

**Statement of Material Contravention of the  
Kildare County Development Plan 2017-2023 and the  
Celbridge Local Area Plan 2017-2023**

*In respect of*

**Proposed Strategic Housing Development**

*at*

**Ballyoulster, Celbridge, Co. Kildare**

*Prepared for*

**Kieran Curtin, Receiver over certain assets of  
Maplewood Developments Unlimited Company  
(in liquidation and in receivership)**

*Prepared by*

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## APPENDIX 1 – Celbridge Population and Housing Unit Allocation

## DOCUMENT CONTROL SHEET

<b>Client:</b>	Kieran Curtin, Receiver over certain assets of Maplewood Developments Unlimited Company (In Liquidation and In Receivership)
<b>Project Title:</b>	Ballyoulster KDA - Phase 1 SHD (JN20114)
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## 1.0 **INTRODUCTION**

1.1 On behalf of the applicant, Kieran Curtin, Receiver over certain assets of Maplewood Developments Unlimited Company (In Liquidation and In Receivership), this Statement of Material Contravention is submitted in support of a Strategic Housing Development (SHD) for a Phase 1 development at Ballyoulster, Celbridge, Co. Kildare. The application site is bound by the Dublin Road and the Shinkeen Road, within the townlands of Donaghcumper and Ballyoulster, Celbridge, Co. Kildare. The application site has an area of c. 13.5 ha and bound by a greenfield site, Donaghcumper Cemetery, Retronix Semiconductor company and the Dublin Road to the north, the Rye River Brewing Company and the Ballyoulster Park housing estate to the north east, the Primrose Gate housing estate to the south, agricultural lands to the east and Shinkeen Road to the west. Donaghcumper Medieval Church Ruins (RPS No. B11-02) and the house on Dublin Road, Donaghcumper (RPS No. B11-26), are protected structures located north of the application site

### **Proposed Development**

1.2 The proposed development comprises a Strategic Housing Development of 344 no. residential units (comprising 54 no. 1 beds, 30 no. 2 beds, 210 no. 3 beds and 50 no. 4 beds), a childcare facility with a GFA of c. 369 sq.m, public and communal open space, landscaping, car and cycle parking spaces, provision of an access road from Dublin Road and Shinkeen Road, associated vehicular accesses, internal roads, pedestrian and cycle paths, bin storage, pumping station and all associated site and infrastructural works.

1.3 This Statement of Material Contravention accompanies the SHD application and the public notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Planning and Development Regulations (as inserted by S.I. No.291/2017) include the following reference to this statement in the prescribed format as follows:

*“The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.”*

### **Potential Material Contravention of the Kildare County Development Plan and the Celbridge Local Area Plan**

1.4 Having regard to the foregoing, it is respectfully requested that An Bord Pleanála have regard to the following justification for potential material contraventions of the Kildare County Development Plan 2017-2023 (CDP) and the Celbridge Local Area Plan 2017-2023, in the event that the Board is of the view that the proposed development constitutes a material contravention of the following:

- Housing unit allocation for Celbridge as set out in Table 3.3 of the CDP (as amended under Variation No. 1 of the CDP);
- The car parking standards set out in Table 17.9 of the CDP and objective MTO4.1 of the Celbridge LAP;
- The estimated density outlined for KDA2 set out in Table 4.1 and Section 12.2.2 of the Celbridge LAP; and

- Figure 12.1 of the LAP in relation to the Design Concept for KDA 2 Ballyoulster.
- 1.5 It is considered that the Board may determine that the proposed development materially contravenes the above objectives of the Development Plan and Local Area Plan and therefore represents a material contravention of the Development Plan and the Local Area Plan.
- 1.6 For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.
- 1.7 The Statement of Consistency / Planning Report accompanying this application demonstrates compliance with all other relevant policies, objectives and standards of the Kildare County Development Plan 2017-2023 and the Celbridge Local Area Plan 2017-2023. Significantly, the proposed SHD does not contravene either the Development Plan or any Local Area Plan in relation to the zoning of land, whether materially or at all, as the uses are permissible under the 'C: New Residential' and 'E: Community and Educational' zoning (see also Legal Opinion prepared by David Browne, BL, included as an Appendix to the Statement of Consistency and Planning Report).

## **2.0 LEGISLATIVE CONTEXT**

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

*"(6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under Section 4 even where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned.*

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

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

- 2.2 In circumstances where (i) the Board has the power to decide to grant permission for a proposed SHD where the proposed development contravenes the development plan or local area plan and (ii) the proposed Ballyoulster KDA2 Phase 1 SHD does not contravene the development plan or local area plan in relation to the zoning of land; then (iii) the provisions of Section 37(2)(b) of the Planning and Development Act 2000 ("the 2000 Act") are relevant to the Board's consideration of this planning application. In this respect, subsection 37(2) of the states the following:

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

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that -

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

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

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.” (Emphasis added)

2.3 A response to the relevant criteria above is provided in Section 4 of this report, and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed Ballyoulster SHD, thereby enabling the Board to decide to grant permission, notwithstanding the potential material contraventions of the Kildare County Development 2017-2023 (as varied) in respect of **(i)** the housing unit allocation for Celbridge as set out in Table 3.3 of the CDP (as amended under Variation No. 1 of the CDP) and **(ii)** the car parking standards set out in Table 17.9 of the CDP and objective MTO4.1 of the Celbridge LAP, and the Celbridge Local Area Plan 2017-2023 in respect of **(iii)** the estimated density outlined for KDA2 set out in Table 4.1 and Section 12.2.2 of the Celbridge LAP, and **(iv)** Figure 12.1 and Section 12.2.2 of the LAP in relation to the Design Concept for KDA 2 Ballyoulster.

### **3.0 LOCAL PLANNING POLICY CONTEXT AND POTENTIAL MATERIAL CONTRAVENTIONS**

3.1 The relevant local planning policy context is summarised below, with an explanation for why this Statement of Material Contravention is included with the planning application.

**(i) Core Strategy and Settlement Strategy of the Kildare County Development Plan (CDP) 2017-2023**

3.2 On publication of the CDP in 2017, Celbridge was identified as a ‘Moderate Sustainable Growth Town’ within Table 2.2 of the Core Strategy relating to Settlement Hierarchy and Typology. The Core Strategy sets out the preferred development strategy focussed on achieving a critical mass in the metropolitan urban areas of Maynooth, Leixlip, Celbridge and Kilcock. The Core Strategy set out the RPG population targets for County Kildare, adjusted to quarter 1 of the 2023, with a population target of 253,600 and a housing target of 113,243 residential units. Section 3 ‘Settlement Strategy’ and Table 3.3 of the

- Kildare County Development Plan 2017-2023 (CDP) allocated a housing figure of 3,250 new dwellings for Celbridge in the plan period to 2023.
- 3.3 These figures are reflected in the Celbridge LAP 2017-2013 which states that *'the Plan supports the achievement of the Core Strategy growth allocation of 3,250 units and incorporates a level of flexibility to meet demand over a 9 year horizon'*. The LAP identifies 121.2ha of land with a residential or mixed use zoning, with an estimate of 3,519 (approx.) residential units. The LAP identifies five no. Key Development Areas (KDAs) with capacity to accommodate significant growth over the LAP period, including the subject site located within KDA2, which is a greenfield site on the edge of the existing built up area of the town.
- 3.4 The CDP was subsequently varied on the 9th of June 2020 to align with the National Planning Framework (NPF) and the Eastern and Midlands Regional Spatial and Economic Strategy (RSES). The Core Strategy was updated to reflect that the growth strategy for the region included delivering sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategy Plan (MASP), which Celbridge is located within. The Settlement Hierarchy in Table 2.2 of the Core Strategy was updated to reflect Celbridge as a 'Self-Sustaining Town' in accordance with the RSES. The preferred development strategy remained as the achievement of 'critical mass' in the MASP area, including Celbridge. The Core Strategy was updated to reflect the NPF Implementation Roadmap and RSES population projections for the County for the periods 2020-2026 and 2026-2031. The projections were adjusted to the end of the first quarter of 2023, to coincide with the life of the Plan. The population projection for County Kildare to the end of the Plan period is 238,993, giving rise to the need for 6,023 additional residential units by 2023.
- 3.5 Section 2.16.1 included the following relevant policies in relation to the Settlement Strategy:
- **CS 1** - *Provide new housing in accordance with the County Settlement Hierarchy*
  - **CS 4** - *Deliver sustainable compact urban areas through the regeneration of towns and villages through a plan-led approach which requires delivery of a least 30% of all new homes that are targeted in these settlements to be within their existing built up footprint*
- 3.6 Under the Variation, the target housing figure for Celbridge set out in Section 3 'Settlement Strategy' and Table 3.3 was reduced to 603 new dwellings in the period of 2020-2023. The variation also set out that the provision of 1,406 new dwellings for Celbridge would be in line with projections under the NPF in the period ending in 2026.

**Figure 2.1 Extract of Table 3.3 Settlement Hierarchy – Population and Housing Unit Allocation 2020-2023**

Settlement Type	Towns / Villages	2016 Census Pop	2016 Dwellings	Allocated Growth (%) 2020-2023	NPF 2026 Pop Growth in persons	NPF 2026 Pop Growth in housing units	Population Growth 2020 to 2023 (annualised from 2026 NPF Figures) <sup>16</sup>	Dwellings Target 2020 to 2023
Key Town	Maynooth (MASP <sup>7</sup> )	14,585	5,171	10.9%	4,291	1,533	1,839	657
	Naas	21,393	7,726	14.9%	5,866	2,095	2,514	898
Self-Sustaining Growth Town	Newbridge	22,742	8,260	11.6%	4,567	1,631	1,957	699
	Leixlip	15,504	5,524	10.2%	4,016	1,434	1,721	615
	Kildare	8,634	3,158	4.7%	1,850	661	793	283
	Athy	9,677	4,281	4.8%	1,890	675	810	289
Self-Sustaining Town	Celbridge	20,288	6,969	10.0%	3,937	1,406	1,687	603
Sustaining Town	Kilcock	6,093	2,212	4.0%	1,575	562	675	241
	Monasterevin	4,246	1,706	2.6%	1,024	366	439	157

- 3.7 Section 3.4.2 of the CDP encourages a sequential approach to the development of settlements where ‘*All towns, villages, settlements, rural nodes (as appropriate) should be developed in a sequential manner, with suitable undeveloped lands closest to the core and public transport routes being given preference for development in the first instance.*’ The proposed development of the subject site is consistent with the sequential approach, as the subject site is situated approximately 1.3km east of Celbridge Town Centre, adjacent to existing residential areas, established neighbourhood centres and existing transport services, social and community infrastructure and amenities. Importantly, the Ballyoulster KDA 2 lands will accommodate much needed education facilities and the owner of the site is in advanced discussions with the Department of Education with regard to the sale of c. 7.2 hectares of community and education zoned land, which are earmarked for a three school campus.
- 3.8 Taking into account the housing allocation as varied, we outline below how the Phase 1 development, which will be constructed over a c. five year period (with a currently anticipated opening year of 2024) accords with the settlement strategy and population projections for Celbridge, in addition to national and regional policy. This has been informed by a review of extant planning permissions for housing schemes of 5 units and over from the 1<sup>st</sup> of January 2020 to June 2022, in addition to a review of the delivery of residential units within Celbridge, having regard to a ‘*Report on Finished, Unfinished and Estates under Construction*’ published by KCC Building and Development Control in December 2021. We refer to Appendix 1 for the breakdown of the figures. It was confirmed by KCC as part of the Stage 2 Tripartite meeting with An Bord Pleanala that the relevant date to include extant permissions is from the 1<sup>st</sup> January 2020.
- 3.9 The proposed 344 no. units would not in itself exceed the housing target for Celbridge (as varied) of 603 no. units in the period 2020-2023. However, it is recognised from a review of the extant permissions for Celbridge (comprising 949 no. units), as set out in Appendix 1 Table A2, that the number of permitted residential units in Celbridge exceeds the housing target for 2020 to 2023, albeit this assumes all units will be delivered by 2023 which as set out below is unlikely to be the case. Whilst the proposed development, subject to a grant of permission, will be occupied from c. 2025 onwards, i.e. during the lifetime of the next Development Plan when additional growth will be allocated to Celbridge.

- 3.10 Regard should be given to the fact that for the extant permissions the normal period of planning permission is five years and therefore it is unlikely that the number of houses that could be built before 2023 under the extant permissions would exceed 603. This is highlighted by a review of the number of units built to date from the extant permissions and the associated low delivery of units in Celbridge as a result. The KCC 'Report on Finished, Unfinished and Estates under Construction' outlines that in December 2021, whilst 2 no. extant permissions were under construction (SHD Permission ABP Ref.: 306504-20 and S. 34 permission Reg. Ref.: 191282), there were no completed units on any of the extant permissions. Noting the units benefiting from planning permission within Celbridge have not been completed to date, this results in a significant shortfall in actual housing delivery. Applying the completed units as of December 2021 to the housing targets (as varied) results in a remaining unit allocation of 603 no. units to be delivered by 2023 and 1,406 no. units by 2026 (See Appendix 1 for a breakdown). Assuming the remaining permitted units will be completed by 2026, (as set out in Appendix 1) there would be a remaining residential allocation of c. 457 no. residential units to 2026.
- 3.11 It is recognised there is an undecided SHD currently before the Board (ABP Ref.: 312958-22) for 152 no. units on lands at Shackleton Road, Ballymakealy Upper, Celbridge, Co. Kildare. In the event that a decision to grant permission for this undecided SHD is made prior to a decision being made on the subject application, the remaining allocation would reduce to c. 305 no. residential units to 2026.
- 3.12 The proposed Phase 1 development at Ballyoulster is currently expected to be constructed over a five year period, with the opening year in 2024 and all remaining units complete by 2029. The provision of 344 residential units and the scale and form of development proposed is considered to be consistent with the settlement development aims of the Core Strategy, and the development of the subject site would be in line with Section 2.11.4 of the CDP (as varied) as it would consolidate growth and the delivery of infrastructure while balancing housing delivery. As set out in the accompanying application documentation the proposed Phase 1 development forms a comprehensive development, with good transport links that will deliver infrastructure, including the access roads and junctions to the reserved school lands, in addition to the significant provision of Public Open Space. The proposed development would assist in meeting the housing shortfall to date, whilst also assisting in meeting the remaining housing allocation of up to 457 no. units to 2026.
- 3.13 Post 2026, the housing need in the area must still be met and it is submitted that the delivery of housing at appropriate locations must not be suspended or curtailed. As set out further below and in Section 4, national policy places a strong emphasis on ensuring the adequate supply of new housing development to meet existing pent up demand and housing need, and normal housing demand. The proposed development will help to deliver this key government policy objective.
- 3.14 Furthermore, and as discussed further below in relation to density, the proposed Phase 1 development of 344 no. units is only a small portion of the overall estimated capacity of 885 residential units identified for the KDA 2 lands within the Celbridge LAP. Table 4.1 of the LAP identified the total potential capacity of 885 no. units across the quantum of land for housing within the KDA 2 lands (c. 29.5 ha in total).
- 3.15 Policy SS4 of the CDP includes for a 'review of the zoning of land in instances where there is an oversupply of land for housing...'. However, it is worth noting that there has



- been no change to the Celbridge LAP to reflect the housing allocation for Celbridge in Variation No. 1 and no change to the zoning objective of the application site. The LAP does not include any order of priority for the development of sites zoned for residential development in Celbridge. The LAP proposed phasing schedule is based on the number of dwelling units that may be permitted in each phase dependent on the provision of a pre-determined level of completed infrastructure, facilities and amenities to serve each phase. The LAP seeks *'to provide flexibility, the proposed phasing schedule is sequential (linked to housing output) rather than time specific'*. Section 12 of the LAP provides for 351 no. residential units in KDA2 as a first phase of development, which the subject proposals are consistent with, as discussed in greater detailed Statement of Consistency / Planning Report.
- 3.16 Notwithstanding the above and the fact that the development is intended to be built out over the period 2024-2029, should the Board consider the proposal to be a material contravention of the population and housing unit allocation for the period 2020-2023 as set out in Table 3.3 of the current CDP, a justification for same is set out in Section 4 below.
- (ii) Car Parking Standards as set out in the Kildare County Development Plan 2017-2023 and Objective MT04.1(a) set out in the Celbridge Local Area Plan 2017-2023**
- 3.17 Section 4.4 of the Traffic and Transport Assessment (TTA) prepared by DBFL sets out the parking provision for the proposed development and reference this against the car parking standards in the CDP. In summary, a total of 585 no. car parking spaces are proposed comprising 260 no. spaces for houses (2 spaces / unit), 214 no. spaces for duplex units (1 space / unit), 102 no. visitor spaces and 9 no. spaces for the childcare facility
- 3.18 The car parking provision for the proposed houses is fully consistent with Table 17.9 of the CDP with 2 no. car parking spaces per house. In relation to duplex / apartment units, the car parking provision proposed is in accordance with the Apartment Guidelines 2020 for developments in peripheral and/or less accessible urban locations with 1 space per unit, plus an element of visitor parking. This level of provision is not consistent with Table 17.9 of the CDP which sets out a requirement for 1.5 spaces per unit plus 1 visitor space per 4 no. apartments. However, section 17.4.6 of the CDP states that planning application for apartments shall be assessed against 'the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning' Authorities, DECLG (2015)' which is now superseded by the 2020 Apartment Guidelines.
- 3.19 Objective MTO4.1 (a) of the Celbridge LAP is also of relevance which states *'To require parking provision for new development in accordance with the standards set out in the County Development Plan.'*
- 3.20 Section 4 of this statement demonstrate how the car parking provision is consistent with the Apartment Guidelines 2020 and therefore appropriate notwithstanding the contravention of the standards in the CDP and the LAP.
- 3.21 It is noted that the subject site is located within walking distance (c. 1.3km) of the town centre with a large range of restaurants, cafes and other services/facilities such as churches, community centres, medical services and a library. There are a number of sports and recreational facilities available in proximity to the site, including Celbridge

- Abbey Gardens, Celbridge GAA Club and Celbridge Football Club. The neighbourhood centre of St Wolstons Shopping Centre is in very close proximity to the site and includes a SuperValu, a fitness club, a medical centre and a pharmacy, in addition to a neighbourhood centre to the south of the site (as part of the Primrose Gate development), with a Tesco, a pharmacy and GP surgery. Furthermore, and as noted above, the wider KDA 2 site includes lands reserved for the provision of 3 no. schools.
- 3.22 The subject site is serviced by several existing bus routes, Dublin Bus services C4, C6, X27, X28, L58 and L59 (noting the Phase Two of the BusConnects Network Redesign is now in operation) and it will also benefit from the future BusConnects proposals connecting the site to Maynooth, Tallaght, Hazelhatch Train Station and the City Centre, Route W6. Please refer to the TTA for further details.
- 3.23 The Hazelhatch and Celbridge Train Station is located approximately 1.9km south of the subject site and provides frequent train services to Dublin Heuston Station as well as regional routes serving Cork, Galway, Limerick and Waterford. A feeder bus service is operates between the Hazelhatch and Celbridge Train Station and Celbridge town centre which runs every 30mins. The train station is part of the Dart+ programme which aims to modernise and improve existing rail services in the Greater Dublin Area, delivering frequent, modern, electrified services, including on the South West line to Celbridge.
- 3.24 It is clear that the subject site has good accessibility to the town centre and public transport, and it falls marginally short of being located in an 'intermediate urban location' given the distance to the town centre and per hour frequency of the urban bus services. It therefore constitutes a 'Peripheral and/or Less Accessible Urban Location' and the proposed parking provision for the duplex / maisonette units are therefore considered in accordance with the Apartment Guidelines 2020.
- 3.25 Notwithstanding the above, should the Board consider the proposal to be a material contravention of the parking requirements for apartments set out in Table 17.9 of the CDP and 3.19 Objective MTO4.1 (a) of the Celbridge LAP, a justification for same is set out in Section 4 below.
- (iii) Density as set out in the Kildare County Development Plan and Celbridge Local Area Plan 2017-2023**
- 3.26 Section 6.2.2 of the Celbridge LAP relates to residential density, mix and density, and it notes that the housing allocation for Celbridge is based on an average density of 30 units per hectare. Objective RD02.1 specifically seeks '*to require all new residential developments meet the standards and guidance set out in:*
- *The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, DEHG (2009)*
  - *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2015)*
  - *The Design Manual for Urban Roads and Streets, DTTS and DECLG (2013)*
  - *The policies, objectives and development management standards contained in this LAP and the Kildare County Development Plan'*
- 3.27 The Celbridge LAP does not prescribe any maximum density figure for the KDA 2 lands and instead provides an estimate figure. Table 4.1 of the Celbridge LAP states the estimated density for the KDA 2 lands is 30 dph, with an estimated capacity of 885 no.

units. This is based on an area of 29.5 ha, which Table 4.1 states is the quantum of land for housing for KDA 2. However, it notes that the estimated residential capacity represents an estimate only, and that *'the density of development and number of units permissible will be determined at detailed design stage based on a full assessment of site characteristics and local sensitivities'*. Section 12.2.2 relating to the KDA 2 lands also states that *'this site will accommodate medium to low-density residential development in the order of 30 units per hectare.'*

- 3.28 Therefore, it is clear that the LAP allows for flexibility with regards to the density of development on the site, and as demonstrated in the OMP Architectural Design Brochure and following the full assessment of the site characteristics, the Phase 1 lands can deliver a scheme with a net density of 35.5 uph whilst also meeting all other required objectives of the LAP and the CDP. The proposed density also aligns with the Urban Design Strategy and the 'Development Strategy' (included as Appendix 1 of the Architectural Design Statement) prepared for the overall landholding, which identified a net density of c. 35 units per hectare as being suitable for the lands, and noting that the Phase 1 site needs to be considered in the context of the overall landholding. A lower density is likely to be located on the remainder of the site, with the lands being more removed from the core of the town, as part of future phases of development, resulting in an overall net density of 30 per ha across the KDA 2 lands. This will still ensure it continues to represent a 'low to medium residential development' as envisaged by the LAP.
- 3.29 Table 4.2 of the CDP sets out a density figure of 30-50 dph for a greenfield site in a large town, such as the subject site. As set out in Section 4, this is aligned with national policy and ministerial guidelines, including the Sustainable Residential Development in Urban Areas Guidelines (2009), the Urban Development and Building Height Guidelines for Planning Authorities 2018, and the Apartment Guidelines 2020 which seek to encourage compact growth and higher density development in accessible locations, such as the subject site.
- 3.30 In particular the Sustainable Residential Development in Urban Areas Guidelines (2009), which is referred to within LAP objective RD02.1, states that for 'outer suburban / 'greenfield' sites in larger towns 'the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally.' The proposed net density of c. 35.5 uph accords with this range.
- 3.31 Notwithstanding the above, should the Board consider the proposal to be a material contravention of Table 4.1 and Section 12.2.2 of the Celbridge LAP given it exceeds the estimate density of 30 uph, a justification for same is set out in Section 4 below.

**(iv) Figure 12.1 Design Concept for KDA 2 Ballyoulster**

- 3.32 Section 12.2 and section 12.2.2 of the LAP sets out a Design Brief for the KDA 2 Ballyoulster lands. Figure 12.1 sets out a Design Concept for the lands, which includes a central local park.

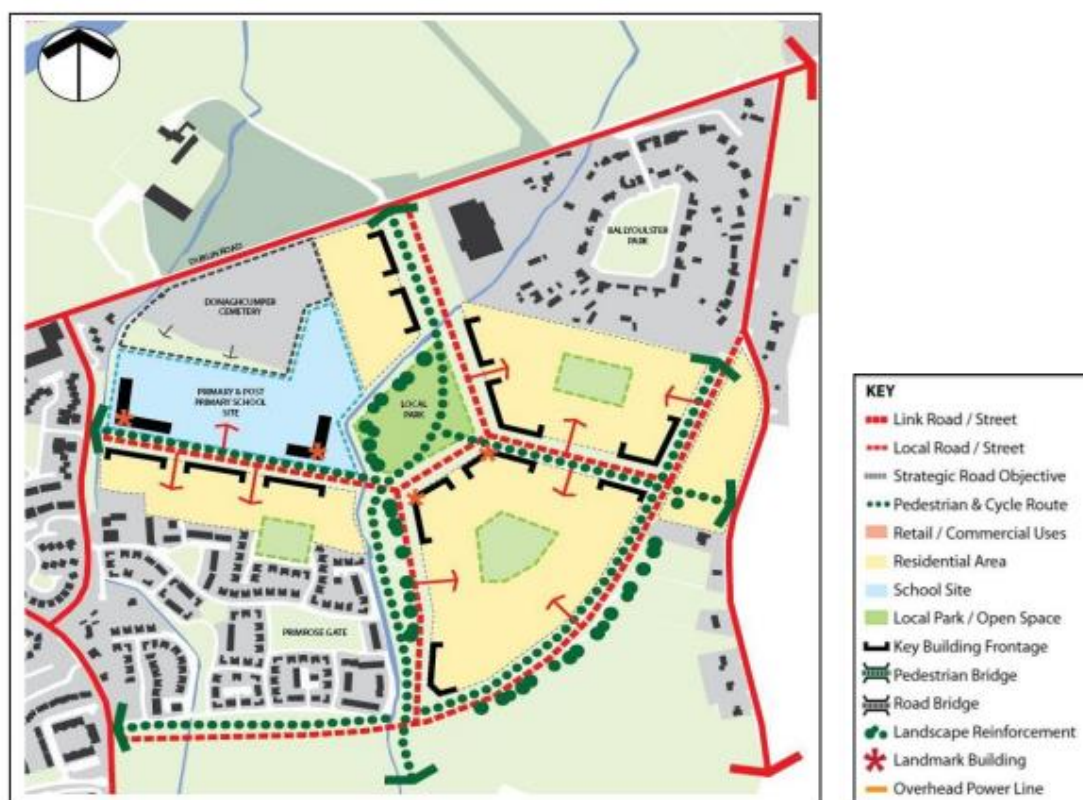
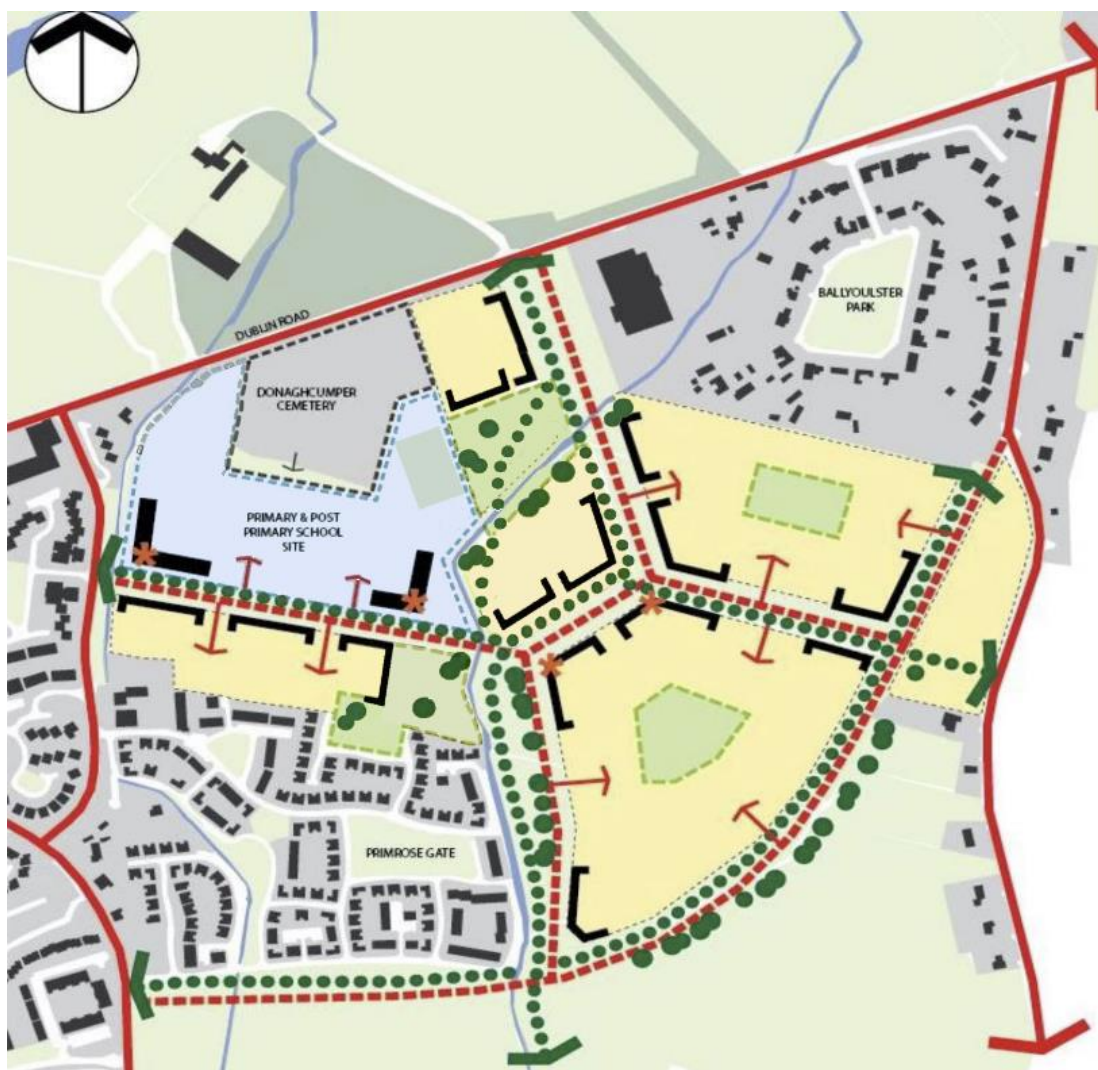


Figure 3.1: Extract of Design Concept (Figure 12.1) in the Celbridge LAP

- 3.33 It is acknowledged in the LAP (Section 12.2) that the design briefs set out for the KDA's (including KDA 2) set out broad parameters for the future development of these areas. It states '*While principal access points and connections, key building frontages and public spaces should generally be regarded as fixed requirements, a degree of flexibility can apply. For example, access points from the main road network and key connections within the KDA will be required but the actual position of each connection could be altered subject to appropriate traffic safety considerations. Key building frontages may be varied where it is demonstrated that there is a strong urban design rationale and that passive supervision of public spaces is not compromised.*' (Emphasis added)
- 3.34 The Design Concept informed the 'Development Strategy' for the overall landholding and in turn the initial site layout proposals for the Phase 1 lands. However, updated flood maps from the Hazelhatch Flood Extent Study and the findings of archaeological investigations (particularly to the north of the site) impacted on the layout and extent of the developable area on the site. Given the flooding constraints, as informed by the SSFRA, and the archaeology constraints, as informed by the testing trenching, the scheme architects, OMP, prepared an amended Design Concept diagram for the KDA2 lands as illustrated in Figure 2 below to ensure the proposed Phase 1 development adheres to all the key objectives for the lands as set out in the Celbridge Local Area Plan 2017-2023, as illustrated in Figure 3.2 below.



**Figure 3.2: OMP Amended Design Concept (Source: OMP Design Statement)**

- 3.35 The key change to the design concept is in respect of the open space strategy, which provides a necklace of local parks within each character area, rather than a central local park. However, it is considered the revised Design Concept continues to deliver on the objectives and design brief set out in Section 12.2.2 of the LAP in respect of the vision, connectivity / movement, built form, landscape and spaces. In particular, it delivers on the design brief to incorporate *'the Shinkeen Stream as a landscape feature that includes a continuous pedestrian and cycle link along its bank, structured around a variety of open spaces that provide for both active and passive recreation, with the retention of existing mature trees and the planting of new trees along the Ballyoulster/Loughlinstown townland boundary.'*
- 3.36 This revised design concept was then used to guide the revised proposals for Phase 1, which includes 3 no. local parks, in addition to communal open space. The proposed public open space (i.e. the local parks) equates to 2.5 ha in total, representing 18% of the gross site area and 25% of the net site area. This meets and significantly exceeds Section 17.4.7 of the Development Plan, which requires for greenfield sites, such as the subject site, a minimum 15% of the total site area as public open space, thereby

demonstrating that it will also cater for future phases of development on the KDA 2 lands as envisaged by the LAP.

3.37 Furthermore, it is considered that the proposed layout continues to respond to all other key objectives from the design brief, including:

- It continues to reflect the Design Concept in respect of the principal access points from the Shinkeen Road and the Dublin Road, noting the final position of the junctions and the internal road have been informed by engineering requirements, as set out in the Traffic and Transport Assessment prepared by DBFL Consulting. This also provides a continuous route through the KDA that connect to surrounding areas with a road connection from the Loughlinstown Road to the R405/Hazelhatch Road in the longer term.
- Integration of the lands reserved for the primary and post primary schools
- Landmark / feature buildings provided for legibility and to reinforce the proposed hierarchy of streets and spaces.
- Provision of a permeable network of pedestrian and cycle friendly streets and spaces that incorporate existing site features, such as the Shinkeen Stream and existing mature trees.

3.38 Notwithstanding the above, should the Board consider that the development is a material contravention of Figure 12.1 and Section 12.2.2 of the Celbridge LAP, a justification for same is set out in Section 4 below.

#### **4.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION IN CONTEXT OF SECTION 37(2)(B) CRITERIA**

4.1 In the event that the Board considers that the proposed development constitutes a material contravention of the **Kildare County Development 2017-2023 (as varied)** in respect of **(i)** the housing unit allocation for Celbridge as set out in Table 3.3 of the CDP (as amended under Variation No. 1 of the CDP) and **(ii)** the car parking standards set out in Table 17.9 of the CDP and Objective MT04.1(a) set out in the Celbridge Local Area Plan 2017-2023, and the **Celbridge Local Area Plan 2017-2023** in respect of **(iii)** the estimated density outlined for KDA2 set out in Table 4.1 and Section 12.2.2 of the Celbridge LAP and **(iv)** Figure 12.1 and Section 12.2.2 of the LAP in relation to the Design Concept for KDA 2 Ballyoulster; the justification for deciding to grant permission in circumstances of such a material contravention is set out below, as required under the relevant criteria set out under Section 37(2)(b) of the 2000 Act, as amended.

4.2 As outlined above in Section 2, Section 9(6)(c) of the 2016 Act empowers the Board to grant permission for a proposed strategic housing 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 Act of 2000 were to apply, it would grant permission for the proposed development. Section 37(2)(b) of the Act sets out 4 no. grounds on which the Board may grant permission for a development that materially contravene a development plan. In circumstances where there is no material contravention of any policy or objective of the development plan in relation to the zoning of land, it is considered that permission for the proposed development may be granted on one or more of the following grounds set out within this statement.

- 4.3 As set out within the accompanying Statement of Consistency and Planning Report, the proposed development complies with the zoning objectives pertaining to the subject site.

**Section 37(2)(b)- Part (i)**

**Part (i) - Proposed Development is of Strategic or National Importance**

- 4.4 The proposed development comprises of the provision of 344 no. residential units and associated development on lands zoned 'C: New Residential' which seeks 'to provide for new residential development' and associated infrastructure and a childcare facility on lands zoned 'E: Community and Educational' under the Celbridge Local Area Plan 2017-2023, and forms a first phase of development on the Key Development Area (KDA) 2 - Ballyoulster designated lands in the LAP.
- 4.5 As outlined in the Planning Report / Statement of Consistency, the proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.
- 4.6 In respect of the LAP, the vision for the KDA 2 lands is to *'To provide for the development of a new residential neighbourhood, including primary and post primary schools and a local park that integrates with its surroundings whilst having its own unique character and a strong sense of place.'* Therefore, the proposed development is consistent with the strategic context of the LAP as it seeks to deliver the first phase of development on the area designated as KDA 2 and accords with the vision and key principles set out in the LAP in respect of providing for a new residential neighbourhood and integration of a local park. The proposals also ensure they are fully integrated with the lands reserved for the primary and post primary schools. The proposed access road will serve both the new residential development (including Phase 1 and future phases) and also provides the access to the lands reserved for the Department of Education in relation to the provision of the 3 no. schools.
- 4.7 The proposed development also delivers on Government Policy to increase delivery of housing from its current under supply. The Rebuilding Ireland Action Plan for Housing and Homelessness (2016), and consequently the 2016 Act, recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of Rebuilding Ireland – Action Plan focuses on the delivery of housing stock as a key objective to tackle homelessness and support a growing population.
- 4.8 The Government's Housing for All: A New Housing Plan for Ireland, published in September 2021, seeks to increase new housing supply to an average of at least 33,000 new units per year over the next decade. In terms of first steps to increase new housing supply, the Plan includes for *'in accordance with the National Planning Framework, focus on adequate supply of serviced zoned lands to meet housing need, at required density.'*
- 4.9 Overall, it is considered that the proposed development is of strategic and national importance given the designation of the site as Key Development Area 2 – Ballyoulster in the Celbridge LAP and its potential to substantially contribute to the achievement of the Government's national policy to increase housing supply, as set out in the Housing

- for All, A New Housing Plan for Ireland (2021) and Rebuilding Ireland Action plan for Housing and Homelessness 2016.
- 4.10 The proposed development is therefore considered to be strategic in nature and will deliver on national policy objectives in respect to the delivery of housing on serviced, zoned land in appropriate urban locations.

**Section 37(2)(b)- Part (ii)**

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

- 4.11 The following section shall demonstrate how the proposed development is justified in the context of conflicting objectives or objectives are not clearly stated, insofar as the proposed development is concerned, in the Kildare County Development Plan and Celbridge LAP, in respect of the settlement strategy, density and car parking.

**Housing Unit Allocation**

- 4.12 In relation to the housing allocation for Celbridge, it is considered that the Core Strategy and the requirement in Policy CS4 of the Kildare County Development Plan 2017-2023 (CDP) to promote a compact urban form, along with the estimated residential capacity for KDA 2 as per Table 4.1 of the Celbridge Local Area Plan conflicts with the housing allocation for Celbridge in Table 3.3 of the CDP (as varied).
- 4.13 In summary, and as set out in Section 2 above, Variation 1 of the CDP identifies Celbridge as a Self Sustaining Town, with Policy CS4 requiring the delivery of compact urban form and regeneration of towns through a plan led approach. Under the Variation, the target housing figure for Celbridge set out in Section 3 'Settlement Strategy' and Table 3.3 was reduced to 603 new dwellings in the period of 2020-2023. The variation also set out the provision of 1,406 new dwellings would be in line with projections under the NPF in the period ending in 2026.
- 4.14 Following a review of extant permissions (See Appendix 1 for details) the number of permitted residential units in Celbridge exceeds the housing target for 2020 to 2023, albeit this assumes all units will be delivered by 2023 which as set out in Section 2 is unlikely to be the case. Assuming the remaining permitted units will be completed by 2026, (and set out in Appendix 1) there would be a remaining residential allocation of c. 457 no. residential units to 2026. It is recognised there is an undecided SHD currently before the Board (ABP Ref.: 312958-22) for 152 no. units on lands at Shackleton Road, Ballymakealy Upper, Celbridge, Co. Kildare. In the event that a decision to grant permission for this undecided SHD is made prior to a decision being made on the subject application, the remaining allocation would reduce to c. 305 no. residential units to 2026.
- 4.15 Regard should be given to the fact that for the extant permissions the normal period of planning permission is five years and therefore it is unlikely that the number of houses that could be built before 2023 under the extant permissions would exceed 603. Noting none of the units benefiting from planning permission within Celbridge have been completed to date, this results in a significant shortfall in actual housing delivery.
- 4.16 The proposed development would assist in meeting the housing shortfall to date, whilst also assisting in meeting the remaining housing allocation of up to 457 no. units to 2026.



Post 2026, the housing need in the area must still be met and it is submitted that the delivery of housing at appropriate locations must not be suspended or curtailed. Therefore, it is not considered the proposed development would lead to any distortion of the settlement hierarchy for the County.

- 4.17 It is noted that Policy SS4 of the varied CDP requires a review of the zoning of lands in instances where there is an oversupply of land for housing. However, the zoning objective of the application site and other lands in the town is set out in the Celbridge LAP rather than the CDP. There has been no change to the Celbridge LAP to reflect the housing allocation for Celbridge in Variation No. 1 and no change to the zoning objective of the application site.
- 4.18 The Celbridge LAP 2017-2013 identifies 121.2ha of land with a residential or mixed use zoning, with an estimate of 3,519 (approx.) residential units. The estimate capacity for the KDA 2 lands is 885 no. units in total, which remains more than the housing allocation for Celbridge in the CDP. The LAP does not include any order of priority for the development of sites zoned for residential development in Celbridge and as set out in the Statement of Consistency / Planning Report, the proposed development is consistent with the phasing schedule for KDA 2. Were an order of priority to be considered, this site would feature high in that order given its location sequential to the centre, established residential development, commercial and community facilities and given that it will accommodate a three school campus to be developed by the Department of Education.
- 4.19 The proposed development will help deliver key government objectives to ensure an adequate supply of new housing and increased densities to meet pent up demand and ongoing housing demand. In addition, and as set out in Section 2, the subject site provides for comprehensive development with good transport links and proximity to services and amenities, and the proposed development deliver infrastructure, including the access roads and junctions to the reserved school lands, in addition to the significant provision of Public Open Space. Therefore, it is considered the development of the Phase 1 site in its entirety is appropriate for the proper planning and sustainable development.
- 4.20 Overall, the grant of permission under S. 37 2(b)(ii) is justified having regard to a conflict in the Core Strategy, the reduction in housing allocation for Celbridge and the need to support compact urban form through a plan led approach in the LAP. It is considered currently there is an inconsistency between the delivery of housing as per CS4 and the housing allocation as permitted, to allow for the facilitation and residential growth and proper planning and development of Celbridge town.

#### Density

- 4.21 In relation to the density requirements for the subject site, as set out in Section 2, it is considered the objectives relating to density in the Kildare County Development Plan 2017-2023 and the Celbridge Local Area Plan 2017-2023 are not clearly stated, insofar as the proposed development is concerned
- 4.22 The proposed density of 35.5 uph complies with the range 35-50 specified in the Table 4.2 of the Kildare County Development Plan 2017-2023 for suburban/greenfield sites in large towns, such as Celbridge. However, as estimated 30 units per hectare is referred in Table 4.1 of the Celbridge Local Area Plan 2017-2023. The density requirements of the CDP comply with Chapter 5 of the Guidelines for Planning Authorities on Sustainable

Residential Development in Urban Areas. It is considered that the density ranges for suburban / greenfield sites required under national guidelines and promoted in the CDP should be applied in this instance and a density of 35.5 uph is considered justified.

#### Car Parking

- 4.23 In relation to car parking provision for the apartments / duplexes, Table 17.9 of the Development Plan which sets out a requirement for 1.5 spaces per units plus 1 visitor space per 4 no. apartments. However, this conflicts with section 17.4.6 of the Development Plan states that planning application for apartments shall be assessed against '*the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, DECLG (2015)*' which is now superseded by the 2020 Apartment Guidelines. It is considered that the car parking requirements outlined under national guidelines and as referenced in the CDP Section 17.4.6, should be applied in this instance.

**Part (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**

- 4.24 The following section shall demonstrate how the potential material contraventions of the Kildare County Development Plan 2017-2023 in respect of **(i)** the housing unit allocation for Celbridge as set out in Table 3.3 of the CDP (as amended under Variation No. 1 of the CDP) and **(ii)** the car parking standards set out in Table 17.9 of the CDP Objective MT04.1(a) set out in the Celbridge Local Area Plan 2017-2023, and the Celbridge Local Area Plan 2017-2023 in respect of **(iii)** the estimated density outlined for KDA2 set out in Table 4.1 and Section 12.2.2 of the Celbridge LAP, **(iv)** Figure 12.1 and Section 12.2.2 of the LAP in relation to the Design Concept for KDA 2 Ballyoulster, are justified in the context of recent national and regional planning policy and Section 28 Government Guidelines, which seek to ensure an adequate supply of new housing to meeting housing needs and also encourages increased residential densities on zoned services lands adjacent to public transport corridors. These include:

- Project Ireland: National Planning Framework 2040
- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly (2019)
- Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness (2016)
- Housing for All: A New Housing Plan for Ireland (2021)
- Sustainable Residential Development in Urban Areas Planning Guidelines (2009)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

**Project Ireland: National Planning Framework 2040 (NPF)**

- 4.25 The proposed development accords with the provisions of the National Planning Framework, which prioritise the delivery of new housing on lands which are within or continuous to existing urban areas, and which have access to relevant services.

- 4.26 The NPF (National Policy Objective 3a) seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built up areas over the lifetime of the framework.
- 4.27 The NPF (National Policy Objective 1b) plans and provides for growth of 490,000 to 500,000 people in the Eastern and Midlands region by 2040.
- 4.28 The NPF, under National Policy Objective 9, recognises that there is potential in each Regional Assembly Area for significant growth in some settlements (i.e. 30% or more above 2016 population levels). Subject to criteria including the provision of adequate infrastructure and amenities to support such growth, and concurrent employment provision.
- 4.29 The location of the proposed SHD within Celbridge, contiguous to the built up area of the town constitutes an opportunity for planned, compact and sustainable growth on an appropriately zoned site, which has strong physical and social infrastructure.
- 4.30 The proposed development also accords with and supports the delivery of several key objectives of the NPF including the following:
- ***“National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.”***
  - ***“National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.”***
  - ***“National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.”***
  - ***“National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”***
- 4.31 The following provides a justification of a number of the contraventions in the context of the NPF.

*Housing Allocation, Density and Revised Design Concept*

- 4.32 NPF actively seeks to foster stronger regions via the utilisation of existing residential zoned and serviced or serviceable lands such as the subject site. The objectives of the NPF, in particular NPO 3(a), 11, 33 aim to direct new homes at locations which can support sustainable development and can encourage more people and generate more jobs and activity in towns. The NPF also supports the increased residential density in accordance with the principles of compact growth.

- 4.33 The proposed development represents the achievement of effective density on a strategically located site identified for development in the Local Area Plan which is well served in terms of the necessary facilities, infrastructure, and amenities to facilitate a higher density development such as that proposed. Lower density, as referred to in the LAP, is considered to provide for an underutilisation of these lands which are well served by existing and planned public transport and would be contrary to Government policy which promotes increased densities at well served urban sites, and which discourages universal height standards in favour of a more site-specific approach.

#### Car Parking

- 4.34 In addition, the proposed parking provision accords with the principle of NPO13 which states that car parking will be based on performance criteria to achieve well designed high quality outcomes
- 4.35 In summary, the NPF supports the provision for planned growth at locations which are equipped to sustain such development. The NPF favours compact development within urban areas and provides that where the expansion of settlements takes place it should be delivered in a sustainable, compact manner. The proposed development implements the policies and objectives of the NPF in that the proposed SHD constitutes an efficient use of serviced lands which are zoned for residential development. Furthermore, the proposed development will also facilitate the access road which will be utilised by the wider KDA 2 lands reserved for the provision of 3 no. schools, and also future residential phases.

#### **Regional Spatial and Economic Strategy 2019-2031 for the EMRA**

- 4.36 The Eastern & Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 was adopted in 2019. The principal statutory purpose of the RSES is to support the implementation of Project Ireland 2040 - The National Planning Framework (NPF) and National Development Plan (NDP). Therefore, it provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy.
- 4.37 The RSES identifies Celbridge as a highly urbanised settlement within the wider Dublin Metropolitan Area (DMA). The Metropolitan Area Strategic Plan (MASP) sets out a strategy to achieve growth to 1.65 million people in the DMA by 2031 through the delivery of large scale strategic development areas. The guiding principles for growth in the DMA, as set out in the RSES, include promoting sustainable growth and accelerated housing delivery, in order to achieve high densities in urban built up areas, such as the subject site. It also seeks to focus growth along existing and proposed high quality public transport corridors, and to support the delivery and integration of Bus Connects and the Dart + expansion.
- 4.38 The following Regional Policy Objectives are of relevance:
- **RPO 5.4:** *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments'*

*Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'.*

- **RPO 5.5:** *Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.*
- 4.39 The RSES also supports enhanced rail services including the extension of the DART to Celbridge-Hazelhatch.
- 4.40 The proposed development is located on a site which is contiguous with the built up area of Celbridge. It will act as an important catalyst for further development in a planned, sustainable manner, including providing the access road for the 3 no. new schools. The subject development seeks to provide for increased residential development on zoned lands and therefore is compliant with the overall policies and objectives of the RSES in this regard.
- 4.41 The subject site represents a landholding with immediate development potential and benefitting from the requisite supporting physical and social infrastructure in the surrounding area. Having regard to the foregoing, it is noted that the proposed Strategic Housing Development complies with the Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly.

#### **Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness (2016)**

- 4.42 Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness recognises the need for step-change in housing delivery in order to meet burgeoning demand (which is currently going unmet) and urgent housing need.
- 4.43 It is noted that this Action Plan is superseded by the Housing for All – A New Housing Plan for Ireland, however, it identified a need for pent-up demand arising from undersupply of new housing in recent years which continues to be an issue addressed in the Housing for All plan. The subject lands are zoned, located within the development boundary of Celbridge and can provide an element of this provision over the short to medium term on the subject site.

#### **Housing for All – A New Housing Plan for Ireland**

- 4.44 “*Housing for All - a New Housing Plan for Ireland*” (hereinafter Housing for All”) is the government’s housing plan to 2030. Launched in September 2021, it is a multi-annual, multi-billion euro plan which will improve Ireland’s housing system and deliver more homes of all types for people with different housing needs.<sup>1</sup> The government’s overall objective is that every citizen in the State should have access to good quality homes:

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<sup>1</sup> <https://www.gov.ie/en/publication/ef5ec-housing-for-all-a-new-housing-plan-for-ireland/>

- to purchase or rent at an affordable price
  - built to a high standard and in the right place
  - offering a high quality of life
- 4.45 *The government's vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social and environmental sustainability built into the system. It is estimated that Ireland will need an average of 33,000 new homes to be provided each year from 2021 to 2030.*
- 4.46 The policy has four pathways to achieving housing for all:
- supporting home ownership and increasing affordability
  - eradicating homelessness, increasing social housing delivery and supporting social inclusion
  - increasing new housing supply
  - addressing vacancy and efficient use of existing stock
- 4.47 The proposed development is consistent with the overall aim of Housing for All to build an average of 33,000 homes per annum in the State between and 2030 and to accelerate social housing delivery.
- 4.48 The proposed development provides for 344 no. new houses and duplex/apartments which will substantially add to the residential accommodation availability in the area and cater to the increasing housing demand. The proposed development will contribute to the quantum of new of social housing units available to the Council through the Part V proposals for the site which is consistent with the objectives of Housing for All.

#### **Sustainable Residential Development in Urban Areas Planning Guidelines (2009)**

- 4.49 The Sustainable Residential Development in Urban Areas Planning Guidelines (2009) promotes increased residential densities in appropriate locations, including city and larger town centres. Celbridge is considered a larger town in accordance with the guidelines as it has a population of more than 5,000 people. Section 5.4 includes that increased densities should be encouraged on residentially zoned lands, such as the subject site, particularly in the following relevant locations:

*(c) Public Transport Corridors – "...It is recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities."*

*(f) Outer Suburban / 'Greenfield' Sites - These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new*

*infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.*

*Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares”*

- 4.50 As set out above, the residential units proposed are located within the town of Celbridge on residentially zoned land, contiguous to the built up area and is proximate to existing and planned infrastructure and services within the town, including adjoining the land reserved to the north for 3 no. schools. The subject lands are considered an outer suburban / greenfield site, and the proposed development forms a comprehensive development, with good transport links that will deliver infrastructure, including the access roads and junctions to the reserved school lands, in addition to the significant provision of Public Open Space. In this regard the proposed density of 35.5 uph accords with the guidelines which identifies a general range of 35-50 dwellings per hectare for such lands.
- 4.51 Furthermore, the guidelines also note that the scale and extent of development should increase in relation to proximity to public transport. The subject site accords with this and is serviced by several existing bus routes, Dublin Bus services C4, C6, X27, X28, L58 and L59 (noting the Phase Two of the BusConnects Network Redesign is now in operation) and it will also benefit from the future BusConnects proposals connecting the site to Maynooth, Tallaght, Hazelhatch Train Station and the City Centre, Route W6. Please refer to the TTA for further details.
- 4.52 The Hazelhatch and Celbridge Train Station is located approximately 1.9km south of the subject site and provides frequent train services to Dublin Heuston Station as well as regional routes serving Cork, Galway, Limerick and Waterford. A feeder bus service is operated between the Hazelhatch and Celbridge Train Station and Celbridge town centre which runs every 30mins. The train station is part of the Dart+ programme which aims to modernise and improve existing rail services in the Greater Dublin Area, delivering frequent, modern, electrified services to Celbridge.
- 4.53 The subject development site is located within walking distance (c. 1.3km) of the town centre with a large range of services and amenities, in addition to the close proximity of the neighbourhood centre of St Wolstons Shopping Centre and the neighbourhood centre to the south of the site (as part of the Primrose Gate development).

**Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020)**

- 4.54 The Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020- following an update in December 2020 to reflect ministerial changes to the shared accommodation aspect of the Guidelines) build upon the provisions of the NPF.

- 4.55 The Sustainable Urban Housing Design Standards for New Apartments (December 2020) refers to the NPF which signals a shift in Government policy towards securing more compact and sustainable urban development. Paragraph 1.7 states that *'in broad terms, this means a need for around 300,000 new homes in Ireland's cities to 2040, with half of these located in already built-up areas. This will necessitate a significant and sustained increase in housing output and apartment type development in particular.'*

Density

- 4.56 The Apartment Guidelines (Section 2.4) provide clear guidance with regard to the types of location which are considered suitable for apartment development. The site falls within an area which would be classified as 'peripheral and/or less accessible' location under Section 2.4 of the Guidelines, which advises 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)'*. The proposed development comprises of houses, duplexes and apartments, and the overall density of 35.5 uph accords with the Guidelines which recommends that a density of less than 45 units per hectare net is appropriate for such locations.

Car Parking

- 4.57 In respect of the car parking, Section 4.22 of the Apartment Guidelines sets out that *'As a benchmark guidelines for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.'* As set out in Section 3 above, the parking for the apartments / duplexes is below the CDP standard, however, it accords with the recommendations of the Guidelines and therefore is considered appropriate.

**Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**

- 4.58 The Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) sets out (paragraph 3.4) that for newer housing developments on the suburban edges of towns, a density range of 35-50 dwellings per hectare net should be delivered. SPPR4 states the following:

*"It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:*

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more"*



- 4.59 The subject site is a greenfield / edge of town location for housing purposes, and the proposed density of 35.5 uph accords with the provisions of Section 3.4 of the guidelines which state newer housing developments should deliver medium densities.
- 4.60 The proposed development also accords with SPPR 4 of the Urban Development and Building Heights, Guidelines for Planning Authorities, as follows:
- It has been demonstrated above that the proposed density of 35.5 uph accords with the minimum density for an outer suburban / greenfield site set out in the Sustainable Residential Development in Urban Areas Guidelines;
  - The proposed development provides for a mix of building heights and typologies, ranging from 2-3 no. storeys in height, comprising of a mix of 1, 2 and 3 bed units.
  - We refer to the architectural drawings and the Design Statement which demonstrate the proposed design does not consist of mono-type typologies, with a range of house types from houses, duplexes and apartments.

### **Summary**

- 4.61 In summary, it is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 3 (a), 11, 13 and 33), the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly, the Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness (2016), Housing for All: A New Housing Plan for Ireland (2021), the Urban Development and Building Height Guidelines for Planning Authorities (in particular SPPR4), the Sustainable Residential Development in Urban Areas (in particular Chapter 5) and the Sustainable Urban housing: Design Standards for New Apartments 2020 (in particular Section 2.4 and 4.22). These guidelines and polices contain objectives which support the delivery of residential development in appropriate locations through the promotion of appropriate densities, in addition to supporting reduced car parking provision for apartments. The proposed development is located on a serviced site identified as Key Development Area 2 in the Celbridge Local Area Plan 2017-2023, contiguous to the town, which will help deliver a compact urban form, through the delivery of an appropriate density and quantum of development, mix of units and supporting car parking provisions.

### **(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.**

- 4.62 The pattern of development and permissions granted in the area of the subject site are key considerations in the rationale for the current Strategic Housing Development proposal. As set out in Appendix 1 of this report, precedents exist for approval of developments which exceed the density and dwelling numbers specified for the Key Development Areas outlined in the Celbridge LAP. Furthermore, Appendix 1 includes precedents where planning permission was granted by the Board for additional residential units since Variation 1 of the Development Plan was adopted.
- 4.63 In addition, there are precedents within Kildare County Council where planning permission was granted by the Board for SHD developments which included a material contravention of the settlement strategy and housing unit allocation for the period 2020-2023 of the Kildare County Development Plan 2017-2023, including:

- ABP Ref.: 307013-20 - permission was granted by the Board for 167 units at Kill, Co. Kildare;
- ABP Ref.: 307258-20 - permission was granted by the Board for 152 units at Devoy Quarter, Naas, Co. Kildare; and,
- ABP Ref.: 306826-20 - permission was granted by the Board for 345 units at Boycetown and Kilcock, Co. Kildare.
- ABP Ref.: 310892-21 – permission was granted by the Board for 192 no. residential units at lands at western side of Millicent Road and southern side of Prosperous Road, Clane, Co. Kildare.

## 5.0 **CONCLUSION**

- 5.1 This statement provides a justification to the Board to support a material contravention of the Kildare County Development 2017-2023 (as varied) in respect of (i) the housing unit allocation for Celbridge as set out in Table 3.3 of the CDP (as amended under Variation No. 1 of the CDP) and (ii) the car parking standards set out in Table 17.9 of the CDP and Objective MT04.1(a) set out in the Celbridge Local Area Plan 2017-2023, and the Celbridge Local Area Plan 2017-2023 in respect of (iii) the estimated density outlined for KDA2 set out in Table 4.1 and Section 12.2.2 of the Celbridge LAP, and (iv) Figure 12.1 and Section 12.2.2 of the LAP in relation to the Design Concept for KDA 2 Ballyoulster.
- 5.2 The Statement of Consistency / Planning Report accompanying this application demonstrates compliance with all other relevant policies and objectives of the County Development Plan and the Celbridge LAP.
- 5.3 Table 5.1 below summarises the relevant justification for each potential Material Contravention in the context of the Section 37(2)(B) criteria.

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

<b>Potential Material Contraventions of the Development Plan (as set out in Section 2 of this Report)</b>	<b>Justification for Material Contravention in Context of Section 37(2)(B) Criteria</b>
<b>1. Core Strategy and Settlement Strategy of the Kildare County Development Plan 2017-2023</b>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (ii) – justified in the context of conflicting objectives between the Development Plan and Local Area Plan</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, the Apartment Guidelines 2020 and the Building Heights Guidelines</li> <li>• Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>

<p><b>2. Car Parking Standards as set out in the Kildare County Development Plan 2017-2023</b></p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (ii) – justified in the context of conflicting objectives between the Development Plan and Local Area Plan</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF and the Apartment Guidelines 2020</li> </ul>
<p><b>3. Density as set out in the Celbridge Local Area Plan 2017-2023</b></p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being of strategic and national importance</li> <li>• Section 37(2)(b)-Part (ii) – justified in the context of conflicting objectives between the Development Plan and Local Area Plan</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, Sustainable Residential Development in Urban Areas Planning Guidelines 2009, the Apartment Guidelines 2020 and the Building Heights Guidelines</li> <li>• Section 37(2)(b)- Part (iv) – justified in the context of the pattern of development and permissions granted in the area</li> </ul>
<p><b>4. Section 12.2.2 and Figure 12.1 Design Concept for KDA 2 Ballyoulster set out in Celbridge Local Area Plan 2017-2023</b></p>	<ul style="list-style-type: none"> <li>• Section 37(2)(b)-Part (i) – justified in the context of the proposed SHD development being considered to be of strategic and national importance</li> <li>• Section 37(2)(b)-Part (iii) – justified in the context of the NPF and RSES</li> </ul>

5.4 It is considered that there is ample justification for An Bord Pleanála to permit a material contravention of the Kildare Development Plan and the Celbridge Local Area Plan, should the Board consider same to arise in respect to particular aspects of the proposed development, having regard to the policies outlined in the NPF, the RSES and other Ministerial and Government Guidelines, and recent precedents having regard to Section 37(2)(b)(i), (ii), (iii) and (iv) of the planning and Development Act, 2000 (as amended).

5.5 It is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement for potential material contraventions of the Kildare Development Plan and the Celbridge Local Area Plan, and permit the proposed development, notwithstanding the potential that the proposal includes material contraventions of the Development Plan and the LAP.

## APPENDIX 1 – Celbridge Population and Housing Unit Allocation

Table 1: Extant Residential Permissions (Granted since the 1<sup>st</sup> January 2020)

	KDA Estimated Capacity	No. Units Permitted	Density	No. Units Built (December 2021)**
<b>SHD Permissions*</b>				
Townland of Crodaun, Celbridge (ABP Ref.: 306504-20, as amended by S. 146B ABP Ref.: 309361-21)  Parent permission granted 3 <sup>rd</sup> September 2020  Part of KDA 4	600 no. units in total / 30 uph (KDA 4)	352 (reduced from 372 under the S. 146B amendment)	40.5 uph	0 (Construction ongoing)
Crodaun, Celbridge (ABP Ref.: 307100-20)* currently subject to a JR  Granted 8 <sup>th</sup> September 2020  Part of KDA 4	600 no. units in total / 30 uph (KDA 4)	467	43 dph	0
<b>S.34 Applications Permitted</b>				
Newtown Townland, Celbridge, Co. Kildare (Reg. Ref.: 181481 and ABP Ref.: 305886-19)  Granted by ABP 22 <sup>nd</sup> December 2020, following refusal by KCC on 14 <sup>th</sup> October 2019 on traffic matters	n/a	55 (reduced from 58 as part of the FI Response)	32 uph	0
Phase 3, Oldtown Mill, Celbridge, Co. Kildare (Reg. Ref.: 191282)  Final granted issued by KCC on 21 <sup>st</sup> July 2020	n/a	75	34 uph	0 (Construction ongoing)
<b>Total</b>		<b>949 no. units</b>		<b>0 no. units</b>

\* SHD Permission ABP Ref.: 303295-18 (Land at Shackleton Road, Oldtown, Celbridge, Co. Kildare) was granted on the 12<sup>th</sup> April 2019 prior to the adoption of Variation 1 and therefore is not included in the above figures. It was confirmed by KCC during the Stage 2 Tripartite meeting, that the cut of date is the 1<sup>st</sup> of January 2020.

\*\*Figures derived where available from 'Report on Finished, Unfinished & Estates under Construction (December 2021)

**Table 2: Remaining Housing Allocation (Based on extant permissions)**

	Housing Target	Minus Permissions (No. of Units)	Remaining Allocation
Dwellings Target 2020 to 2023	603	949	Minus 346
NPF 2026 Pop Growth in housing units (CDP Variation 1)	1,406 units	949	457

**Table 3: Remaining Housing Allocation (Based on unit completions)**

	Housing Target	Minus Completions to July 2021 (No. of Units)	Remaining Allocation
Dwellings Target 2020 to 2023	603	0	603
NPF 2026 Pop Growth in housing units (CDP Variation 1)	1,406 units	0	1,406