

# **Statement of Material Contravention**

*In respect of*

**A Proposed Strategic Housing Development**

**at**

**Colp West, Drogheda, Co Meath**

*Prepared by*

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*On behalf of*

**Shannon Homes Drogheda**

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## 1.0 INTRODUCTION

- 1.1 The proposed development which is the subject of this application comprises 357 no. units on the subject site consisting of 169 no. houses, 52 no. duplex apartments and 136 no. apartments.
- 1.2 The current revised application follows the refusal of permission for a similar Strategic Housing Development on the subject site under Reg. Ref.: ABP-305703-19, for a single reason relating to Appropriate Assessment.
- 1.3 Under section 8(1)(iv)(II) of the 2016 Act Planning and Development (Housing) and Residential Tenancies Act 2016, where a proposed strategic housing development materially contravenes the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a considerations specified in section 37(2) (b) of the Planning and Development Act of 2000 ("the 2000 Act"). On behalf of the applicant, Shannon Homes Drogheda, this Statement on Material Contravention is submitted in accordance with section of 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

### *Legislative Context*

- 1.4 The Planning and Development (Housing) and Residential Tenancies Act, 2016, states the way in which An Bord Pleanála may grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, is as follows:

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

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

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

- 1.5 Section 37(2)(b) of the Planning and Development Act 2000 states:

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

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

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

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or  
**(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or**  
**(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan’.**

- 1.6 The test for determining whether a contravention is material was set out in the High Court decision in *Roughan v. Clare County Council*<sup>1</sup> and has been recently approved by the High Court in *Byrnes v. Dublin City Council*<sup>2</sup> and *Heather Hill Management Company CLG Anor. v An Bord Pleanála*<sup>3</sup>:

*“What is material depends upon the grounds upon which the proposed development is being, or might reasonably be expected to be, opposed by local interests. If there are no real or substantial grounds in the context of planning law for opposing the development, then it is unlikely to be a material contravention.”*

- 1.7 This report provides a concise justification for the proposed development under each of the four criteria set out under section 37(2)(b) of the Act. Where relevant, this report refers to other accompanying documentation submitted as part of the application, in particular the Planning Report and Statement of Consistency.

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<sup>1</sup> Unreported, High Court, Barron J., December 18, 1996

<sup>2</sup> [2017] IEHC 19

<sup>3</sup> [2019] IEHC 450

**2.0 MEATH COUNTY DEVELOPMENT PLAN 2013-2019 (INCORPORATING CERTAIN POLICIES & OBJECTIVES OF THE DROGHEDA SOUTHERN ENVIRONS LAP)**

- 2.1 The Meath County Development Plan 2013-2019 sets out a phasing policy for the release of residential zoned lands within the County and within the Southern Environs of Drogheda. This is based on a sequential approach to land to provide for a more compact and plan led development of the area.
- 2.2 As part of the preparation of Variation No. 2 of the Development Plan, an evaluation of zoned land was carried out to establish an order of priority for the development of residentially zoned land. 8.97 Variation No. 2 also included additional policies and objectives for the Southern Environs of Drogheda in relation to the order of priority or phasing of residential land use zoning objectives and management of flood risk. All relevant policies and objectives of Variation No. 2 of the County Development Plan relating to the Southern Environs of Drogheda (Volume V of the County Development Plan) were also incorporated as a variation of the Drogheda Southern Environs LAP 2009-2015.
- 2.3 The subject site is primarily zoned A2 “New Residential” under the Meath County Development Plan. All of the residential units proposed are situated on lands zoned A2 for ‘new residential’ development. The proposed development accords with the zoning of the subject site, under which residential development (and the ancillary childcare facility) are permissible. The development also complies with the other zoning objectives pertaining to lesser portions of the site area, including those zoned F1 and WL zonings. The development does not contravene the zoning of the lands on which it is situated, as set out within the Statement of Consistency and Planning Report submitted herewith. We refer the reader to the Statement of Consistency and Planning Report for further detail.
- 2.4 The A2 lands within the site are, however, also subject to a separate phasing objective, designating the subject lands as ‘Phase 2’. Phase 2 lands are targeted for development post 2019.
- 2.5 The relevant associated objective (as contained within the Drogheda Southern Environs LAP objectives incorporated into the County Development Plan – Volume 5 of the CDP) that this proposed development is considered to materially contravene is as follows:

Policy SP1

*“To operate an Order of Priority for the release of residential lands in compliance with the requirements of CS OBJ 6 of the County Development Plan as follows:*

- i) The lands identified with an A2 ‘New Residential’ land use zoning objective corresponds with the requirements of Table 2.4 Housing Allocation & Zoned Land Requirements in Volume 1 of this County Development Plan and are available for residential development within the life of this Development Plan.*
  - ii) The lands identified with an A2 ‘New Residential’ land use zoning objective but qualified as ‘Residential Phase II (Post 2019)’ are not available for residential development within the life of this Development Plan”.*
- 2.6 The application lands are identified as being phased as part of ‘Phase II’ under the County Development Plan 2013-2019 and as such are not normally available for residential development within the life of the Plan. As set out within the Statement of Consistency and Planning Report, the above specific phasing policy is represented on

the zoning map for the southern environs of Drogheda, but does not constitute an objective in relation to the zoning of land. The proposed development complies with the A2 zoning objective pertaining to the lands.

- 2.7 The phasing objective pertaining to the A2 lands within the subject site is not an objective for the zoning of land. Rather the phasing has been applied via a separate specific policy (contained in Volume 5 of the Development Plan) which is separate from the zoning objectives as stated within the written statement of the County Development Plan at section 2.9.6, but which has nonetheless been included on the Development Plan mapping, which also illustrates the zoning objectives pertaining to lands in the county. This is considered to be a standard approach in terms of the representation of policies and objectives (other than zoning objectives) on the maps associated with Development Plans, whether such objectives relate to the preservation of trees, protected structures, monuments, Seveso Sites and so forth.
- 2.8 The Development Plan mapping itself also confirms the fact that the zoning policy pertaining to the lands is separate from their zoning. The legend of the Development Plan map for the Southern Environs of Drogheda specifically delineates the zoning objectives and other specific objectives, with the 'Residential Phase II (Post 2019)' objective falling into the latter category.

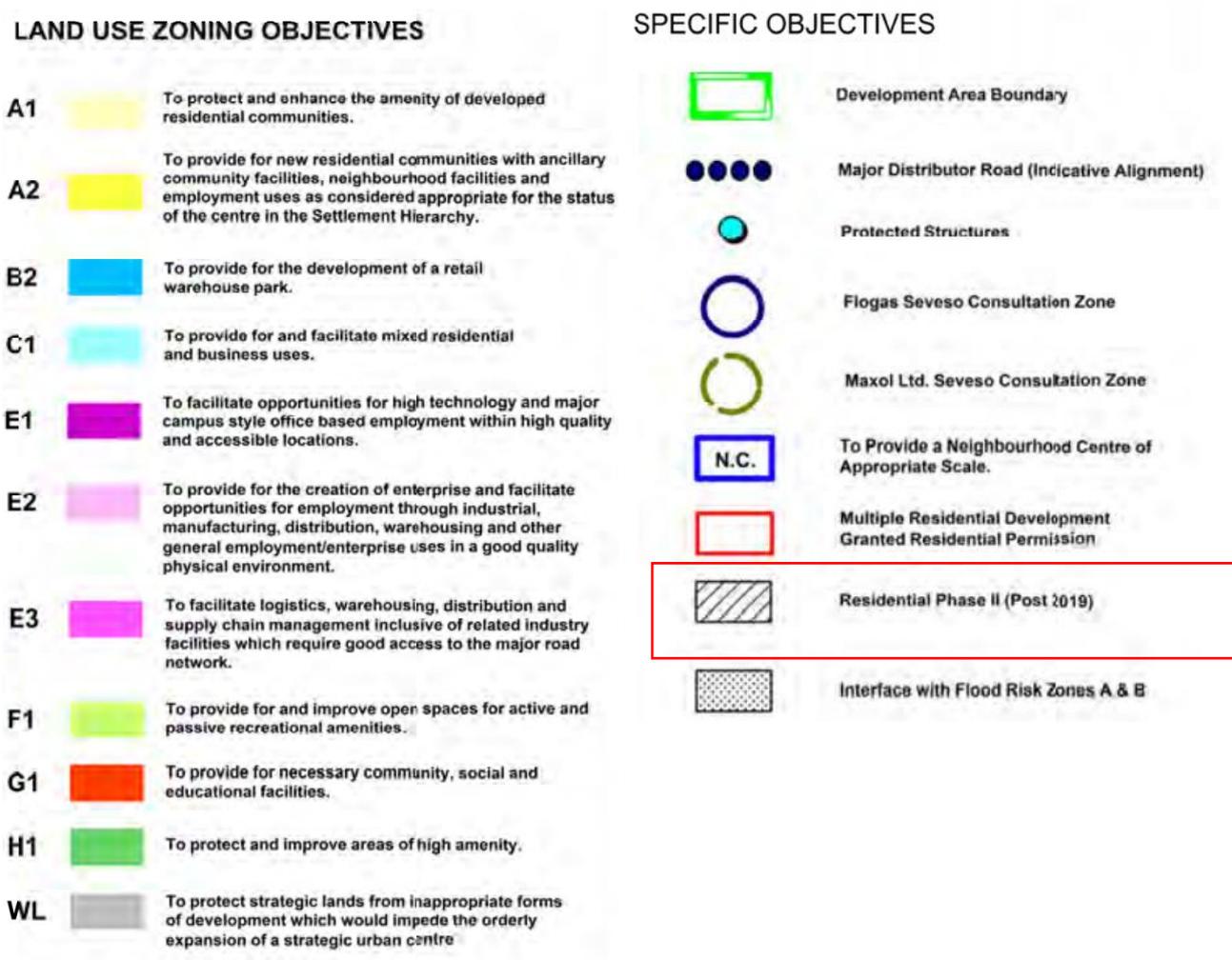


Figure 2: Extract from the legend of the County Development Plan map for the Southern Environs of Drogheda, with the relevant phasing item outlined in red

- 2.9 The policy of the Development Plan which the current proposals are considered to materially contravene is a specific objective for the phasing of development delivery and is not an objective for the zoning of land. The proposed development complies fully with the applicable zoning policy, with the residential and childcare facility uses proposed on the A2 zoned lands complying fully with this zoning objective.

### **3.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION**

- 3.1 A justification for the material contravention of the County Development Plan is set out below, under the relevant parts of section 37(2)(b) of the 2000 Act. 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 that permission for the proposed development may be granted on one or more of the following grounds set out within this statement.
- 3.2 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, including the A2 zoning objective.
- 3.3 The objective which the proposed development is considered to contravene (SP1) is a specific objective relating to the timing and phasing of development and is not a land use zoning objective.
- 3.4 The land use zoning objectives represented on the zoning maps of the County Development Plan are detailed, along with their associated matrixes of permissible and open for consideration uses at section 2.9.6 of the Development Plan written statement, and are clearly delineated as 'land use zoning objectives' on the Development Plan mapping.

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

- 3.5 The proposed development comprises of inter alia the provision of 357 residential units, a childcare facility and associated and ancillary development on a site of c. 13.47 hectares.
- 3.6 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. On this basis it is submitted that the proposed development is, by definition, strategic in nature and of strategic importance based on the reasons set out below.
- 3.7 The long title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:
- “An Act to facilitate the implementation of the document entitled “Rebuilding Ireland - Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”***
- 3.8 The Rebuilding Ireland Action Plan, 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.

- 3.9 In relation to the arrangements to be put in place for Strategic Housing Developments, the Rebuilding Ireland Action Plan states:

*“Such arrangements would draw on procedures already in place in respect of strategic infrastructure development projects under the Planning and Development (Strategic Infrastructure) Act 2006 and should speed up the planning decision-making process in respect of such developments, while also providing greater certainty for developers in terms of timeframes within which such developments can be determined in the planning system.”*

- 3.10 Due to the strategic importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.
- 3.11 Having regard to this legislative and policy context, the proposed Strategic Housing Development at Colp West, Drogheda is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act.

**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**

- 3.12 The provisions of the National Planning Framework, the Regional Spatial and Economic Strategy for the EMRA, guidelines published under section 28 of the Act, and other relevant policies of the Minister for Housing, Planning, and Local Government all support the delivery of the proposed development, notwithstanding the phasing objective pertaining to the A2 zoned lands within the subject site.
- 3.13 A summary of the relevant supporting policies, including those set out within the National Planning Framework and the Regional Spatial and Economic Strategy for the EMRA is set out below.
- 3.14 The existing shortfall in the delivery of residential development for the southern environs of Drogheda (compared with the core strategy allocation and committed development figures) is set out in detail within the JSA Statement of Consistency. The key figures are summarised below:

Key Metric	Number of Units
Unit Allocation (Excluding Committed Units)	857
Unit Allocation (Including Committed Units)	1174
Shortfall from Committed units in Phase I	763
Units Delivered / Permitted in Phase I	927
Total Unmet Allocation in Phase I	693
SHD permission at Bryanstown on Phase II	250
Remaining Unit Allocation (excluding current application)	443
Current Application	357
Remaining Allocation (including current application)	86

- 3.15 As set out in the summary table above, based on an analysis of the delivery of housing in the southern environs of Drogheda, there would remain an unmet allocation of c. 86 units in the event of a grant of permission for the current application up to 2019.
- 3.16 It is important to note that these figures relate to an allocation of housing up to 2019. The current application is being submitted in September 2020 which is beyond the timeframe envisaged for the delivery of the Development Plan unit allocation (which nonetheless has not yet been realised to date). As set out in the Statement of Consistency, it is further noted that the great majority of units benefiting from planning permission within the Southern Environs of Drogheda have not been completed to date, resulting in a significant shortfall in actual housing delivery.
- 3.17 A full year of growth in housing need and demand since 2019 must also be considered in the context of the current application. Even if the 2019 unit allocation has been fully accounted for there would still be a requirement for additional permissions to meet post 2019 housing need and to contribute to the achievement of the growth targets for Drogheda under the RSES for the EMRA. Although there has been a delay in the adoption of a new Development Plan (including updated and additional unit allocations) 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.
- 3.18 National policy which has come into force since the publication of the Development Plan places a strong emphasis on ensuring an adequate supply of new housing development to meet existing pent up demand and housing need, and normal housing demand.
- 3.19 The proposed development will help to deliver this key Government policy objective as it applies to Drogheda as a key urban growth centre.

#### **National Planning Framework (NPF) – Project Ireland 2040**

- 3.20 The proposed development accords with the provisions of the National Planning Framework, which prioritises the delivery of new housing on lands which are within or continuous to existing urban areas, and which have access to the relevant services.
- 3.21 The NPF 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.
- 3.22 The NPF plans and provides for growth of 490,000 to 500,000 people in the Eastern and Midlands region.
- 3.23 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.
- 3.24 The location of the proposed SHD within the southern environs of Drogheda and contiguous with the built up area of the town constitutes an opportunity for planned, compact and sustainable growth, via the expansion of the Drogheda urban area in a planned manner, on an appropriately zoned site, which has strong physical and social infrastructure and potential for significant employment growth in the vicinity.

- 3.25 Based on the criteria set out within Appendix 3 of the NPF in relation to the tiered zoning and development of land, it is considered that the subject site represents Tier 1 land. Such lands are defined as follows:

*“lands that are able to connect to existing development services, i.e. road and footpath access including public lighting, foul sewer drainage, surface water drainage and water supply, for which there is service capacity available, and can therefore accommodate new development. These lands will generally be positioned within the existing built-up footprint of a settlement or contiguous to existing developed lands. The location and geographical extent of such lands shall be determined by the planning authority at a settlement scale as an integral part of the plan-making process and shall include assessment of available development services”.*

*“Inclusion in Tier 1 will generally require the lands to be within the footprint of or spatially sequential within the identified settlement”.*

- 3.26 The subject site is contiguous with the built footprint of Drogheda, and provides for linkages to link the proposed development with the existing built up area to integrate it with the existing built form and layout of the town. The development will form part of the wider development of the existing undeveloped, zoned land holdings in this part of the Southern Environs of the town, as set out within the indicative masterplan document submitted herewith, and as explained further within the Statement of Response document submitted herewith. Furthermore, Irish Water have confirmed that the proposed development can be accommodated. The development includes provision for road infrastructure to serve the proposed development (including provision of a portion of a long standing road objective of the Development Plan), and there is existing and permitted social infrastructure and facilities in the vicinity to serve the proposed development (including for example existing and permitted schools and the Southgate Centre). The development is, in effect, ‘infill’ between the schools to the east and the existing housing to the west.

- 3.27 Further to the ‘Tier 1’ nature of the subject site, the proposed development also accords with and supports the delivery of several key objectives of the NPF, including the following:

*“National Policy Objective 2b: The regional roles of Athlone in the Midlands, Sligo and Letterkenny in the North-West and the Letterkenny-Derry and Drogheda-Dundalk-Newry cross-border networks will be identified and supported in the relevant Regional Spatial and Economic Strategy.”*

*“National Policy Objective 2c: Accessibility from the north-west of Ireland and between centres of scale separate from Dublin will be significantly improved, focused on cities and larger regionally distributed centres and on key east-west and north-south routes”.*

*“National Policy Objective 7: Strengthening Ireland’s overall urban structure, particularly in Northern and Western and Midland Regions, to include the regional centres of Sligo and Letterkenny in the North-West, Athlone in the Midlands and cross-border networks focussed on the Letterkenny-Derry North-West Gateway Initiative and Drogheda-Dundalk-Newry on the Dublin-Belfast corridor”.*

*“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.”*

- 3.28 The NPF actively seeks to foster stronger regions via the utilisation of existing residential zoned and serviced or serviceable lands such as the subject site, which will help support the continued economic growth of Drogheda and the Dublin-Belfast corridor. The NPF focusses on compact, sequential and sustainable development of the larger urban areas along the Dublin – Belfast economic and transport corridor, including Drogheda.
- 3.29 It is considered that the proposed development provides for planned, compact and sustainable growth, via the expansion of an urban area which has strong physical and social infrastructure and potential for significant employment growth. The proposed development will provide for the phased delivery of housing over a 10-year period, which will occur concurrently with employment growth in the town, including permitted employment provision on the lands to the south of the subject site (which are controlled by the applicant) which can be developed concurrently with the phased development of housing on the proposed SHD lands.
- 3.30 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 lands which are zoned for residential development at Drogheda, town which accommodates strong physical and social infrastructure to support growth and is designated a regional growth centre.

#### **Implementation Roadmap for the NPF**

- 3.31 The Implementation Roadmap for the NPF sets out in detail the transitional arrangements for the implementation of the NPF at regional and local level.
- 3.32 The Roadmap document sets out ‘Transitional Population Projections’, and notes that City and County Development Plans will undergo a process of review and updating by 2020 / 2021.
- 3.33 The transitional population projections plot a growth trajectory set approximately mid-way between what is currently being planned for in statutory Development Plans if projected forward to 2031, and the more likely evidence based and nationally coherent projected scenario to 2031 and 2040. These ‘adjusted’ transitional figures will apply to 2026 and will also inform the period to 2031.
- 3.34 The Roadmap document states that in all individual counties where population growth is projected to be at or above the NPF/ NDP national average baseline, provision shall be made to enable planning for aggregate growth within that county up to that figure

for each Census year and related intercensal period i.e. to 2026 and, subject to review, 2031.

- 3.35 The Roadmap further notes that the published NPF population projections account for a 25% 'headroom' allowance for additional population growth in every County pro-rata, for each Census year and related intercensal period. For the purposes of the transitional population projections for the roadmap, a further 25%, over and above the population projected to 2026 in the NPF has been added.
- 3.36 Cumulatively, this means provision for 50% more growth than is required to 2026 has effectively been accounted for at a national level. It also means that there is limited further requirement for 'headroom' for population growth to be incorporated into statutory Development Plans in most cases. However, the roadmap acknowledges that provision for headroom, not exceeding 25%, can be considered to 2026 in those counties where projected population growth is projected to be at or above the national average baseline (i.e. Cork (City and County), Dublin (all four local authorities), Galway (City and County), Kildare, Limerick, Louth, **Meath**, Sligo, Waterford, Westmeath, and Wicklow.
- 3.37 The transitional population projections for Co. Meath set out within the Roadmap document are as follows:
- 2016 (census population figure) – 195,000
  - 2026 – 216,000 – 221,000
  - 2031 – 225,000 – 231,000
- 3.38 The Implementation Roadmap thereby acknowledges the need for a transitional period to implement the objectives of the National Planning Framework, which should provide for the Planning Authority's intended bringing forward of the residential zoning of the 'Phase 2' lands within the subject site for residential development under the forthcoming new County Development Plan (as provided for under the Draft Development Plan recently published by the Planning Authority). Consequently, the allocations provided for within the implementation roadmap support the current development proposal, particularly when viewed in the context of the failure of the Phase 1 lands in the southern environs of Drogheda to deliver on the housing allocation for the town.
- 3.39 Having regard to the foregoing, the proposed development complies with the policies and objectives of the National Planning Framework.

### **Regional Spatial and Economic Strategy for the EMRA**

- 3.40 As set out within the accompanying Statement of Consistency and Planning Report, Drogheda is defined as a regional growth centre within the Regional Spatial & Economic Strategy and constitutes the only regional growth centre within the hinterland area of the GDA as defined in the RSES.
- 3.41 The RSES notes the importance of the Dublin to Belfast Corridor and states:

*“ The Dublin – Belfast Economic Corridor comprises an internationally important spine connecting the two largest settlements on the island of Ireland via the regional growth centres of Drogheda, Dundalk and Newry.”*

- 3.42 The RSES notes as a growth enabler for the Dublin to Belfast Corridor the ‘compact and focused growth in the Regional Growth Centres of Drogheda and Dundalk to grow to city scale’.
- 3.43 At Page 61, the RSES document states:
- “Key priorities are to promote the continued sustainable and compact growth of Drogheda as a regional driver of city scale with a target population of 50,000 by 2031. The objective is to provide for the regeneration of the town centre, the compact planned and co-ordinated growth of the town’s hinterland along with enhancing Drogheda’s role as a self-sustaining strategic employment centre on the Dublin-Belfast Economic Corridor.”*
- 3.44 The proposed development represents an important step in the compact, planned growth of the hinterland of Drogheda, on a site which is contiguous with the built up area of the town, and which will act as an important catalyst for further development in a planned, sustainable manner.
- 3.45 The RSES states ‘regional growth centres are large towns with a high level of self-sustaining employment and services that act as regional economic drivers and play a significant role for a wide catchment area’.
- 3.46 The RSES supports ‘the direction of significant population and economic growth towards the key Regional Growth Centres of Athlone, Drogheda and Dundalk. These towns located outside the Dublin Metropolitan Area are, in addition to Dublin, critical to the implementation of effective regional development as set out in the NPF. They will accommodate significant new investment in housing, transport and employment generating activity. They are important self-sustaining centres that act as economic drivers for the Region, capitalising on their strategic location and high-quality connections to Dublin’.
- 3.47 Future development required to achieve the growth vision for Drogheda included in the Joint UAP shall:
- *“Provide for the sustainable, compact, sequential growth and urban regeneration in the town core by promoting the regeneration of underused, vacant or derelict town centre lands for residential development to facilitate population growth.*
  - *Support the regeneration of the Westgate area of Drogheda’s historic town centre to address vacancy and dereliction in the town core and as an alternative option to new development on greenfield sites.*
  - *Facilitate the regeneration of lands at McBride Station to capitalise on existing and planned public transport infrastructure, including the DART Expansion Programme whilst avoiding development that detracts from the town centre.*
  - *Provide for redevelopment or renewal of obsolete areas on lands at Mell / North Road.*
  - *Support the sustainable development of existing zoned lands in the northern and southern environs of the town with a particular emphasis on the promotion of the IDA Business Park as a location for economic investment and the creation of compact, residential communities in key locations in proximity to established residential areas and transport hubs.*

- *Support the implementation of the Urban Design Framework Plan for the Heritage Quarter.*

3.48 The subject development seeks to provide for medium density residential development on zoned lands within the designated regional growth centre of Drogheda. The proposed development therefore is compliant with the overall policies and objectives of the RSES in this regard.

3.49 The RSES furthermore recognises that *“the zoning of land and planning permission alone, do not necessarily guarantee delivery and population growth in accordance with projected, targeted timeframes.”* This fact is evident in Drogheda, where the consideration of ‘committed units’ for the purposes of the Core Strategy, and the phasing of development land has failed to deliver upon the housing and population targets envisaged for the southern environs of the town within the County Development Plan 2013-2019.

3.50 In this context, the RSES states the following:

*“Therefore, in planning for future growth, it will be important for planning authorities to set out and monitor the service capacity and likely rate of completion of development on zoned lands, both brownfield and greenfield as well as elsewhere, having regard to local conditions and trends.*

*Much closer attention will need to be paid to actual delivery, taking the steps that may be necessary to implement strategic planning aims, housing delivery in the immediate term and above all, avoiding the hoarding of land and/or planning permissions.*

*Effective ways to tackle any tendencies towards land and/ or planning permission hoarding or excessively slow delivery include measures such as the Vacant Site Levy and the release of alternate lands where permitted development, without any wider delivery constraints, is not being brought forward.*

*Accordingly, sites with long-term development potential at priority locations should not be ‘reserved’ at the land allocation stages of the plan-making and implementation processes, in such a way as would create an unreasonable dependency on such sites being brought forward or that would impede the bringing forward of other suitable lands with better prospects for delivery in the short term, if the strategic sites are not being brought forward by their owners.”*

3.51 The subject site represents a landholding with immediate development potential and benefitting from the requisite supporting physical and social infrastructure. The delivery of residential development on the subject site is considered justified in the context of Phase 1 sites, and development which was previously considered as ‘committed development’ for the purposes of the Core Strategy not being brought forward and delivered upon.

3.52 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.

#### **Other Government and Ministerial Policies in Support of the Proposed Development**

3.53 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;

- 3.54 The National Development Plan identifies the delivery of a DART / hybrid rail service expansion to Drogheda, thereby supporting the targeted growth of the area.
- 3.55 It is noted that in the short term to 2020, the Housing Agency has identified a need for pent-up demand arising from undersupply of new housing in recent years. The subject lands are zoned, located within the development boundary of Drogheda (which is targeted for significant growth under National and Regional planning policy) and in the ownership of a housebuilding company who can provide a small element of this provision over the short to medium term on the subject site;
- 3.56 Circular PL 8/2016; APH 2/2016 – Identifying Planning Measures to Enhance Housing Supply (July 2016) was issued by the Minister in support of the Rebuilding Ireland Action Plan. In relation to instances where the phasing of zoned land is not actually delivering housing, it stated the following:

*“The development plan is, therefore, an important mechanism to signal to landowners that zoning of land for housing is a mechanism for the production of that housing and, where that mechanism is not producing housing, the planning process will seek out either (a) options to secure output off key sites or (b) appropriately located alternatives in the context of addressing pressing housing needs”.*

*“Local authorities are, therefore, reminded that, where these pressures exist, the development plan variation process provides a means of expediting amendments to zoning decisions to ensure that development plans flexibly take account of changing circumstances or issues unforeseen at the time of the original making of the development plan”*

- 3.57 It is submitted that ‘changing circumstances and issues unforeseen at the time of the original making of the Development Plan’, as referenced in the foregoing extract, have indeed arisen in Drogheda, as exemplified by the shortfall of housing delivery on Phase 1 lands, and the failure in delivery of units which were considered as ‘committed development’ for the purposes of the Core Strategy. In this context, it is considered that the proposed development will be a positive step towards acknowledging and addressing these changing circumstances, while delivering the increased housing provision sought in the Government and the Minister’s policies and circular as set out above.

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

- 3.58 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. The pattern of development in the immediately surrounding area and in the wider southern environs of Drogheda are of relevance to the current development proposal.

**Surrounding Area**

- 3.59 The pattern of development surrounding the subject site, and the level and pattern of permitted development in the area have changed considerably since the making of the County Development Plan in 2013, as set out in detail within the Statement of Response. The key developments and planning permissions in the immediate surrounding area are summarised below:

- On the 4<sup>th</sup> of September 2018, a final grant of permission was issued for a commercial development at Colpe Road (under MCC Reg. Ref. LB/180620). The development comprises a four storey office building and road infrastructure including a link street 640 metres in length. As set out within the accompanying documentation, the current application site takes in the footprint of this permitted link street (which has been partially implemented at the Colpe Road end), in order to provide for an updated road layout to respond to points raised by the Board.
  - Permission was granted for a 16 classroom primary school at Mill Road under Meath County Council Reg. Ref.: SA130927 & ABP Reference: PL17.243331. The school has been developed and is operational, and directly adjoins the subject site. The permission for the school provides for a link with the subject site (Condition no. 3(a) of the ABP Order refers).
  - Permission was granted for a temporary secondary school at Mill Road under Meath County Council Reg. Ref.: LB190739. 3.11 This temporary secondary school provides for a new access onto the link road as permitted under Planning Ref. LB 180620, which is partially implemented at present. This school is now under construction.
- 3.60 The foregoing permissions / developments in the immediate vicinity of the subject site exemplify how the pattern of development and permitted development in the area has changed fundamentally since the making of the County Development Plan in 2013 and since the introduction of Variation 2, which incorporated objectives of the Southern Environs LAP into the County Development Plan. The above-reference conditions support the delivery of the proposed development, and militate in favour of the timely delivery of residential development on the subject site, notwithstanding the phasing objective pertaining to the lands.
- 3.61 The immediate surrounding context now includes two schools, which will link directly with the proposed development, and a permitted commercial development at Colpe Road, which also included the link street, for which an alternate layout is now proposed.
- 3.62 On the basis of the surrounding pattern of implemented and permitted development, it is respectfully submitted that the proposed development is wholly appropriate.

### **Wider Context**

- 3.63 The pattern of implemented and permitted development in the wider area also militates in favour of the proposed development. In particular, the conspicuous absence of any development on many of the sites in the Southern Environs of the town which are subject to a Phase 1 phasing objective is considered to be of relevance. This has also been dealt with as part of the response to Part 2, above.
- 3.64 As set out in detail within the appendices to the Statement of Response report prepared by John Spain Associates, and as summarised previously within this report, the sites identified as Phase 1 have failed to deliver on their housing allocations. Furthermore, some of the A2 (residential) zoned sites identified in the County Development Plan zoning map as having 'committed development' (i.e. extant permissions at the time of the making / variation of the Plan) now no longer have any extant permission for residential development.
- 3.65 On the basis of the detailed analysis of housing delivery on Phase 1 lands in the Southern Environs of the town (set out within the Statement of Consistency) it has been identified that there remains a shortfall in housing delivery on the Phase 1 lands and the lands which were identified as having 'committed development'.

- 3.66 It is also considered relevant that there are recent precedents of the Board granting development on Phase 2 lands, including in the vicinity of the subject site within the Southern Environs of Drogheda.
- 3.67 Under Reg. Ref.: PL17 .303799, the Board issued an Order to grant permission on the 10<sup>th</sup> of June 2019 for a Strategic Housing Development comprising 250 units at Bryanstown, Drogheda, Co. Meath. This development was also located on lands subject to a Phase 2 phasing objective under the current Development Plan. A material contravention statement was submitted with that SHD application, which also set out a rationale for the delivery of development on Phase 2 lands.
- 3.68 The rationale provided included *inter alia* the failure of the Phase 1 zoned lands in the area to deliver on housing allocations, the strategic nature of the development, and the existence of relevant precedents for permission being granted on Phase 2 lands.
- 3.69 In assessing the rationale provided within the Statement of Material Contravention for that development, the Board's Inspector stated the following:
- "I note the Material Contravention statement and the arguments put forward by the applicant in favour of the development. I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2)(b), given that the development is of strategic importance due to the delivery of housing on zoned land in the context of the strategic role of Drogheda on the DublinBelfast corridor, as stated in the NPF and the ongoing demand for housing in Drogheda in the context of strong population and employment growth as identified in the RSES. I accept that the Phase I lands have not yet delivered the core strategy target no. of residential units for Drogheda Southern Environs. I also note the submission of Meath County Council in support of the development and its comment that, having regard to the development potential of Drogheda, as identified in the RSES, the executive of the planning authority proposes to bring forward the development of Phase II lands for release in the next development plan."*
- 3.70 In assessing the previous SHD application on the subject site, the Board's Inspector also noted that the granting of permission in contravention of the phasing objective pertaining to these lands could be justified. Paragraph 10.2.8 of the Inspector's Report stated the following:
- "Having regard to the strategic importance of the proposed development, and having regard to the RSES strategy for the EMRA, I am satisfied that the Board can consider granting permission contravening the Meath County Development Plan based on section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended."*
- 3.71 In addition, there are further examples of the Board granting permission for residential development on Phase 2 lands, both in Meath (for example an Strategic Housing Development including 913 units on lands at Dunshaughlin East, Co Meath under ABP Reg. Ref.: PL29S.348680) and in Louth (for example under Reg. Ref.: 17/387, which provides for 130 units at Mill Road, Drogheda).

#### **4.0 CONCLUSION**

- 4.1 In the event that An Bord Pleanála concludes that the proposed development would represent a material contravention of the Meath County Development Plan 2013-2019, an appropriate justification is set out within this statement demonstrating that the proposed development should be considered, having regard to the consistency of the

proposed development with national planning policy, the zoning objective of the subject site and the site's location contiguous to the built up area of Drogheda, which is identified as a major node for planned growth, and proximate to public transport. The material contravention identified is not one in relation to the zoning of the land but rather in relation to the phasing of zoned development.

- 4.2 It is considered that there is ample justification for An Bord Pleanála to permit a material contravention (if considered such) of the Local Area Plan having regard to the policies outlined in the NFP, the Implementation Framework for the NPF, the RSES for the EMRA, and other Ministerial and Government policies, and having regard to Section 37(2)(b)(i), (iii), and (iv) of the Planning and Development Act, 2000 (as amended).
- 4.3 It is requested that An Bord Pleanála has regard to the justification set out within this statement for a potential material contravention of the Meath County Development Plan and permit the proposed development, notwithstanding the potential that the proposal is a material contravention of the Development Plan.
- 4.4 It is further submitted that the Board carefully consider the criteria under section 37(2)(b)(i), (iii), and (iv) and the justification provided herein as part of any decision granting permission for the proposed development.