generally located to the north of Action Area;*
- d) *Construction of the northern elements of the western distributor road;*
- e) *Provision of an acceptable link between the western distributor road and the R772.*



4.0. Material Contravention Justification

4.1. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan and/or local area plan, the Board may grant permission 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.”*

For the reasons set out below, and having regard to Section 37(2)(b) of the Act of 2000, it is considered that the proposed development can be granted permission by the Board by reference to the sub-paragraphs (i), (iii) and (iv) above, notwithstanding the potential material contraventions of the existing CDP and LAP detailed in Section 3 of this statement. The following subsections detail the justification for same.

4.2. The Proposed Development is of Strategic or National Importance

4.2.1. National Planning Framework (NPF)

The strategic goals of the Government in relation to delivering new residential development, and their national importance, are reflected in the policies and objectives of the NPF. The NPF is the Government’s high level strategic plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland, and the half a million extra homes needed in Ireland, by the year 2040.

The NPF sets out the importance of delivering new developments within existing urban areas by: *“making better use of under-utilised land and buildings, including ‘infill’, ‘brownfield’ and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport.”*

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

The subject site is an underutilised, greenfield site, zoned for residential land use. The proposed development caters for a net density of 32.5 dwellings per hectare across the entire site. It is therefore considered that the proposed development fully complies with National Policy Objective 3a of the NPF.

National Policy Objective 11 of the NPF states that: *“In meeting urban development requirements, there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth.”*

The proposed development provides for an appropriate density of residential development on the edge of the town centre / built up area, that opens up these lands to an efficient land use, improved connectivity and accessibility and a wide range of housing typologies. The subject application is accompanied by a variety of documents which demonstrate how the proposed development meets appropriate planning standards and supports the targeted growth figures for Newtownmountkennedy. It is therefore considered that the proposed development fully complies with National Policy Objective 11 of the NPF.



A key priority of the NPF is the need to move away from rigid planning standards to a more flexible, performance based, design standards. National Policy Objective 13 states: *“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.”*

The proposed development is located on zoned lands, within the development boundary for the town, on a greenfield site which is greatly underutilised given the locational context of same and the availability of existing infrastructure in the vicinity. It is considered that the site presents an ideal opportunity for development of a more efficient use, in compliance with national policy objectives. The proposed building heights range from 2 to 3 no. storeys with the proposed net density across the entire site being 32.5 dwellings per hectare. The proposed building heights and density are wholly appropriate given the contextual location and character of the subject site, and it is considered that the site can readily support same without any detriment to existing residential amenity in the area. It is therefore considered that the proposed development is in fully in accordance with the aforementioned guidance of the NPF and complies with National Policy Objective 13.

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

In accordance with the NPF’s strategy of compact growth, i.e. National Policy Objective 35 - *“Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”*, it is proposed to develop new homes which will provide a continuous built form adjacent to the existing built up area, therefore, in accordance with National Policy Objective 35, the proposed development will increase residential density within an existing settlement. Furthermore, in accordance with National Policy Objective 33 i.e. *“Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”*, new homes will be provided at a sustainable location, with access to existing services and facilities in Newtownmountkennedy (within c. 1 km), with proposed enhanced vehicular, pedestrian and cyclist paths to same proposed as part of the overall development proposal.

The proposed residential development, on an underutilised greenfield site, represents an ideal opportunity to provide for increased densities as well as an increase in housing supply, in accordance with the NPF objectives, without detriment to existing residential amenity in the area. Given the contextual location of the subject site, it is considered that the proposed development, being located within the existing suburban environs of Newtownmountkennedy is wholly appropriate in terms of density and quantum of units, and ought to be granted permission as it supports the national policy objectives of the NPF.

4.2.2. Rebuilding Ireland – Action Plan for Housing and Homelessness

The strategic housing development application process was introduced as part of the Government’s Rebuilding Ireland programme to accelerate delivery of larger housing proposals to alleviate the pressures on housing supply in the country. The delivery of new homes in appropriate locations across the country is a fundamental principle of Rebuilding Ireland, with the programme setting out a range of measures to facilitate the construction of new homes and an increase of social housing.

Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.



Rebuilding Ireland is set around 5 no. pillars of proposed actions, with Pillar 3 seeking to – Build More Homes: Increase the output of private housing to meet demand at affordable prices. Newtownmountkennedy is identified as being a Moderate Sustainable Growth Town by the CDP and the proposed development on lands zoned for residential land use will reaffirm the town's role within the County.

The increased density, as well as the proposed quantum of units, put forward as part of this application for permission will deliver much needed housing within the Hinterland Area in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3, which seeks to build more homes – *“to increase the output of private housing to meet demand at affordable prices.”* It is considered that the proposed development fully supports the policies of Rebuilding Ireland by delivering 179 no. new homes in an existing urban area.

Furthermore, in accordance with Pillar 2 – Accelerate Social Housing- of the Rebuilding Ireland, 18 no. of the proposed dwellings are to be delivered for social housing in compliance with the requirements of Section 96 of Part V of the Act of 2000 (as amended).

Given all the above, it is considered that the proposed development is of strategic importance in delivering the national objectives of Rebuilding Ireland programme and ought to be granted permission.

4.2.3 Housing For All – A new Housing Plan for Ireland (2021)

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

The aim of the plan is that everyone should have access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life.

The plan contains a range of actions and measures to ensure over 300,000 new social, affordable, cost rental and private homes are built by 2030. The actions outlined in the Plan are backed by over €4 billion in annual guaranteed State investment in housing over the coming years, including through Exchequer funding, the Land Development Agency and Housing Finance Agency investment. The plan commits to over €20 billion in State investment in housing over the next five years. The plan is set out across four pathways to address the pressing housing challenges facing the State:

- *“Pathway to supporting homeownership and increasing affordability;*
- *Pathway to eradicating homelessness, increasing social housing delivery and supporting social inclusion;*
- *Pathway to increasing new housing supply;*
- *Pathway to addressing vacancy and efficient use of existing stock”.*

These pathways are underpinned by long-term actions to address systemic challenges. It aims to create a housing system which has environmental, social and economic sustainability at its heart and which meets the needs of all.

The development is considered to be consistent with objectives of Housing for All - a New Housing Plan for Ireland. The development provides for 179 no. new dwellings on a greenfield site that enjoys close proximity to a range of facilities and services in Newtownmountkennedy. The provision of these units will substantially add to the residential accommodation available in the environs of Newtownmountkennedy thus increasing new housing supply, which will ultimately aid the objective to increase affordability. It is envisaged that all, if not the majority, of the dwellings proposed will be for sale to individual buyers thereby supporting homeownership.

The development will also deliver 10% of the proposed no. of dwellings for Part V requirements (i.e. 18 no. dwellings) and therefore supporting the aim to increase social housing delivery and support social inclusion. While the detail of



this plan has yet to be fully understood, this application is in accordance with the intention and ambition of the plan.

4.2.4 Conclusion of Criterion of Strategic or National Importance – Section 37(2)(b)(i) of the Planning & Development Act, 2000 (as amended).

On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development is clearly of both strategic and national importance, supports the national planning policy and objectives of the NPF, Rebuilding Ireland and the Housing for All plan, and therefore fulfils the criterion under Section 37(2)(b)(i) of the Planning & Development Act, 2000 (as amended).

4.3. 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.

4.3.1. Eastern & Midland Regional Spatial & Economic and Strategy 2019 – 2031

The Eastern & Midland Regional Spatial & Economic and Strategy 2019 – 2031 (hereafter 'RSES') notes that the preferred spatial strategy for the Eastern and Midland region is the consolidation of Dublin plus the Regional Growth Centres of Athlone, Dundalk and Drogheda, supported by planned focussed growth of a limited number of self-sustaining settlements. RPO 3.2 – seeks to promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

Newtownmountkennedy is located in the 'hinterland area' as defined by the RSES, and is also identified in the CDP's Core Strategy as being a '*Moderate Sustainable Growth Town*'. Growth enablers for the hinterland area include:

- *To promote continued growth at more sustainable rates, while providing for increased employment and improved local economies, services and functions to allow towns to become more self-sustaining and to create the quality of life to attract investment.*
- *'Catch Up' investment to promote consolidation and improvement in the sustainability of those areas that have experienced significant population growth but have a weak level of services and employment for their residents.*
- *Diversification and specialisation of local economies with a focus on clustering, smart specialisation, place making and urban regeneration to create the quality of life to attract FDI and indigenous investment and increase high value knowledge-based employment including second site and relocation opportunities.*
- *Promote the Region for tourism, leisure and recreational activities including development of an integrated greenway network while ensuring that high value assets and amenities are protected and enhanced.*

Section 4.7 of the RSES refers to Self-Sustaining Towns, with Newtownmountkennedy being such a town. The RSES notes that such towns are important employment and service centres. The RSES also states that "*Self-Sustaining Towns are towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery*". As Newtownmountkennedy is a Self-Sustaining Town, the proposed development on lands zoned for residential land use will reaffirm the town's role in the Hinterland.

The proposed development will deliver a high-quality residential development in proximity to local services and facilities within Newtownmountkennedy and its environs, as well as employment opportunities. The development of the lands at a sustainable density, as well as the proposed quantum of units, is in accordance with national strategic guidance and in accordance with the proper planning and sustainable development of the area.



4.3.2. Section 28 Ministerial Guidelines

JUSTIFICATION FOR PROPOSED DENSITY

4.3.2.1. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009.

The role of the Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities, 2009, (hereafter 'Guidelines') is to ensure the sustainable delivery of new development throughout the country. These Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines also recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the Guidelines are accompanied by an Urban Design Manual which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.

The Guidelines support a plan-led approach to development as provided for in the Act of 2000. Section 2.1 of the Guidelines note that *"the scale, location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy."*

Chapter 6 of the Guidelines refers to smaller towns and villages which *"are defined as those with a population ranging from 400 to 5,000 persons"*. The CDP states that Newtownmountkennedy had a population of 3,073 in 2011, and also states that it expected the population would grow to 4,967 by 2022. We understand that the 2016 population of NMK was 3,552 persons. Therefore, for the purposes of density, Newtownmountkennedy can be described as a small town.

Section 6.11 of the Guidelines refers to "edge of centre sites" and states that *"development of such sites tend to be predominantly residential in character and given the transitional nature of such sites, densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation"*. The proposed density of 32.5 units per hectare across the entire site is within this density range. Given the locational context of the site, along with the proposed connections to the town centre, the level of public transport and other services in the area, it is considered that development at this density range is acceptable on this site and in accordance with the Guidelines which came into effect subsequent to the adoption of the LAP and the Agreed Action Plan.

In summary, the net density of the proposed development equates to 32.5 dwellings per hectare and therefore accords with the guidance contained in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009, issued by the Department of Environment, Community and Local Government, which refer to providing net residential densities in the general range of 20-35 dwellings per hectare.

4.3.2.2 The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020.

The 2020 Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (hereafter 'Apartment Guidelines') were adopted in consideration of the policies and objectives of both Rebuilding Ireland and the NPF, and in response to the growing demand for apartment living in the State.

The Apartment Guidelines reiterate that to meet housing demand in the country it is necessary to significantly increase supply, stating that: *"increased housing supply must include a dramatic increase in the provision of apartment development"*.

Section 2.4 of the Apartment Guidelines identifies the types of location in cities and towns that may be suitable for apartment development. In this context, the subject site can be classified as a "Peripheral and/or Less Accessible Urban Locations". The Apartments Guidelines state in relation to same, that:



“Such locations are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly <45 dwellings per hectare net), including:

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

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

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

The subject site is not well served by high frequency public transport services and the proposed housing will be within 1km walking distance of the town centre via the proposed roads / access infrastructure that is provided for within the red line of application.

In light of same, it is considered that the proposed development is within easy walking distance of existing services and, therefore, the proposed density and building heights are justified in the context of the Section 28 Apartments Guidelines. The proposed development will deliver a medium density residential development in the form of a mix of houses, duplex and apartment units, on an underutilised, zoned, greenfield site, and therefore supports national policy contained in the Apartment Guidelines.

On the basis of all the above, it is considered reasonable to conclude that the proposed density of development as set out in this application for permission for a strategic housing development clearly complies with the policies and objectives of the above named Section 28 Guidelines, which put forward national policy objectives, and therefore can be granted permission by the Board under the provisions of Section 37(2)(b)(iii) of the Act of 2000.

4.3.2.3 Conclusion of Criterion of 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 – Section 37(2)(b)(iii) of the Planning & Development Act, 2000 (as amended).

Under the Planning and Development Act 2000, the Board is precluded from granting permission for development that is considered to be a material contravention of the local development plan, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of permissions in the vicinity since the adoption of the development plan. The current application has been lodged under the strategic housing legislation and is considered to be strategic in nature. In terms of national policy, the National Planning Framework, including objectives 13, 33, and 35, support increased densities within urban areas at an appropriate scale of provision relative to location. The Sustainable Residential Development in Urban Areas Guidelines 2009 (Chapter 6) recommend minimum net densities of 20-35 dwellings per hectare will be appropriate, including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation. The proposed development of a medium density housing scheme comprised of a mix of conventional houses with duplexes and apartments on the subject site is strategic in nature, consistent with national policy and section 28 ministerial guidelines. Permission can therefore be granted under Section 37(2)(b)(i) and (iii) of the 2000 Act as



amended.

On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development complies with the provisions and guidance of the current regional spatial and economic strategy for the area and is clearly in compliance with the aforementioned Section 28 guidelines, and therefore fulfils the criterion under Section 37(2)(b)(iii) of the Planning & Development Act, 2000 (as amended).

4.4 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.

4.4.1 JUSTIFICATION FOR QUANTUM OF DEVELOPMENT

Sections 4 and 11 of the LAP state that the maximum size for any single residential estate is 100 houses / 200 apartments. However, the current proposal is for 179 no. dwellings which, as this current application has been lodged under the strategic housing legislation, is therefore considered to be strategic in nature. The proposed 179 no. units, is above the limit of 100 houses, however, in light of the current, adopted planning policy and objectives and in line with the current Plan in place (i.e. Wicklow CDP 2016-2022) stating the need for the development of 1,456 no. additional units by 2028 to meet the housing needs of the town, it is submitted the proposed development complies with current policy objectives for Newtownmountkennedy.

Chapter 2 “Vision and Core Strategy” of the CDP sets out the population and housing targets for the County and Table 2.7 of same provides details of the “County Wicklow housing growth distribution 2022, 2028”:

	2011 Existing Housing Stock	2022 Target Housing Stock	2028 Target Housing Stock	Target Housing Stock Growth 2011-2028	% of total Housing Stock Growth 2011-2028
Bray	11,518	13,958	16,896	5,378	17.22%
Wicklow / Rathnew	5,399	7,813	10,138	4,739	15.17%
Arklow	5,459	7,509	9,715	4,256	13.62%
Greystones/ Delgany	6,637	8,321	10,138	3,501	11.21%
Blessington	1,865	2,519	3,168	1,303	4.17%
Newtown	1,078	1,913	2,534	1,456	4.66%

As can be seen from the above extract of Table 2.7 of the CDP above, Newtownmountkennedy is afforded a target housing stock of 1,913 until 2022 and 2,534 until 2028. The extant permission on the adjoining lands to the south (869 no. dwellings) as well as the current proposal of 179 no. dwellings provides for a total of 1,048 no. units in total (with a proportion already delivered), therefore the housing allocation for Newtownmountkennedy can accommodate that already provided for under the current Development Plan.

Table 2.8 of the CDP provides details of the “Wicklow LAP Settlement – Housing and Zoning Requirements”, an extract of same is as follows:



Settlement	Population 2011	Housing Stock 2011	Core Strategy Population Allocation 2025	Total Housing Unit Requirement 2025	Housing Unit Growth requirement 2011-2025	Housing Unit Growth Requirement Headroom	Housing Yield of Existing Zoned Land	Shortfall / Surplus (UNITS)
NMK	3,073	1,078	5,483	2,539	1,461	1,840	1,706	-134

Taking all of the above into account, the 2016-2022 County Development Plan and its Core Strategy provides for / can accommodate the proposed quantum of units. The LAP was adopted in 2008 and extended until 2018, with no subsequent LAP prepared / adopted since then. It is therefore put forward that given the introduction of the Core Strategies into Development Plans since 2010, as well as the adoption of the CDP eight years after the adoption of the LAP that the current application of 179 no. dwellings which exceeds a single residential estate of 100 houses can be granted.

In December 2008, a ten year permission was granted under Ref.s 06/6101 and PL27.227704 for 869 no. units, 4 no. crèches, neighbourhood centre facilities including 5 no. retail units and 3 no. community use units, as well as the construction of the following roads: Western Distributor Road from L1037 to R765 at Moneycarroll, connector road from proposed Western Distributor Road to upgraded signalised junction with R772 at Fisher's Junction, from proposed Western Distributor Road to R765 south of Estate 6 and lands zoned EC1, from connector road south of Estate 6 to Saint Joseph's School access road, from Western Distributor Road at Moneycarroll west to R765 Roundwood Road. This permission was extended in 2018 under Ref. 18/381 and is an extant permission that will expire in 2024. This permission has been enacted with construction commencing at the southern end of the action area lands including the delivery of roads infrastructure, housing and open space. It is evident that the economic downturn occurred post 2008, and post the granting of the extant permission, which can reasonably be considered to have impacted the roll out of that permitted development.

In addition, given the subsequent publication of the NPF, Rebuilding Ireland and Housing for All, all of which aim to deliver houses, that 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.

4.4.2 JUSTIFICATION FOR PHASING / SEQUENTIAL DEVELOPMENT

The AA1 lands are to be phased as follows, as set out in the agreed Action Area in 2006, that formed part of the 2002 Newtownmountkennedy LAP.

Phase 1 2007-2011

- a) *Up to a maximum of 600 units, not exceeding 200 units p.a.;*
- b) *Generally located on the southern part of the Action Area;*
- c) *Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link;*
- d) *Provision of the by-pass route of the existing houses along the Actions Area southern boundary;*
- e) *Provision of improvements to the R765 as far as the church and improvements to the access arrangements for the schools and community facilities;*
- f) *Provision of revised access arrangements for schools and existing sports grounds;*
- g) *Provision of water storage facilities;*



- h) Satisfactory progress in the expansion of educational / community facilities e.g. sale/transfer of lands to educational organisation or community / sporting organisation;*
- i) Completion of public park, including all landscape manipulation and landscaping.*

Phase 2 2011-2016

- a) No development shall be permitted in Phase 2 until all of the elements set out in Phase 1 above have been substantially completed, to the satisfaction of the Planning Authority;*
- b) Up to a maximum of 350 units;*
- c) Generally located to the north of Action Area;*
- d) Construction of the northern elements of the western distributor road;*
- e) Provision of an acceptable link between the western distributor road and the R772.*

In December 2008, a ten year permission was granted under Ref.s 06/6101 and PL27.227704 for 869 no. units, 4 no. crèches, neighbourhood centre facilities including 5 no. retail units and 3 no. community use units, as well as the construction of the following roads: Western Distributor Road from L1037 to R765 at Moneycarroll, connector road from proposed Western Distributor Road to upgraded signalised junction with R772 at Fisher's Junction, from proposed Western Distributor Road to R765 south of Estate 6 and lands zoned EC1, from connector road south of Estate 6 to Saint Joseph's School access road, from Western Distributor Road at Moneycarroll west to R765 Roundwood Road. This permission was extended in 2018 under Ref. 18/381 and is an extant permission that will expire in 2024. This permission has been enacted with construction commencing at the southern end of the action area lands including the delivery of roads infrastructure, housing and open space. It is evident that the economic downturn occurred post 2008, and subsequent to the granting of the extant permission, which can reasonably be considered to have impacted the roll out of the phase 1 requirements during the period 2007-2011.

We note that An Bord Pleanála granted permission for over 600 no. units that was envisaged for Phase 1. To date, no permission has been granted for the lands at the northern end of the action area, including the subject lands. The current proposal for 179 no. dwellings is within the 350 no. units identified for Phase 2.

The current proposal also seeks to deliver community uses in the form of a creche, community use room(s), as well as part of the already permitted Western Distributor Road in order to ensure a realistic delivery of the necessary infrastructure to serve the lands and cater for the necessary connectivity to the town centre for all users. As the proposed development will adjoin existing and permitted development, it cannot be considered to be "leapfrogging", particularly as the current proposal seeks to provide housing, community uses and roads infrastructure that will adjoin existing and permitted development.

In response to the phasing requirements set out in the agreed action area, the following is a short response of our understanding of the current situation:

Phase 1:

- *Up to a maximum of 600 units, not exceeding 200 units p.a. - permission granted in 2008 for c.869 no. units which has not been built to exceed 200 units p.a.;*
- *Generally located on the southern part of the Action Area - development commenced at the southern end of the Action Area;*
- *Construction of the southern elements of the western distributor road including connection to the Moneycarroll Link - this is completed;*
- *Provision of the by-pass route of the existing houses along the Actions Area southern boundary - this is completed;*
- *Provision of improvements to the R765 as far as the church and improvements to the access arrangements for the schools and community facilities - this is completed;*



- *Provision of revised access arrangements for schools and existing sports grounds - access is facilitated from the permitted development Ref.s 06/6101 and PL27.227704 to the schools and sports grounds;*
- *Provision of water storage facilities - permitted under Ref.s 06/6101 and PL27.227704;*
- *Satisfactory progress in the expansion of educational / community facilities e.g. sale/transfer of lands to educational organisation or community / sporting organisation - this is outside of the applicant's control;*
- *Completion of public park, including all landscape manipulation and landscaping – this has been substantially completed and will connect to the Glenbrook development and its linear park.*

Phase 2:

- f) *No development shall be permitted in Phase 2 until all of the elements set out in Phase 1 above have been substantially completed, to the satisfaction of the Planning Authority - no permission granted to date for development of the northern portion of the AA1 lands but the majority of the Phase 1 requirements have been met that can allow phase 2 to proceed, in conjunction with the current proposal to deliver the necessary roads infrastructure;*
- g) *Up to a maximum of 350 units - current proposal provides for 179 no. units;*
- h) *Generally located to the north of Action Area - current proposal is located in the northern part of the Action Area;*
- i) *Construction of the northern elements of the western distributor road - provided for as part of the current application as well as having the benefit of being permitted under Ref.s 06/6101 and PL27.227704;*
- j) *Provision of an acceptable link between the western distributor road and the R772 – provided for under the current development proposal.*

Taking all of the foregoing into account, the proposed development provides for an appropriate quantum of development, including community uses as well as the necessary roads infrastructure to connect the proposed housing to the town centre and deliver the objectives / requirements of the AA1 lands. It is our understanding that the required open spaces have been delivered by the adjoining extant permission Ref.s 06/6101 and PL27.227704. The proposed development should therefore be considered to be in compliance with the phasing of the AA1 lands and not deemed to be premature or a material contravention of same.

4.4.3 Conclusion of Criterion of Permission for the proposed development having regard to the pattern of development, and permissions granted, in the area since the making of the development plan – Section 37(2)(b)(iv) of the Planning & Development Act, 2000 (as amended).

On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development is clearly of both strategic and national importance, supports the national planning policy and objectives of the NPF, Rebuilding Ireland and the Housing for All plan, and therefore fulfils the criterion under Section 37(2)(b)(i) of the Planning & Development Act, 2000 (as amended).

It is concluded that, with reference to the provisions of Section 37(2)(b)(iv) of the Planning & Development Act, 2000 which states that where a proposed development materially contravenes the development plan and/or local area plan, the Board may grant permission where it considers that “*permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan*”.

As required in legislation, it is submitted that the proposed density, quantum of development and phasing / sequential development can be justified under Section 37(2)(b)(iv) of the Act of 2000 where the Board may determine under this section, to grant a permission, even if the proposed development contravenes materially the LAP.



5.0. Conclusion

5.1. In summary, it is submitted that the proposed development can be granted permission, notwithstanding that An Bord Pleanála may consider the proposed development to be a material contravention of the Newtownmountkennedy Local Area Plan, 2008, and its objectives/standards in relation to density, quantum of development and phasing/sequential development. It is also submitted that An Bord Pleanála can grant permission for the proposed development where it may consider the proposed development to be a material contravention of the current Wicklow County Development Plan, 2016-2022 in relation to density.

5.2. It is considered that under Section 37(2)(b)(i) of the Planning & Development Act 2000 (as amended) that the Board can grant permission for the proposed development having regard to the strategic national importance of delivering new housing on sites in appropriate locations.

5.3. It is also considered that under Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended) that the Board can grant permission for the proposed development having regard to the proposed development's compliance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), and by reference to the policies of the government stated at Objectives 3a, 11, 13, 33 and 35 of the National Planning Framework. It is considered that the proposed density is in keeping with the proper planning and sustainable development of the area and can therefore be granted permission.

5.4. Having regard to Section 37(2)(b)(iv) of the Act of 2000, which states that where a proposed development materially contravenes the development plan and/or local area plan, the Board may grant permission where it considers that *"permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan"*, it is considered that given the quantum of permitted dwellings since the adoption of the LAP exceeds that identified in Phase 1 for the agreed action area (and given the length of time that has elapsed) that An Bord Pleanála can grant permission for the proposed development of 179 no. dwellings, creche, community uses and proposed roads infrastructure having regard to the pattern of development and permissions granted in the area. It is considered that the proposed quantum of development and phasing/sequential development are in keeping with the proper planning and sustainable development of the area and can therefore be granted permission.

