



## **MATERIAL CONTRAVENTION STATEMENT**

### **DUNDRUM CENTRAL SHD**

PROPOSED STRATEGIC HOUSING DEVELOPMENT ON LANDS AT CENTRAL MENTAL HOSPITAL, DUNDRUM, DUBLIN 14.

**PREPARED FOR:**

**LAND DEVELOPMENT AGENCY**

2<sup>ND</sup> FLOOR ASHFORD HOUSE

18-23 TARA STREET

DUBLIN 2

D02 VX67

**PREPARED BY:**

**TOM PHILLIPS + ASSOCIATES**

TOWN PLANNING CONSULTANTS

80 HARCOURT STREET

DUBLIN 2

D02 F449

**MARCH 2022**



## 1.0 INTRODUCTION

### 1.1 SUMMARY

Tom Phillips + Associates has been instructed by the Land Development Agency to prepare this *Material Contravention Statement* to accompany this planning application in respect of a proposed Strategic Housing Development (SHD) at a site of c. 9.56 ha located on lands at the Central Mental Hospital, Dundrum, Dublin 14. The development can be summarised as follows:

The development will consist of the demolition of existing structures associated with the existing use (3,736 sq m), including:

- Single storey former swimming pool / sports hall and admissions unit (2,750 sq m);
- Two storey redbrick building (305 sq m);
- Single storey ancillary and temporary structures including portacabins (677 sq m);
- Removal of existing internal sub-divisions/ fencing, including removal of security fence at Dundrum Road entrance;
- Demolition of section of porch and glazed screens at Gate Lodge building (4 sq m);
- Removal of walls adjacent to Main Hospital Building;
- Alterations and removal of section of wall to Walled Garden.

The development will also consist of alterations and partial demolition of the perimeter wall, including:

- Alterations and removal of section of perimeter wall adjacent to Rosemount Green (south);
- Formation of a new opening in perimeter wall at Annville Grove to provide a pedestrian and cyclist access;
- Alterations and removal of sections of wall adjacent to Dundrum Road (including removal of existing gates and entrance canopy), including reduction in height of section, widening of existing vehicular access, provision of a new vehicular, cyclist and pedestrian access;
- Alterations and removal of section of perimeter wall adjacent to Mulvey Park to provide a pedestrian and cyclist access.

The development with a total gross floor area of c. 106,770 sq m (c. 106,692 sq m excluding retained existing buildings), will consist of 977 no. residential units comprising:

- 940 no. apartments (consisting of 53 no. studio units; 423 no. one bedroom units; 37 no. two bedroom (3 person) units; 317 no. two bedroom (4 person) units; and 110 no. three bedroom units) arranged in 9 blocks (Blocks 02-10) ranging between 2 and 6 storeys in height (with a lower ground floor to Block 03 and Block 10, resulting in part 7 storey), together with private (balconies and private terraces) and communal amenity open space provision (including courtyards and roof gardens) and ancillary residential facilities;



- 17 no. duplex apartments (consisting of 3 no. two bedroom units and 14 no. three bedroom units located at Blocks 02, 08 and 09), together with private balconies and terraces.
- 20 no. two and three storey houses (consisting of 7 no. three bedroom units and 13 no. four bedroom units) and private rear gardens located at Blocks 02, 08 and 09).

The development will also consist of 3,889 sq m of non-residential uses, comprising:

- Change of use and renovation of existing single storey Gate Lodge building (reception/staff area) to provide a café unit (78 sq m);
- 1 no restaurant unit (307 sq m) located at ground floor level at Block 03;
- 6 no. retail units (1,112 sq m) located at ground floor level at Blocks 03 and 07;
- 1 no. medical unit (245 sq m) located at ground floor level at Block 02;
- A new childcare facility (463 sq m) and associated outdoor play area located at ground floor level at Block 10; and
- A new community centre facility, including a multi-purpose hall, changing rooms, meeting rooms, storage and associated facilities (1,684 sq m) located at ground and first floor level at Block 06.

Vehicular access to the site will be from the existing access off Dundrum Road, as revised, and from a new access also off Dundrum Road to the south of the existing access.

The development will also consist of the provision of public open space and related play areas; hard and soft landscaping including internal roads, cycle and pedestrian routes, pathways and boundary treatments, street furniture, wetland feature, part-basement, car parking (547 no. spaces in total, including car sharing and accessible spaces); motorcycle parking; electric vehicle charging points; bicycle parking (long and short stay spaces including stands); ESB substations, piped infrastructural services and connections (including connection into existing surface water sewer in St. Columbanus Road); ducting; plant (including external plant for district heating and pumping station); waste management provision; SuDS measures (including green roofs); attenuation tanks; sustainability measures (including solar panels); signage; public lighting; any making good works to perimeter wall and all site development and excavation works above and below ground.

This Statement identifies a number of instances where the proposed development is considered to materially contravene the *Dún Laoghaire Rathdown Development Plan 2016 – 2022* (hereinafter Development Plan) and provides detailed explanation and justification as to how An Bord Pleanála can grant planning permission in that context.

We also draw attention to Appendix B of this Statement which provides a *Supplementary Material Contravention Statement* which addresses material contravention in the context of the Draft *Dún Laoghaire Rathdown Development Plan 2022 – 2028*.



## 1.2 LEGISLATIVE CONTEXT

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 materially contravenes a Development Plan or Local Area Plan, other than in relation to the zoning of land. It is stated,

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

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

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

Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)* states:

*“(2) (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, (our emphasis), 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.”*



In demonstrating the reasons why An Bord Pleanála can grant planning permission for the proposed development, despite the material contraventions identified, we provide a detailed overview of the relevant local policy context together with any national planning policy that rationalises such material contraventions.

As part of this, we submit to An Bord Pleanála that the proposed development is nationally and strategically important and that it complies in full with national and regional planning policy pertaining to housing delivery, compact growth, higher density development and the efficient use of land.

We further demonstrate that the proposed development complies with the provisions of the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities* (2009), *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* (2020) and *Urban Development and Building Height Guidelines* (2018), which are ministerial guidelines under Section 28 and supersede the provisions of the *Dún Laoghaire Rathdown Development Plan 2016 – 2022* where conflict arises.

Having regard to the above, we demonstrate that planning permission can be granted for the development as proposed, in line with the provisions of Section 37(2)(b) of the *Planning and Development Act, 2000*.



## 2.0 THE MATERIAL CONTRAVENTIONS, PLANNING CONTEXT AND JUSTIFICATION

The *Dún Laoghaire-Rathdown Development Plan 2016 – 2022* sets out the relevant policies and objectives for the development of Dún Laoghaire-Rathdown. The relevant provisions of this Plan with respect to the identified material contraventions are considered below.

Below we set out the details of the material contraventions that arise in respect of the proposed development and provide justification in the context of Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)*.

In summary, the following identified material contraventions are considered to occur:

- **Requirement For a Masterplan (in an INST context)**
- **Residential Density (in an INST context)**
- **Building Height**
- **Housing Mix**
- **Separation Between Blocks**
- **Internal Storage for Apartments**
- **Floor Areas for Apartments**
- **Private Open Space for Apartments**
- **Dual Aspect Ratios**
- **Car Parking**
- **Private Open Space for Houses**
- **Separation Distances for Houses**



## 2.1 A SCHEME OF NATIONAL AND STRATEGIC IMPORTANCE

Before discussing the detail of the identified material contraventions, it is our view that all of the material contraventions arising in respect of the scheme are justifiable in the context of Section 37(2)(b)(i) of the *Planning and Development Act, 2000 (as amended)* on the basis that:

- a) the proposed development is nationally important; it seeks the redevelopment and optimal use of historically and nationally important state-owned lands for housing, including affordable housing; and
- b) the proposed development is strategically important as it makes a significant contribution to the delivery of national and regional policy objectives surrounding housing, consolidated and compact growth and efficient use of land.

The specific justification for this is set out below.

We note that in justifying the strategic importance of the scheme in the context of its compliance with national and regional policy objectives, we also demonstrate that planning permission can be granted for all of the material contraventions identified by this document in the context of Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that scheme complies with national and regional planning policy.

### ***Nationally Important – Redevelopment of state-owned lands for housing***

The Central Mental Hospital lands are currently owned by the Office of Public Works (OPW) and occupied by the Health Service Executive (HSE) as a mental health facility and have been used in this capacity since the site was first developed in the late 1800's. Under the operation of the HSE, the lands have served the state and therefore, fulfilled a nationally important role for over a century which will be continued at a modern, purpose-built facility in Portrane once the Central Mental Hospital is vacated.

Furthermore, at 11.39 ha, the lands are extensive in scale, particularly given the built-up nature of the surrounding context. The character of the lands is unique and reflects the history surrounding the use of the Central Mental Hospital. A number of buildings within the site are proposed Protected Structures under the Draft *Dún Laoghaire County Development Plan 2022-2028* (for example, the Main Hospital Building) and reflect the importance of the site from a heritage perspective, in addition to the heritage value of the landscape which has played an important role in the function of the facility. The detailed and lengthy masterplanning and design process undertaken in respect of the proposed development reflects the special status and character of the lands.

In addition to the national importance surrounding the status and character of the site itself, the role of the LDA in the redevelopment of the lands is also nationally important and represents the implementation of legislation (the *Affordable Housing Bill 2020* and the *Land Development Agency Act 2021*) specifically enacted to deliver significant housing growth and enable an affordable housing sector in Ireland, in response to a multi-faceted national housing crisis.



The redevelopment of the Central Mental Hospital lands therefore directly delivers legislative provisions and national and regional planning policy objectives (expanded below) surrounding the delivery of housing. The scale of the site and its capacity to deliver a significant number of new homes further contributes to the importance of the proposed development, from a national perspective.

In line with this, the LDA is making a significant positive contribution towards enabling an affordable housing sector in Ireland. As part of this, the LDA is working towards providing new homes and making them available to individuals and families through the schemes provided by the enactment of the *Affordable Housing Bill 2020*.

Within the remit of the LDA to deliver significant housing growth, it is the LDA's vision to transform the Central Mental Hospital site in Dundrum into a leading example of sustainable living which delivers a mix of tenures where people of all ages can live, whilst retaining and celebrating the site's historic assets and providing an outstanding destination for leisure with distinctive and diverse public spaces. Further to this, the LDA is focused on realising compact growth which promotes modal shift towards healthy, active and sustainable mobility in response to national agendas surrounding sustainability and climate change.

We therefore conclude, having regard to the above, that the proposed development is nationally important. As a result, despite the identified material contraventions, we also conclude that the proposed development can be granted by An bord Pleanála, having regard to Section 37(2)(b)(i) of the *Planning and Development Act, 2000 (as amended)*.

#### ***Strategically Important – Delivers national policy objectives***

Building upon the above, we further identify the proposed development as strategically important.

As noted, the proposed development makes a significant contribution to the delivery of much needed housing and the realisation of national and regional policy objectives. For example, the proposed development, which utilises brownfield lands and provides high quality compact development, in close proximity to high frequency public transport provision, makes efficient use of state lands in line with LDA's own remit and national and regional policy objectives.

The *Statement of Consistency* provides a more detailed assessment of the proposed development in the context of the *National Planning Framework (Ireland 2040 - Our Plan)* and the *Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031*. However, for completeness, the relevant policy extracts are set out below.

#### ***National Planning Framework (2018) (NPF)***

The *National Planning Framework* (NPF), published in February 2018, sets out a strategic development framework for the Country to 2040. The *National Planning Framework* is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.

The Framework focuses on:



- Growing regions, their cities, towns and villages and rural fabric.
- Building more accessible urban centres of scale.
- Better outcomes for communities and the environment, through more effective and coordinated planning, investment and delivery.

Under the heading of 'Compact Growth', the NPF is:

*"Targeting a greater proportion (40%) of future housing development to happen **within and close to existing built-up areas**. Making **better use of under-utilised land**, including 'infill' and 'brownfield' and publicly owned sites together with higher housing and jobs densities, better serviced by existing facilities and public transport".*

[Our emphasis.]

Further to the above, we note that a recurring theme in the Plan is the requirement to ensure that the future growth of Dublin occurs within its Metropolitan limits. The NPF estimates that Dublin City and suburbs will grow by c. 264,000 people in the period to 2040. Ireland 2040 targets a significant proportion of future urban development on infill/brownfield development sites within the built envelope of existing urban areas. This is applicable to all scales of settlement, from the largest city, to the smallest village.

The relevant National Policy Objectives (NPOs) which seek to implement policies surrounding housing delivery and compact growth are set out below (note: this is not an exhaustive list):

- **National Policy Objective 2a** – *A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.*
- **National Policy Objective 3b** – *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*
- **National Policy Objective 5** - *Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.*
- **National Policy Objective 6** - *Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*
- **National Policy Objective 7** - *Apply a tailored approach to urban development, that will be linked to the Rural and Urban Regeneration and Development Fund, with a particular focus on:- **Dublin**; the four Cities of Cork, Limerick, Galway and Waterford; Strengthening Ireland's overall urban structure, ... Encouraging population growth in strong employment and service centres of all sizes, supported by employment growth;*



*Reversing the stagnation or decline of many smaller urban centres, by identifying and establishing new roles and functions and enhancement of local infrastructure and amenities; Addressing the legacy of rapid unplanned growth, by facilitating amenities and services catch-up, jobs ... In more self-contained settlements of all sizes, supporting a continuation of balanced population and employment growth.*

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

**National Policy Objective 10** - *There will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth.*

- **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 28** - *Plan for a more diverse and socially inclusive society that targets equality of opportunity and a better quality of life for all citizens, through improved integration and greater accessibility in the delivery of sustainable communities and the provision of associated services.*
- **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.*

The proposed development inherently complies with the overarching themes of the NPF by proposing a compact well-designed sustainable form of residential development on an underutilised suburban site located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF’s aims to consolidate Dublin through the development of underutilised, brownfield sites.

The scale and locational characteristics of the subject site therefore provides an opportunity for a sustainable, higher residential development and the delivery of a significant contribution to meeting housing need.

### ***Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (2019) (RSES)***

The *Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)* is a strategic plan and investment framework to shape future development and to better manage regional planning and economic development throughout the Eastern & Midland Region.

The RSES includes a strategic plan for Dublin, the Metropolitan Area Strategic Plan (MASP). To achieve the Vision the MASP identifies a number of Guiding Principles for the sustainable



development of the Dublin Metropolitan Area including Compact sustainable growth, which aims to:

*“Promote consolidation of Dublin city and suburbs, refocus on the development of brownfield and infill lands to achieve a target of at least 50% of all new homes within or contiguous to the existing built up area in Dublin and at least 30% in other settlements.”*

[Our emphasis.]

The RSES includes Policy RPO 5.5 which focuses on housing delivery. It states:

*“RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a **primary focus on the consolidation of Dublin and suburbs**, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the draft RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.”*

[Our emphasis.]

In our opinion, the proposed development is in full accordance with the objectives of the RSES realising the potential of brownfield lands in the consolidation of Dublin and its suburbs.

We therefore conclude that the proposed development represents a strategically important development that significantly contributes to the delivery of the national and regional policy objectives referred to above. On this basis, it is our view that this provides justification as to why the proposed development can be granted by An Bord Pleanála, having regard to Section 37(2)(b)(i) of the *Planning and Development Act, 2000 (as amended)*.

We note that in justifying the strategic importance of the scheme in the context of its compliance with national and regional policy objectives, we have also demonstrated that planning permission can be granted for all of the material contraventions identified by this document in the context of Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that scheme complies with national and regional planning policy.

Below we provide further justification in relation to each material contravention identified at 2.0 above.



## 2.2 REQUIREMENT FOR A MASTERPLAN (IN AN INST CONTEXT)

The application site is subject to the INST Objective which triggers the application of Section 8.2.3.4 'Additional Accommodation in Existing Built-up Areas' and Section 2.1.3.5, which contains Policy RES5: 'Institutional Lands', of the Development Plan.

Section 8.2.3.4 of the Development Plan states:

*"The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites."*

In this regard, Policy RES5 of the Development Plan states:

*"Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority."*

### 2.2.1 Detail of Material Contravention

The policy requirement set out by Policy RES5 suggests that the Masterplan prepared for the lands should be agreed with the Planning Authority. This has been acknowledged through the significant engagement undertaken with DLRCC during the masterplanning and SHD preparation process. Detail of this pre-application stage engagement is set out in Section 2.7 of the *Planning Report*, prepared by Tom Phillips + Associates.

Whilst we contend that we have complied with the spirit of this policy requirement through very significant consultation, we have not received explicit 'agreement' from DLRCC in respect of our Masterplan proposal and a number of outstanding concerns can be identified within their pre-application correspondence to date. This includes concerns relating to the movement strategy and the overall development strategy. Although we provide detailed rationale and justification in respect of these issues throughout this submission, we identify the lack of clear 'agreement' from DLRCC, in respect of the Masterplan, as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

Despite this, we further highlight that for the purposes of decision making in respect of SHD's, An Bord Pleanála has jurisdiction to determine compliance with the Development Plan (including Policy RES5) and grant planning permission.

### 2.2.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.



Further to the above, it is also our view that this material contravention can be justified under Section 37(2)(b)(iv) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is detailed within the *Statement of Consistency*, we note that the redevelopment of the site is supported by a comprehensive Masterplan which fully accounts for the provisions of the Institutional policy objectives (Policy RES5) attached to the lands. In this respect, the Masterplan retains the open character and special landscape features/ natural assets of the lands, provides a significant quantum of publicly accessible open space, secures the adaptive reuse of the heritage assets and will support the creation of a sustainable and distinctive neighbourhood.

The Masterplan proposal is clearly acceptable to DLRCC from a policy perspective in principle, even if some specific elements have not been explicitly agreed. DLRCC has outlined agreement in relation to some important components of the Masterplan proposal, including the principle of increased building height and residential density, the sensitive removal of sections of perimeter wall to provide for enhanced permeability and the quantum and quality of open space provided.

Furthermore, An Bord Pleanála has jurisdiction to determine compliance with the Development Plan, including in respect of Policy RES5, and grant planning permission should it be considered that the proposed Masterplan is acceptable, in the context of the policy objective. As the decision maker for SHD's, it is therefore our view that the Board's 'agreement' of the Masterplan, as part of the decision-making process, is sufficient to satisfy the relevant policy requirements.

In conclusion, we provide ample justification above as to why planning permission can be granted by An Bord Pleanála, even where a material contravention is considered to occur, having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*. In addition to this, we highlight the acceptability of the Masterplan proposal for the subject lands and confirm that the Masterplan ensures compliance with the wider requirements associated with the INST designation and related policy requirements. Therefore, in addition to detailing why any material contravention in this regard can be justified, we further highlight the acceptable nature of the Masterplan, which will enhance and benefit this important site.

## 2.3 RESIDENTIAL DENSITY (IN AN INST CONTEXT)

The general residential density policy contained within the Development Plan is Policy RES3: 'Residential Density' and does not contain quantitative standards. It states:

*"It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:*

- *'Sustainable Residential Development in Urban Areas' (DoEHLG 2009).*
- *'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009).*
- *'Quality Housing for Sustainable Communities' (DoEHLG 2007).*
- *'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).*
- *'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013)."*

Policy RES3 further states:

*"Consolidation through sustainable higher densities allows for a more compact urban form that more readily supports an integrated public transport system. This has the potential to reduce the urban and carbon footprint of the County."*

Section 8.2.3.2 of the Development Plan states that minimum residential densities should be 35 units p/ha and notes that:

*"Significant parts of the existing built-up area of the County are, however, readily accessible to public transport corridors – QBCs, Luas, DART. In these circumstances Government guidance is to provide densities at higher than 50 dwellings per hectare."*

More specifically however, in relation to residential density on INST sites, Policy RES5 of the Development Plan states:

*"In the development of such lands, average net densities should be in the region of 35-50 units p/ha. In certain circumstances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands."*

### 2.3.1 Detail of Material Contravention

The proposed SHD development has a gross residential density of 102 no. units per hectare, based on 977 no. units and a site area of 9.56 ha approximately. The overall Masterplan area (11.39 ha) has a gross residential density of 93 no. units per hectare.



Taking the SHD net site area into account (excluding public open space provision and a standalone non-residential building), the proposed development will provide a net residential density of 150 no. units per hectare (based on a net site area of 6.54 ha).

We note that the above densities have been calculated in accordance with Appendix A of the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities* (2009) which states that a “*gross density measure is best applied to estimating overall land areas required for mixed use developments or for Local Area Plans*”.

Appendix A of the above guidelines also references ‘net site density’ as a more ‘refined’ estimate of density, primarily to be used where residential uses only are being proposed. These guidelines define net density as follows:

*“A net site density measure is a more refined estimate than a gross site density measure and includes only those areas which will be developed for housing and directly associated uses. These will include:*

- *access roads within the site;*
- *private garden space;*
- *car parking areas;*
- *incidental open space and landscaping; and*
- *children’s play areas where these are to be provided.*

*It therefore excludes:*

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

*A net density is the most commonly used approach in allocating housing land within Local Area Plans and is appropriate for development on infill sites where the boundaries of the site are clearly defined and where only residential uses are proposed. It is also appropriate where phased development is taking place in a major development area (perhaps spanning different plan periods) and individual housing areas have been identified.”*

Whilst the proposed development does not comprise residential uses only, the net density has been provided for completeness. Importantly, the net density figure excludes the public open space (on the basis that it will ‘serve the wider area’, i.e. beyond the residents themselves) and the footprint of the Gatelodge, a standalone non-residential building, which will provide 78 sq m of café floorspace. The majority of the non-residential floorspace has not been excluded from the calculation on the basis that it is integrated within the residential blocks.

For ease of reference, the various density calculations are set out again below in Table 2.1:



**Table 2.1: Density calculations.**

Density Measure	Density (u/ph)
Masterplan Gross	93 units p/ha
SHD Gross	102 units p/ha
SHD Net	150 units p/ha

Referring back to the policy objectives surrounding residential density, we reiterate that the Development Plan states that it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of the areas with the need to provide for sustainable residential development. We further note that the Development Plan seeks minimum residential densities of 35 u/ph.

We further acknowledge the Institutional designation of the subject lands and the specific policy requirements that accompany this designation. Policy RES5 policy notes (as detailed within the *Statement of Consistency*) that where such lands are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs. The overriding policies in relation to development on Institutional lands include the preservation of the open character of the lands and the achievement of a sustainable amount of development, while ensuring the essential setting of the lands and the integrity of the main buildings are retained. As set out above, Policy RES5 refers to a residential density range (35-50 units p/ha) which is to be considered in the context of achieving the objective to retain the open character of the lands.

As set out within the *Statement of Consistency*, it is our view that the proposed residential density contributes towards the objective of retaining the open character and recreational amenities of the lands by facilitating the provision of c.32% of the site area as publicly accessible public open space. The concentration of development in certain parts of the site ensures the proposal of appropriate and sustainable density (in line with wider policy objectives) whilst delivering significant planning gain to the area in the form of public open space which also retains the open character and recreational amenity of the lands.

Notwithstanding the circumstances referred to by Policy RES5 whereby higher densities may be allowed, we highlight that the proposed residential density at the site exceeds the density range set out in relation to Institutional lands (35-50 units p/ha) and therefore is identified as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### **2.3.2 Justification for Material Contravention**

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this supplementary statement.

In our view, this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban*



*Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') provides for higher densities and are Section 28 guidelines which take precedence over the Development Plan policies where conflict occurs.

We also refer to the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)*, which are also Section 28 guidelines and do not provide absolute maximum density limitations in respect of residential development, or lands deemed to be Institutional in nature.

We highlight that the Apartment Guidelines referred to above are inextricably linked to the *National Planning Framework (NPF) – Ireland 2040 (2018)*, insofar as they are designed to implement the National Policy Objectives (NPOs) which relate to the delivery of compact urban growth and sustainable development. The *Statement of Consistency* addresses the relevance of the NPF to the proposed development in detail and highlights the NPOs pertaining to the aforementioned principles. Whilst these are not repeated here, we draw attention to the fact that the NPF notes that the consolidation of the Dublin Metropolitan Area, which includes all of the Dún Laoghaire-Rathdown administrative area, will be critical to achieving the national strategic outcomes. This NPF also proposes that 50% of all new homes within the five designated cities and their suburbs are to be delivered within the existing built-up footprint of these settlements.

In this regard, we note that the proposed development, which comprises a strategic regeneration landholding, will contribute significantly to the realisation of the national objectives. Given the locational characteristics, it is our view that the subject site must be developed at higher densities to ensure that the efficient use of lands is achieved.

Below, specific regard is given to the compliance of the proposed development with the relevant Section 28 guidelines which provide for higher density development at the subject site and therefore provide justification for this material contravention under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.

**Compliance with the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)*.**

These Guidelines provide national guidance in relation to the appropriate locations for the siting of higher density residential development, having regard to the locational characteristics of the lands in question.

Section 5.4 onwards has regard to 'Appropriate locations for increased densities' and states that in general, increased densities should be encouraged on residentially zoned lands and particularly in the locations listed below (not exhaustive):

- Brownfield sites (within city or town centres);
- Public transport corridors; and
- Institutional lands.

In relation to 'Brownfield' sites (within city or town centres), the Guidelines state:



*“Brownfield’ lands, which may be defined as “any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces”, generally comprise redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas. **Where such significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.**”*

Having regard to the above criterion, we identify the subject lands as a brownfield site on the basis that it has been in use as a mental health facility/ hospital since the 1800’s. We therefore confirm that the above guideline, which promotes the redevelopment of such sites to higher densities, applies to the subject site. We further confirm that the subject site is located close to a public transport corridor, which is addressed further below.

In relation to ‘public transport corridors’, the Guidelines state:

*Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such 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.***

In this regard, we confirm that the subject site is located within walking distance (less than 500m) from a key public transport node (Luas stop). Beyond this, there are a number of bus stops within a 15 minute walk of the site. The *Traffic and Transport Assessment (TTA)* prepared by ILTP has regard to the capacity of the relevant public transport and concludes that the site is served by high frequency and high capacity public transport.

On this basis, having regard to the above criterion, we contend that the subject site is an appropriate location for increased residential density (i.e. greater than 50 units p/ha).

In relation to ‘Institutional lands’, the Guidelines state:

*A considerable amount of developable land in suburban locations is in institutional use and/or ownership. Such lands are often characterised by large buildings set in substantial open lands which in some cases may offer a necessary recreational or amenity open space opportunity required by the wider community. In the event that planning authorities permit the development of such lands for residential purposes, **it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the quality and provision of existing or proposed open space in the area generally. In the development of such lands,***



***average net densities at least in the range of 35-50 dwellings per hectare should prevail and the objective of retaining the open character of the lands achieved by concentrating increased densities in selected parts (say up to 70 dph). The preparation of local area plans setting out targets for density yields, recreational uses and urban form should be considered in advance of development. In the absence of an LAP, any application for development of institutional lands should be accompanied by a masterplan outlining proposals for the entire landholding.***

[Our emphasis.]

The subject site is subject to an Institutional designation; the above criterion therefore applies. As demonstrated throughout this planning application submission, the proposed development retains the open character and recreational amenities of the lands through the provision of c. 3.01 ha of publicly accessible open space and the retention of existing landscape features such as trees and the walled garden.

The concentration of development in certain parts of the site ensures the proposal of appropriate and sustainable density (in line with wider policy objectives) whilst delivering significant planning gain to the area in the form of public open space which also retains the open character and recreational amenity of the lands. The concentration and siting of development is further influenced by the requirement to sensitively respond to the proposed Protected Structures present on the site.

Having regard to the above, we highlight that this criterion, whilst stressing the importance of respecting the open character of such lands, does not prescribe a maximum density for the redevelopment of Institutional sites. On the basis that the proposed development carefully retains the open character of the lands and provides a significant quantum of new public open space, it is our view that the proposed residential density is appropriate in the context of this criterion.

We conclude that proposed development accords with this national guidance and provides a sustainable urban residential development which optimises the delivery of housing on a well-located, brownfield, underutilised and serviced site.

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

These Guidelines highlight the need to increase residential densities in order to sustainably increase housing supply and to ensure that a greater proportion of housing development takes place within the existing built-up areas of Ireland's cities and towns.

The *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)* identifies three broad types of locations suitable for apartment development, and advises that Planning Authorities should have regard to these proximity and accessibility considerations.

When applying the locational criteria set out within the Guidelines, the proposed development is considered to fall within the 'Central and/or Urban Accessible Locations'



category, having regard to considerations below in Table 2.2. For such locations, the Guidelines state:

*“Such locations are generally suitable for small to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments”*

Comprising of 977 residential units, 3,889 sq m of non-residential floorspace and 30,146 sq m of public open space, the proposed development is considered to be a large-scale development that predominantly provides apartments (98%). In our view, the proposed development, from a scale perspective, is therefore appropriate for a ‘Central and/or Urban Accessible Location’.

Further to this, we have applied the ‘Central and/or Urban Accessible Locations’ locational criteria below to demonstrate the alignment of the application site with this category.

<b>Central and/ or Accessible Urban Locations</b>	
<b>Criteria</b>	<b>Application Site</b>
<p>Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions.</p>	<p>As existing, the application site is located approximately 1,600 metres from Dundrum Town Centre, a Town Centre and significant employment location. With the proposed development in place, which includes a number of new pedestrian and cyclist access points, the distance to Dundrum Town Centre will reduce to 1,400 metres.</p> <p>Dundrum Business Park, a large employment location, is also approximately 210 metres to the north of the site.</p> <p>There are also a number of schools in close proximity, namely, Our Lady’s National School, Jesus and Mary College, Our Lady’s Grove and Our Lady’s Grove Primary School which jointly would employ a notable number of people within the County.</p> <p>Whilst approximately 2,500 metres from the site, University College Dublin (UCD) is within reasonable reach of the site and therefore considered relevant for the purposes of addressing this criteria. UCD, which is a significant employer and educational institute, can be reached by foot within approximately 30 mins and by bike within approximately 10 mins.</p> <p>We therefore conclude that the subject site is located in close proximity to a Town Centre and multiple employment destinations. Furthermore, we confirm that all employment locations and educational institutes referred to</p>



	<p>above are accessible via sustainable modes of transport as addressed below.</p>
<p>Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas)</p>	<p>The subject site is located approx. 450 meters (less than 10 minute walk) from Luas Green Line Windy Arbour with services at 3 minute intervals during peak hours. As well as providing a direct route into Dublin city centre, the Luas provides a direct route into Dundrum Town Centre, albeit just one stop to the south.</p> <p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue which is within a 10 minute walk of the site.</p> <p>We therefore conclude that the subject site is well connected by public transport that provides frequent services to key employment and educational destinations, as well as providing access to surrounding social infrastructure. The public transport options in close proximity connect the site to a wide range of key destinations.</p> <p>In terms of capacity, we note that the public transport that serves the site, namely the Luas and Dublin Bus routes, are high-capacity modes of public transport. The TTA, prepared by ILTP provides an assessment of capacity and frequency to demonstrate this. This includes results of site surveys undertaken to determine capacity and frequencies and information known in respect of Luas/ bus capacity.</p> <p>The TTA concludes that the city bound Luas (in the AM peak hour (8.00-9.00) has a theoretical capacity of 7,344 persons per direction per hour, or 6,606 persons per direction per hour if using the assumed operational capacity. This is based upon a Luas capacity of 408 persons and a frequency of 3 min intervals.</p> <p>In this regard, the TTA also concludes that recent upgrades to 55m trams are now in operation.</p>



	<p>The survey result contained within the TTA are based upon the new capacity.</p> <p>In terms of the bus services that serve the site, an assessment of capacity and frequency determined that there is a total capacity of 1,710 persons in the AM peak hour. This is based on an operational capacity of 90 passengers per bus.</p>
<p>Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.</p>	<p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals. Further to this, Dublin Bus Route No.11 has a 15-30 minute frequency and operates along the Drummartin Road between Wadelai Park through Dublin City Centre and the Sandyford Business District. Dublin Bus Route 175 from Kingswood Avenue to UCD passes along Dundrum Road every 30 minutes. Bus facilities adjacent to the site.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue (within a 15 min walk/cycle from site)</p> <p>As part of the BusConnects programme, it is proposed to further enhance the number of bus services in the area, and the existing services will be replaced by the no. 10 Route with 30 minute frequency along R825 between Ticknock and the City Centre; and the no. S6 Route with 10-15 minute frequency between Mount Merrion and Firhouse along R112 (this will also provide access to the Luas Green line via the Dundrum Transport Interchange for those unwilling or unable to walk).</p>

**Table 2.2: Central and/or Accessible Urban Location Criteria. (*Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*).**

As set out above, the locational characteristics of the application site aligns with the ‘*Central and/or Urban Accessible Location*’ criteria. The defining locational characteristics of the subject site include its proximity to Dundrum Town Centre (c. 1600m), a significant employment location, and high-capacity urban public transport stops, including the Luas line. The delivery of higher density apartment development at the application site is therefore considered to be appropriate.

The proposed residential gross density of 102 units p/ha and net density of 150 units p/ ha is considered to align with the broad guideline of ‘higher density development’.



In conclusion, it is our view that the proposed development complies with the Section 28 guidelines cited above. On this basis, An Bord Pleanála can grant planning permission in respect of the proposed residential density, in the context of the Institutional nature of the lands, having regard to Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.

## 2.4 BUILDING HEIGHT

Policy UD6: 'Building Height Strategy' is contained within the Development Management Standards of the Development Plan. It states the following:

*"It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County."*

Appendix 9 'Building Height Strategy' further details Development Plan policy in relation to building height.

In relation to a 'Residual Suburban Area' (i.e. those areas not already included within the boundaries of the cumulative control area identified in section 4.7 of the Strategy), section 4.8 of the Building Height Strategy states:

*"Apartment or town-house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity."*

Section 4.8. further states:

*"This maximum height (3-4 storeys) for certain developments clearly cannot apply in every circumstance. There will be situations where a minor modification up or down in height could be considered. The factors that may allow for this are known as 'Upward or Downward Modifiers'. There will be occasions where the criteria for Upward and Downward Modifiers overlap and could be contradictory, for instance: when in close proximity to both a DART station yet within the Coastal Fringe. In this kind of eventuality a development's height requires to be considered on its own merits on a case-by-case basis. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two."*

The Strategy acknowledges that greater height could be provided on lands that are in close proximity to high quality public transport nodes, where the development would contribute to the promotion of higher densities in the area. It further notes that sites of 0.5ha or more could set their own context and may have potential for greater height away from boundaries with existing residential development.

### 2.4.1 Detail of Material Contravention

The proposed development comprises building height of up to 6 storeys. The proposed building height therefore exceeds the general height restriction of 3-4 storeys in Residual Suburban Areas which is contained within the Development Plan's Building Height Strategy.

As noted above, the Building Height Strategy provides for the application of 'upward modifiers' where certain site and locational characteristics apply. Where such characteristics apply, the Strategy states: *"The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two."*



The maximum height that can be proposed and deemed to be in accordance with the Strategy is 6 storeys, should it be considered that the upward modifiers apply.

It is our view that upward modifiers and downward modifiers apply to the site, as set out in detail in the Section 4.10.5 of the *Statement of Consistency*. It is however acknowledged that the application of the modifiers is subject to a degree of subjective assessment, leaving the potential for the decision maker to reach a different conclusion surrounding the application of the modifiers.

On this basis, we highlight the proposed building height, which exceeds the general height restriction of 3-4 storeys, as a material contravention of the Development Plan. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

#### **2.4.2 Justification for Material Contravention**

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

It is also our view that this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Urban Development and Building Height Guidelines (2018)* ('Building Height Guidelines') are Section 28 guidelines which take precedence over the Development Plan policies where in conflict with the SPPR's.

Having regard to the provisions of the *Urban Development and Building Height Guidelines (2018)* and specifically, Specific Planning Policy Requirement (SPPR) 3, we highlight that these guidelines allow for proposed development to be granted permission in circumstances where the Development Plan otherwise restricts height, provided certain criteria are addressed. The relevant policy extract is provided below.

### SPPR 3

*It is a specific planning policy requirement that where;*

*(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*

*2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

*then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*

*(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme*

*(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.*

Figure 2.1: Extract from the Building Height Guidelines setting out the requirements of SPPR 3.

Appendix A of this Statement demonstrates the application of the Development Management criteria, as required by SPPR 3. It concludes that the proposed development, including 9 No. blocks ranging between 2 and 6 storeys, complies with the Guidelines, as demonstrated by the full suite of site-specific assessment enclosed with this planning application submission. The proposed development provides for an appropriate residential density, and has been designed to provide a good level of residential amenity for future residents of the scheme, in addition to preserving the existing residential amenity of adjoining residents.

Further to this, we highlight that in the absence of finite land supply, increased building height is an essential component of achieving the required higher densities whilst maintaining a high standard of living accommodation and achieving sustainable communities.

We therefore conclude that the proposed development complies in full with SPPR 3 in respect of increased building heights. On the basis that the SPPR's take precedence over any conflicting development plan policies or standards, we contend that the design and related impacts of the proposed development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended).

## 2.5 HOUSING MIX

Section 8.2.3.2(iii) of the Development Plan, in relation to ‘Apartment Development’, states:

*“(iii) Mix of Units – Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1 bed units and a minimum of 20% of units over 80 sq m. Schemes with less than 30 apartments will be assessed on a case-by-case basis according to their unit numbers, configuration and location but should generally accord to a percentage ratio of 40/40/20% mix for 1/2/3+ bedroom units respectively. Some one-bed or two-bed units could be provided on the ground floor to potentially cater for elderly people ‘downsizing’ from more traditional housing types and should, where possible, have direct access onto public open spaces.”*

### 2.5.1 Detail of Material Contravention

The proposed development comprises of 977 no. residential units; 940 no. apartments, 17 no. duplex units and 20 no. houses.

The quantitative standards in respect of unit mix contained within Section 8.2.3.2 of the Development Plan applies to apartment development specifically.

Table 2.3 below demonstrates the percentage of each unit type on a scheme wide basis (i.e. including houses). The second table (Table 2.4) has regard to the unit mix relating to the apartment component of the scheme, inclusive of the duplex units.

	Apartments	Duplexes	Houses	Total	
Studio	53			53 (5.4%)	
1 bed	423			423 (43.3%)	
2 bed (3 person)	37			357 (36.5%)	
2 bed	317	3			
3 bed	110	14	7	131 (13.4%)	144 (14.7%)
4 bed			13	13 (1.3%)	
	940	17	20	977	

Table 2.3: Scheme wide unit mix.

	Apartments	Duplexes	Total	
Studio	53		53 (5.5%)	
1 bed	423		423 (44%)	
2 bed (3 person)	37		357 (37.3%)	
2 bed	317	3		
3 bed	110	14	124 (12.9%)	124 (12.9%)
4 bed			0	
	940	17	957	

Table 2.4: Apartment development unit mix.



Having regard to the requirements of Section 8.2.3.3(iii), we note that schemes of over 30 no. units, are generally required by the Development Plan to provide:

- No more than 20% 1 bed units; and
- A minimum of 20% of units over 80 sq m.

The percentage of 1 no. bedroom units contained within the proposed apartment development (44%) (49.4% including studio units) exceeds the general maximum of 20% 1 no. bedroom units set out by Section 8.2.3.3 of the Development Plan. We therefore identify this as a material contravention of the Development Plan.

We note that the proposed development meets the further housing mix Development Plan requirement in respect of housing mix for a minimum of 20% of units to be over 80 sq m.

We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

## 2.5.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

We also outline how this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which take precedence over the Development Plan policies where in conflict with the SPPR's. In this regard, the Apartment Guidelines (page 4) states the following:

*"These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.*

*Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.*" (our emphasis)

Specific Planning Policy Requirement (SPPR) 1 of the Apartment Guidelines sets out the requirements for housing mix. The relevant extract is below.



### Specific Planning Policy Requirement 1

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

Figure 2.2: Extract from SPPR 1 of the Apartment Guidelines.

As shown by the percentages set out in Table 2.4, the unit mix relating to the apartment component of the scheme complies in full with SPPR 1. On the basis that the SPPR's take precedence over any conflicting development plan policies or standards, we contend that the housing mix is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.6 SEPARATION BETWEEN BLOCKS

Section 8.2.3.3(iv) of the Development Plan, states:

*“All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces.*

*The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.”*

### 2.6.1 Detail of Material Contravention

The proposed design strategy has sought to maximise separation distances between opposing windows to ensure a high standard of residential accommodation within the scheme and also mitigate adverse impact upon neighbouring development.

There are however a number of instances where the separation distances between opposing windows, both within and outside of the development, fall below 22 metres.

Although the proposed development is considered to be acceptable in this regard (for the reasons expanded upon below), we identify the separation distances between opposing windows across the scheme (see Figure 2.3) which fall below 22 metres as a material contravention of the Development Plan.

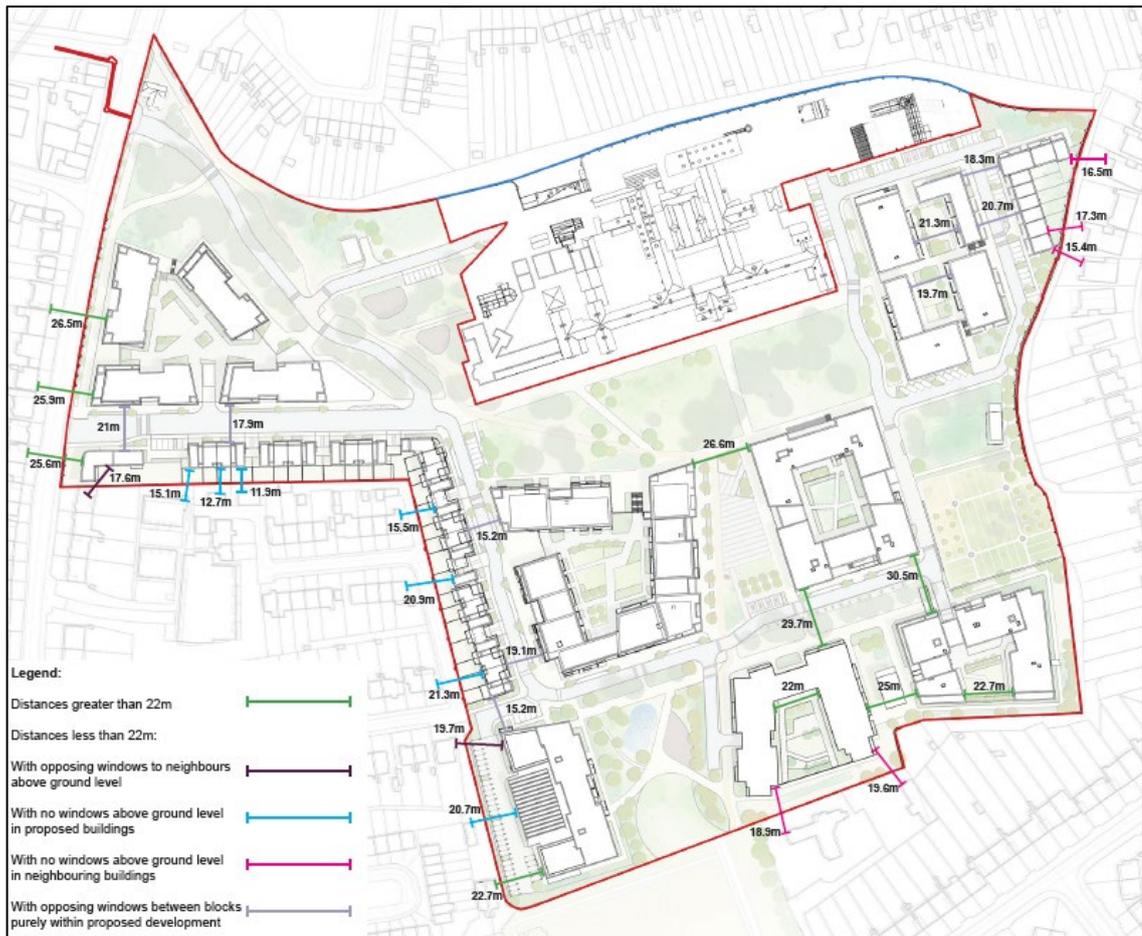


Figure 2.3: Illustrative site layout plan showing separation distances between the proposed buildings within the development and in respect of neighbouring buildings.

## 2.6.2 Justification for Material Contravention

In our view, this material contravention can be justified under [Section 37\(2\)\(b\)\(i\)](#) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to the above, it is also our view that this material contravention can be justified under [Section 37\(2\)\(b\)\(iv\)](#) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is identified as a material contravention, we confirm that despite the reduced separation distances, the design strategy, which includes stepped height in places and staggered windows, ensures that the proposed development does not give rise to unacceptable impact upon the proposed standard of accommodation or surrounding neighbouring amenity. The results of the daylight, sunlight and overshadowing assessments are considered to evidence the above position, demonstrating that in the very few instances where the BRE Guideline target values are not met, the impact is minor in nature.



In summary, the proposed development which presents reduced separation distances in some places delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high quality environment for both future residents and neighbours. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.

## 2.7 APARTMENTS INTERNAL STORAGE

Section 8.2.3.3(v) of the Development Plan, states that internal storage standards for apartments shall accord with or exceed the levels outlined in Table 8.2.1, an extract of which is provided below.

Table 8.2.1: Minimum storage space requirements	
One Bedroom	3 sq.m.
Two Bedroom	7 sq.m.
Three Bedroom	9 sq.m.

**Note:** No individual storage room should exceed 3.5sq.m. and shall be provided within the apartment unit.

Figure 2.4: Extract from Table 8.2.1 of the Development Plan.

### 2.7.1 Detail of Material Contravention

The proposed apartment component of the development has been designed in accordance with the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') which requires the following minimum storage space requirements.

Minimum storage space requirements	
Studio	3 sq m
One bedroom	3 sq m
Two bedrooms (3 person)	5 sq m
Two bedrooms (4 person)	6 sq m
Three or more bedrooms	9 sq m

Figure 2.5: Extract from Appendix 1 of the Apartment Guidelines which outlines the minimum storage space requirements for apartments.

We note that the storage requirements for one bedroom and three bedroom units are the same in both policy documents. Therefore, no material contraventions are considered to occur in respect of one or three bedroom units from a storage space perspective.

However, as set out in the *Housing Quality Assessment (HQA)*, prepared by Reddy A+U, the two bedroom units have been designed in accordance with the above standards (Figure 2.5 above) opposed to the Development Plan requirement set out in Table 8.2.1. The two bedroom units include internal storage space of 5 sqm. The proposed storage provision for the two bedroom apartment units therefore falls short of the Development Plan requirements in this regard. A material contravention is therefore identified in respect of Section 8.2.3.3(v) and Table 8.2.1 of the Development Plan in respect of internal storage space.

We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.



## 2.7.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

It is also our view that this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which supersede Development Plan policies, where in conflict with these guidelines.

In this regard, we confirm that the proposed apartment component of the development complies in full with the Apartment Guideline requirements for internal storage as outlined in Figure 2.5.

Notwithstanding the compliance of the proposed development with the Apartment Guidelines, it is worth noting that the standard of residential accommodation proposed by the scheme is of a high quality, providing residents with excellent standard of residential amenity, including excellent levels of daylight and open space.

We therefore conclude that the proposed development complies in full with the Apartment Guidelines in respect of internal storage space. On the basis that Section 28 guidelines take precedence over any conflicting development plan policies or standards, we contend that the standard of the proposed apartment development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b) (i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.

## 2.8 APARTMENT FLOOR AREAS

Section 8.2.3.3(vii) of the Development Plan states that all apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas, as set out in the Table 8.2.2. below.

<b>One Bedroom</b>	55 sq.m.
<b>Two Bedroom</b>	85 - 90 sq.m.
<b>Three Bedroom</b>	100 sq.m.

Figure 2.6: Extract from Table 8.2.2 of the Development Plan.

We note that Section 8.2.3.3(vii) of the Development Plan makes reference to compliance with prescribed national guidelines for apartment floor area, however, we also note that the national guideline standards set out in Table 8.2.2 have since seen been superseded by the Apartment Guidelines, as described below.

### 2.8.1 Detail of Material Contravention

The proposed apartment component of the development has been designed in accordance with the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') which requires the following minimum overall apartment floor areas.

Studio	37 sq m (n/a)*
One bedroom	45 sq m (38 sq m)*
Two bedrooms (3 person)**	63 sq m (n/a)*
Two bedrooms (4 person)	73 sq m (55 sq m)*
Three bedrooms	90 sq m (70 sq m)*

\* Figures in brackets refer to 1995 guidelines  
\*\*Permissible in limited circumstances

Figure 2.7: Extract from Appendix 1 of the Apartment Guidelines which outlines the minimum overall apartment floor areas requirements, also required by SPPR 3.

All of the proposed units (except for those that have been designed to exceed the minimum floor areas set out in Apartment Guidelines in order to comply with SPPR 3), fall short of the Development Plan minimum apartment floor areas as contained in Table 8.2.2 of the Development Plan. The *Housing Quality Assessment* (HQA) provides full details in terms of proposed apartment floor areas.

We therefore identify a material contravention on the basis that the proposed apartment component of the development does not comply in full with the minimum standards set out in Section 8.2.3.3(vii) and Table 8.2.2 of the Development Plan.

We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

## 2.8.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Furthermore, in our view, this material contravention can also be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which take precedence over the Development Plan policies where in conflict with the SPPR's. In this regard, the Apartment Guidelines (page 4) states the following:

*"These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.*

*Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements."* (our emphasis)

Specific Planning Policy Requirement (SPPR) 3 refers to the minimum apartment floor areas, which is also provided in greater detail by Appendix 1 of the Apartment Guidelines. The relevant extract is provided below:

<b>Specific Planning Policy Requirement 3</b>	
<b>Minimum Apartment Floor Areas:</b>	
• Studio apartment (1 person)	37 sq.m
• 1-bedroom apartment (2 persons)	45 sq.m
• 2-bedroom apartment (4 persons)	73 sq.m
• 3-bedroom apartment (5 persons)	90 sq.m

Figure 2.8: Extract from SPPR 3, contained within the Apartment Guidelines (2020)



We note that in this regard, the Apartment Guidelines also seeks to safeguard higher standards by requiring a minimum of 10% of each unit type to exceed the minimum floor area standard by 10%. The Apartment Guidelines also allow for 2 bedroom 3 person units, but require that no more than 10% of the total number of units comprise this category of 2 bedroom apartment.

Having regard to the above requirements, together with the requirements of SPPR3, we confirm that the proposed apartment component of the development complies in full with the Apartment Guidelines.

Notwithstanding the compliance of the proposed development with the Apartment Guidelines, it is worth noting that the standard of residential accommodation proposed by the scheme is of a high quality, providing residents with excellent standard of residential amenity, including excellent levels of daylight and open space.

We therefore conclude that the proposed development complies in full with the Apartment Guidelines in respect of minimum apartment floor areas and the associated requirements. On the basis that Section 28 guidelines take precedence over any conflicting development plan policies or standards, we contend that the standard of the proposed apartment development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.

## 2.9 PRIVATE OPEN SPACE FOR APARTMENTS

Section 8.2.8.4(iv) of the Development Plan requires that every apartment should have direct access to its own area of private open space in form of a balcony, winter garden or patio area. The following minimum balcony areas apply:

No. of bedrooms	Minimum square metres
One	6 sq.m.
Two	8 sq.m.
Three	10 sq.m.
Four +	12 sq.m.

Figure 2.9: Extract from Table 8.2.5 of the Development Plan.

### 2.9.1 Detail of Material Contravention

The proposed apartment component of the development has been designed in accordance with the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') which requires the following minimum floor areas for private amenity space.

Studio	4 sq m
One bedroom	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

Figure 2.10: Extract from Appendix 1 of the Apartment Guidelines which outlines the minimum floor areas for private amenity space for apartments

As set out in the *Housing Quality Assessment (HQA)*, prepared by Reddy A+U, the proposed apartment units have been designed in accordance with the above standards (Figure 2.10 above) as opposed to the Development Plan requirements set out in Table 8.2.5. The proposed balcony and terraces for the apartments units therefore fall short of the Development Plan requirements in this regard. A material contravention is therefore identified in respect of Section 8.2.8.4(iv) and Table 8.2.5 of the Development Plan in respect of private amenity space.

We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.



## 2.9.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

It is also our view that this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which supersede Development Plan policies, where in conflict with these guidelines.

In this regard, we confirm that the proposed apartment component of the development complies in full with the Apartment Guidelines requirements for private amenity space as outlined in Figure 2.8

Notwithstanding the compliance of the proposed development with the Apartment Guidelines, it is worth noting that the standard of residential accommodation proposed by the scheme is of a high quality, providing residents with excellent standard of residential amenity, including excellent levels of daylight and open space.

We therefore conclude that the proposed development complies in full with the Apartment Guidelines in respect of private open space. On the basis that Section 28 guidelines take precedence over any conflicting development plan policies or standards, we contend that the standard of the proposed apartment development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.10 DUAL ASPECT RATIOS

Section 8.2.3.3 of the Development Plan states:

*“(ii) Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/ or innovative design responses are used to maximise natural light.”*

### 2.10.1 Detail of Material Contravention

52% of the apartment units (including duplex units) of the proposed development are dual aspect.

This falls below the minimum of 70% dual aspect apartment units as required by Section 8.2.3.2 of the Development Plan. On this basis, we highlight this as a material contravention of the Development Plan. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### 2.10.2 Justification for Material Contravention

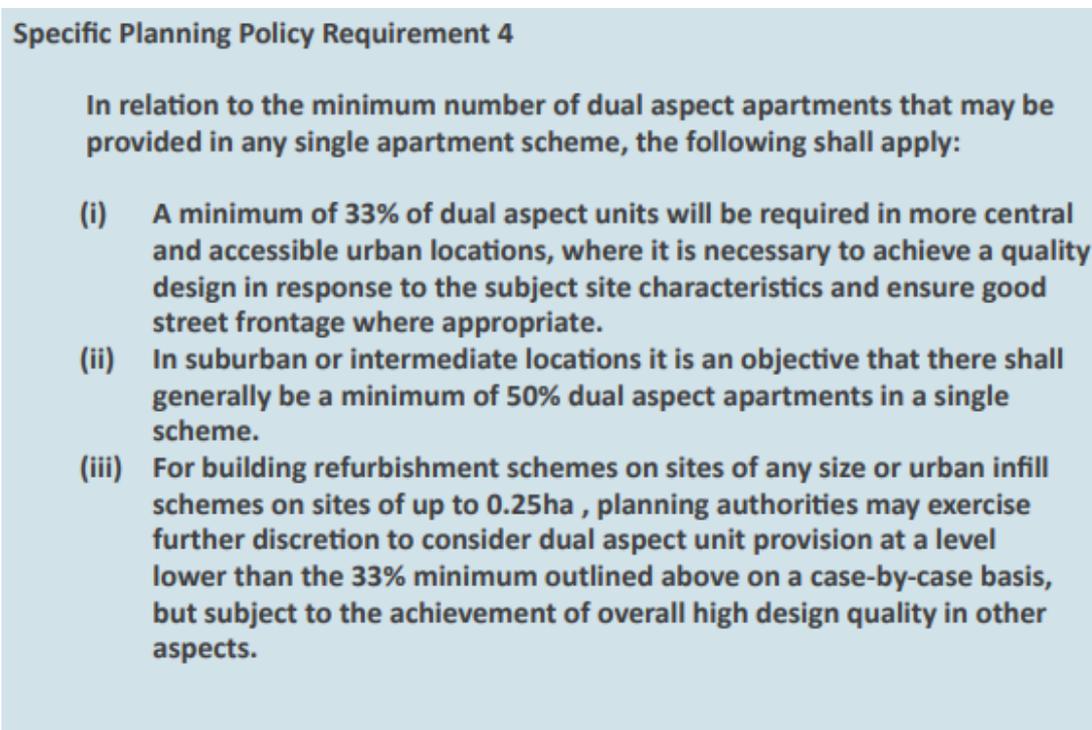
In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

In our view, this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* (‘Apartment Guidelines’) are Section 28 guidelines which take precedence over the Development Plan policies where in conflict with the SPPR’s. In this regard, the Apartment Guidelines (page 4) states the following:

*“These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.*

*Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.”* (our emphasis)

Specific Planning Policy Requirement (SPPR) 4 refers to the minimum number of dual aspect apartments that may be provided in any single apartment scheme. The relevant extract is provided below:



**Figure 2.11 Extract from SPPR 4, contained within the Apartment Guidelines (2020)**

As noted previously, the proposed apartment component of the scheme provides 52% dual aspect units (each apartment block also achieves 50% when considered individually). This exceeds both the minimum requirement for apartment schemes located within more central and accessible urban locations (33%) and schemes within suburban or intermediate locations (50%).

Whilst this falls below the general requirement for 70% dual aspect ratio as contained within the Development Plan, it is worth noting that the proposed development is of an exceptionally high design quality, with significant public open space and community amenity.

We therefore conclude that the proposed development complies in full with SPPR 4 in respect of dual aspect ratios for schemes within central and accessible urban locations. On the basis that the SPPR's take precedence over any conflicting development plan policies or standards, we contend that the standard of the proposed apartment development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.

## 2.11 CAR PARKING

Table 8.2.3 ‘Residential Land Use – Car Parking Standards’ of the Development Plan sets out standards for residential car parking. The relevant table extract is included below:

Table 8.2.3: Residential Land Use - Car Parking Standards	
Land use	Standards
Residential Dwelling	1 space per 1-bed unit and per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location).
Apartments, Flats, Sheltered housing	1 space per 1-bed unit 1.5 spaces per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location)

Figure 2.11: Extract from Table 8.2.3 ‘Residential Land Use – Car Parking Standards’ of the Development Plan.

We note that the application of the car parking standards is “*dependent upon design and location*”.

Section 8.2.4.5 of the Development Plan sets out further commentary in relation to car parking standards which includes provision for reduced car parking standards for development, dependent upon consideration against a number of criteria. The relevant extract is set out below:

*“Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:*

- *The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/business areas.*
- *The proximity of the proposed development to public transport.*
- *The precise nature and characteristics of the proposed development.*
- *Appropriate mix of land uses within and surrounding the proposed development.*
- *The availability of on-street parking controls in the immediate area.*
- *The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.*
- *Other agreed special circumstances where it can be justified on sustainability grounds.*



It is noteworthy that this material contravention refers to the residential component of the car parking provision only. The non-residential car parking provision is compliant with the objectives of the Development Plan and is discussed in Section 4.14.2 of the *Statement of Consistency*. For ease of reference, the non-residential car parking breakdown is provided at Table 2.6 below.

### 2.11.1 Detail of Material Contravention

When rigidly applying the car parking standards set out in Table 8.2.3, the residential component of the proposed development (977 no. units) would generate the requirement for approximately 1,300 no. spaces.

The proposed development comprises the following car parking provision.

#### *Residential Car Parking*

Proposed Unit Type/ Land Use	Size/ No. of Units	DLRCC Parking Standards	DLRCC Parking Requirement	Proposed Car Parking Allocation	Proposed Car Parking Provision
1 bed studios and apartments	476	1 space per unit (standard)	476	0.15 spaces per unit	<b>73</b>
2 bed apartments and duplex	357	1.5 spaces per unit	536	0.5 spaces per unit	<b>171</b>
3 bed apartments and duplex	124	2 spaces per unit	248	1 space per unit	<b>132</b>
3 bed houses	7	2 spaces per unit	14	1 space per unit	<b>7</b>
4 bed houses	13	2 spaces per unit	26	1.5 spaces per unit	<b>20</b>
<b>Allocated Residential Subtotal</b>	<b>977</b>		1,300		<b>402</b>
Additional 15% of Residential Parking for Visitor Parking					<b>62</b>
12 no. Car Club					<b>12</b>
15 no Travel Club					<b>15</b>
<b>Total Residential Car Parking</b>	<b>977</b>			<b>0.50</b>	<b>489</b>
Total Residential Motorcycle Parking			4 per 100 car parking spaces	5% of Residential Units	49
Disabled Parking			4% of total spaces	4% of total spaces	4% of total spaces

**Table 2.5: Detailed breakdown of the proposed residential car parking provision**

### Non-Residential Car Parking

Proposed Unit Type/ Land Use	Size/ No. of Units	DLRCC Development Plan Parking Maximum Standards (For Designated areas along public transport corridors)	DLRCC Maximum Parking Provision	Proposed Car Parking Provision
Café	78 sq m	1 per 15 sq m GFA (max)	5.2	0
Medical 3 no. consulting rooms	245 sq m	2 spaces per consulting room	6	6
Restaurant	307 sq m	1 per 15 sq m GFA (max)	20.5	5
Retail (Blocks 03 and 07)	1,112 sq m	1 per 50 sq m GFA*	22.24	19
Community	1684 sq m	1 per 50 sq m GFA (max)	33.7	17
Creche	463 sq m	1 per staff member (including set down)	5 (+ set down)	11 (comprises 5 no. staff spaces and 3 drop off)
<b>Total Non-Residential Parking</b>	<b>3,889</b>		<b>127</b>	<b>58</b>
<b>Non-Residential Motorcycle Parking</b>		4 per 100 spaces		<b>21</b>
<b>Disabled Parking</b>				<b>4% of total</b>

Table 2.6: Detailed breakdown of the proposed non-residential car parking provision

As can be seen from the table above, the proposed residential component of the development consists of a total of 400 no. car parking spaces and a further 62 no. visitor spaces, in addition to 76 no. motorcycle spaces, Car Club and Travel Club provision. 4% of the proposed car parking provision is allocated for disabled users.

The proposed residential car parking provision therefore falls short of the Development Plan requirement, as set out in Table 8.2.3 of the Plan.

Whilst the proposed development does not comply in full with the numerical car parking standards set out in the aforementioned tables contained within the Development Plan, we refer back to the supporting text set out in Section 8.2.4.5 which provides a flexibility clause surrounding the provision of reduced car parking standards. In our view, the proposed development accords with the vast majority of the listed criteria and justifies the proposed reduced quantum of car parking. We address these criteria in full below.



Criteria for reduced car parking standards under Section 8.2.4.5 of the Development Plan	Justification surrounding compliance of the proposed development.
<p>The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/business areas.</p>	<p>As existing, the application site is located approximately 1,600 metres from Dundrum Town Centre, a Town Centre and significant employment location. With the proposed development in place, which includes a number of new pedestrian and cyclist access points, the distance to Dundrum Town Centre will reduce to 1,400 metres.</p> <p>Dundrum Business Park, a large employment location, is also approximately 210 metres to the north of the site.</p> <p>There are also a number of schools in close proximity, namely, Our Lady's National School, Jesus and Mary College, Our Lady's Grove and Our Lady's Grove Primary School which jointly would employ a notable number of people within the County.</p> <p>Whilst approximately 2,500 metres from the site, University College Dublin (UCD) is within reasonable reach of the site and therefore considered relevant for the purposes of addressing this criteria. UCD, which is a significant employer and educational institute, can be reached by foot within approximately 30 mins and by bike within approximately 10 mins.</p> <p>We therefore conclude that the subject site is located in close proximity to a Town Centre and multiple employment destinations. Furthermore, we confirm that all employment locations and educational institutes referred to above are accessible via sustainable modes of transport as addressed below.</p>
<p>The proximity of the proposed development to public transport.</p>	<p>The subject site is located approx. 450 meters (less than 10 minute walk) from Luas Green Line Windy Arbour with services at 3 minute intervals during peak hours. As well as providing a direct route into Dublin city centre, the Luas provides a direct route into Dundrum Town Centre, albeit just one stop to the south.</p> <p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business</p>



	<p>District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue which is within a 10 minute walk of the site.</p> <p>We therefore conclude that the subject site is well connected by public transport to key employment and educational destinations, as well as providing access to surrounding social infrastructure. The public transport options in close proximity connect the site to a wide range of key destinations.</p>
<p>The precise nature and characteristics of the proposed development.</p>	<p>The mixed use nature of the scheme ensures the provision of local services and facilities required to support the future occupiers of the residential component of the development. The wider Masterplan proposal, which includes an Enterprise Centre (i.e. employment floorspace) and additional community uses, is considered to further contribute to the overall sustainability of the development from a reduced car parking perspective.</p> <p>In addition to this, the proposed car parking provision has been formulated having regard to the specific unit mix proposed. As a result, the proposed car parking ratio has been considered in the context of the number of larger units (i.e. 3 bedroom +) which are more likely to depend upon car ownership and parking.</p> <p>Furthermore, we note that the residential car parking spaces will be allocated in line with the management regime for the residential development. As part of this, parking spaces will be allocated at the contract stage in line with the car parking allocation ratios set out in the TTA.</p> <p>The development also includes significant amenity in the form of high quality public open space which integrates into the existing public open space to the south (Rosemount Green).</p> <p>Furthermore, in terms of sustainable modes of transport, the internal street layout and the provision of cycle and pedestrian connectivity through the site has been designed to promote sustainable travel patterns for both the existing and new community.</p>



	<p>The car parking proposals are also inclusive of a number of Car Club and Travel Club spaces, in addition to delivery and servicing bays which will facilitate online shopping etc. The cycle parking provision is extensive, including facilities for residents to service their bikes.</p> <p>In respect of the above, we confirm that the nature and characteristics of the proposed development support a lesser reliance on cars and contribute to the creation of a sustainable development, in transportation terms.</p>
<p>Appropriate mix of land uses within and surrounding the proposed development.</p>	<p>The proposed development will include for a variety of local facilities, which means that many services will be available within the development and within a short walk of the new residential development proposed. This will reduce the need to travel and also encourage more people to use local facilities.</p> <p>Further to this, we draw further attention to the proximity of the site to Dundrum Town Centre which provides a full range of retail and other services within walking distance.</p>
<p>The availability of on-street parking controls in the immediate area.</p>	<p>We note that there are a number of local streets in the surrounding area which are not subject to on-street parking controls. Whilst we acknowledge the potential for concern relating to the overspill of car parking from the development as a result of the reduced provision, we highlight that a number of mitigation measures are proposed, or embedded into the design strategy, to avoid unacceptable impact in this regard, having regard to the following: the proposed car parking management strategy, the special measures contained within the MMP, the locational characteristics of the site in the context of both public transport and significant employment locations, the specific nature and characteristics of the development, including its mixed use nature and internal infrastructure to support cycling, walking and local services.</p>
<p>The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved</p>	<p>A <i>Mobility Management Plan</i> (MMP) prepared by ILTP is enclosed with this planning application. The MMP proposes special measures to enable modal shift towards sustainable travel modes.</p>
<p>Other agreed special circumstances where it can be justified on sustainability grounds.</p>	<p>The applicant, the LDA as a Government Agency, is committed to delivering a low carbon development with the emphasis on sustainable travel modes and reduced private car dependency in line with the strategic objectives of the National Planning Framework.</p>



	Further to this, we highlight a transition from more traditional commuting patterns to reduced commuting due to a greater prevalence of home-based working that is expected to continue post-covid. Reliance on car use/ ownership for commuting purposes is therefore also expected to be reduced.
--	---

**Table 2.7: Applicant’s Response to Section 8.2.4.5 of the Development Plan in respect of reduced car parking provision.**

Notwithstanding this, it is acknowledged that this assessment is subject to the opinion of the decision maker surrounding whether the site and development qualify for reduced standards, in the context of the design and locational criteria. On this basis, it is further acknowledged that there is the potential for the Board to reach a different conclusion surrounding compliance with the criteria.

On this basis, we highlight the proposed residential car parking provision, which falls below the numerical car parking standards set out in Table 8.2.3 of the Development Plan, as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### 2.11.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

It is also our view that this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* (‘Apartment Guidelines’) are Section 28 guidelines which supersede Development Plan policies, where in conflict with these guidelines.

Section 4.18 ‘Car Parking’ of the Apartment Guidelines states:

*“The quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.”*

In terms of the proximity and accessibility criteria referred to above, the following locational categories are provided and reflect those detailed in respect of density: Central and/or Accessible Urban Locations; Intermediate Urban Locations; and Peripheral and/or Less Accessible Urban Locations.

As set out in detail in respect of residential density considerations, we demonstrate that the subject site is a ‘Central and/or Accessible Urban Location’ (see full justification Section 2.3.2 of this Statement). For such locations, the Apartment Guidelines state:



*“In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, **the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.** The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.*

*These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.” (Section 4.19 – 4.20)*

The proposed development is a large scale, higher density development as demonstrated within earlier sections of this Statement, and within the assessment undertaken in the *Statement of Consistency*. As further demonstrated throughout the submission and within Section 2.3.2 of this Statement, in our view, the subject site constitutes a Central and/or Accessible Urban Location.

To accord with the Apartment Guidelines in respect of such locations, the policy requirement is for *“car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances”*. It is our view that the proposed development complies with the Guidelines in this respect.

We note that Sections 4.23 to 4.26 of the Apartment Guidelines also provide further requirements applicable to proposed development with reduced car parking. This includes the following:

*“For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided.*

*As well as showing that a site is sufficiently well located in relation to employment, amenities and services, it is important that access to a car sharing club or other non-car based modes of transport are available and/or can be provided to meet the needs of residents, whether as part of the proposed development, or otherwise. ‘Car free’ development is permissible and if developed, must be fully communicated as part of subsequent apartment sales and marketing processes.*

*Where any underground car parking is proposed, such facilities must be well lit and adequately ventilated. Where surface parking is provided, it should be clearly accessible to the entrance to, and where appropriate, overlooked by, the units it serves. Car parking may be provided on-street at the edge(s) of a development site in some locations.*



*Decked or multi-storey car parking may also be considered, but should not be compromise the quality of amenity space, building design or streetscape. At least one principal façade of multi-storey car parks should be fronted by development, for example a south-facing elevation and such structures may also provide an opportunity for rooftop amenity space. In all cases, designated parking spaces for disabled drivers should be provided.”*

We confirm that the characteristics of the proposed development enables car parking provision to be reduced at the subject site. As part of this, we also confirm compliance with the above, having regard to the key points below:

- As previously demonstrated, the subject lands are located in close proximity to a number of signification employment locations, including Dundrum Town Centre (c.1,600 m); Dundrum Business Park (c.210 m) to the north of the site; and a number of schools.
- The proposed development provides 3 no. drop off bays associated with the crèche, 2 no. flexible loading (service) bays, 60 no. visitor spaces and 4% of the total car parking provision will be accessible spaces suitable for disabled users (in line with the Development Plan).
- The application submission is supported by a detailed *Mobility Management Plan* (MMP), prepared by ILTP, which provides support measures to promote sustainable travel and a modal shift away from car dependency.
- The proposed development provides for a car sharing scheme, with 15 EV cars available for general public use, including the residents of the scheme.
- The majority of the car parking is provided by way of podium parking, whereby, alike underground parking, the parking is integrated within the building. It is confirmed that the car parks will be well-lit in line with Part M regulations. In terms of ventilation, we also confirm that the podium car parks are designed to meet the ventilation requirements set out in relevant Technical Guidance documents and associated Standards. Where natural ventilation is being provided, a minimum aggregate free area not less than 2.5% of its floor area will be provided on opposing elevations. All mechanical extract systems will achieve a minimum of 10 air changes per hour.
- A number of spaces are provided at surface level specifically at Block 02, Block 06 and Blocks 08 and 09; these spaces are well-lit as demonstrated by the proposed public lighting scheme and are overlooked by the residential units within those blocks. Furthermore, the spaces are directly adjacent to entrance doors and therefore easily accessed by the users.



We therefore conclude that the proposed development complies in full with the Apartment Guidelines in respect of car parking provision. On the basis that the Guidelines take precedence over any conflicting development plan policies or standards, we contend that the proposed development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.12 PRIVATE OPEN SPACE FOR HOUSES

Section 8.2.8.4(i) 'Private Open Space – Quantity' refers to the private open space requirement for houses. It sets out the following standards:

- 3 bedroom houses to have a minimum of 60 sq m;
- 4 bedroom (or more) houses to have a minimum of 75 sq m;
- Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it is useable, good quality space. Narrow strips of open space to side of dwellings shall not be included within any of the above calculations.

It further states that in instances where an innovative design response is provided on site, a relaxation in the quantum of private open space may be considered on a case-by-case basis.

### 2.12.1 Detail of Material Contravention

The proposed development includes 20 no. houses with private rear gardens which have been broadly designed in line with the standards set out in Section 8.2.8.4(i). It is however noted that a number of the gardens do not comply with the above minimum standards (as highlighted in yellow below).

Proposed Houses	House No.	DLRCC Minimum Standard	Proposed Garden Size (sq m)
3 bed	Block 02 – B2-H1	60 sq m	125
	Block 02 - B2-H2		70.2
	Block 02 - B2-H3		77.4
	Block 02 - B2-H4		85.8
	Block 02 - B2-H5		66.8
	Block 02 - B2-H6		<b>57.8</b>
	Block 02 - B2-H7		113.9
4 bed	Block 09 – B9-H1	75 sq m	<b>66.7</b>
	Block 09 – B9-H2		<b>66.5</b>
	Block 09 – B9-H3		<b>66.4</b>
	Block 09 – B9-H4		<b>66.4</b>
	Block 09 – B9-H5		<b>66.4</b>
	Block 09 – B9-H6		<b>75.4</b>
	Block 08 – B8-H1		<b>69.2</b>
	Block 08 – B8-H2		<b>97.9</b>
	Block 08 – B8-H3		<b>92.8</b>
	Block 08 – B8-H4		<b>85.1</b>
	Block 08 – B8-H5		<b>90.5</b>
	Block 08 – B8-H6		<b>75.6</b>
	Block 08 – B8-H7		<b>70.9</b>

Table 2.8 Comparison between proposed garden sizes for the houses within the scheme and the Development Plan requirement.



We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### 2.12.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to this, we note that the standard of residential accommodation proposed by the scheme is of a high quality, providing residents with excellent standard of residential amenity, including excellent levels of daylight and open space. With specific regard to the proposed houses, notwithstanding the shortfall of rear gardens in the context of the Development Plan numeric standards, we highlight their full compliance with the *Quality Housing for Sustainable Communities Guidelines (2007)* which provides the national guidelines in respect of house design, including the design and quality of rear gardens. This is further detailed in the *Housing Quality Assessment (HQA)* prepared by Reddy A + U. We further note the overall quantity and quality of open space provided across the site and consider this to compensate the minor shortfalls in private rear garden size.

In summary, we confirm that the proposed development complies in full with the *Quality Housing for Sustainable Communities Guidelines (2007)* in respect of overall standard of accommodation and quality of private open space and delivers on the objectives of national planning policy surrounding compact growth and higher density development. Therefore, we further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.13 SEPARATION DISTANCES FOR HOUSES

Section 8.2.8.4(ii) 'Separation distances' refers to separation distances in respect of housing. We have confirmed that a material contravention occurs in respect of separation distances between apartment blocks in Section 2.6 of this Statement. We therefore consider Section 8.2.8.4(ii) in the context of the houses proposed in this section. The Development Plan sets out the following requirement:

*"A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, normally resulting in a minimum rear garden depth of 11 metres. However, where sufficient alternative private open space (e.g. to the side) is available, this may be reduced to 7 metres for single storey dwellings - subject to the maintenance of privacy and protection of adjoining residential amenities. In all instances, private open space should not be unduly overshadowed and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum separation distances to boundaries should be increased.*

*Provision of 'defensible' space, e.g. a planting strip, to the front of dwellings should be provided in order to contribute towards a sense of security within the home. Bin storage and/or utility metres alone should not form any proposed defensible space areas.*

*In an exceptionally well designed scheme providing an otherwise very high quality living environment and that is in close proximity to existing public open spaces, the above standards may be relaxed.*

*Any relaxing of standards will be assessed on a case by-case basis and should not be seen as setting a precedent for future development."*

### 2.13.1 Detail of Material Contravention

The proposed design strategy has sought to maximise separation distances between opposing windows to ensure a high standard of residential accommodation within the scheme and also mitigate adverse impact upon neighbouring development.

There are however a small number of instances where the separation distances between opposing windows associated with the proposed houses, both within and outside of the development, fall below 22 metres.

Although the proposed development is considered to be acceptable in this regard (for the reasons expanded upon below), we identify the separation distances between opposing windows across the scheme (see Figure 2.12 below) which fall below 22 metres as a material contravention of the Development Plan.

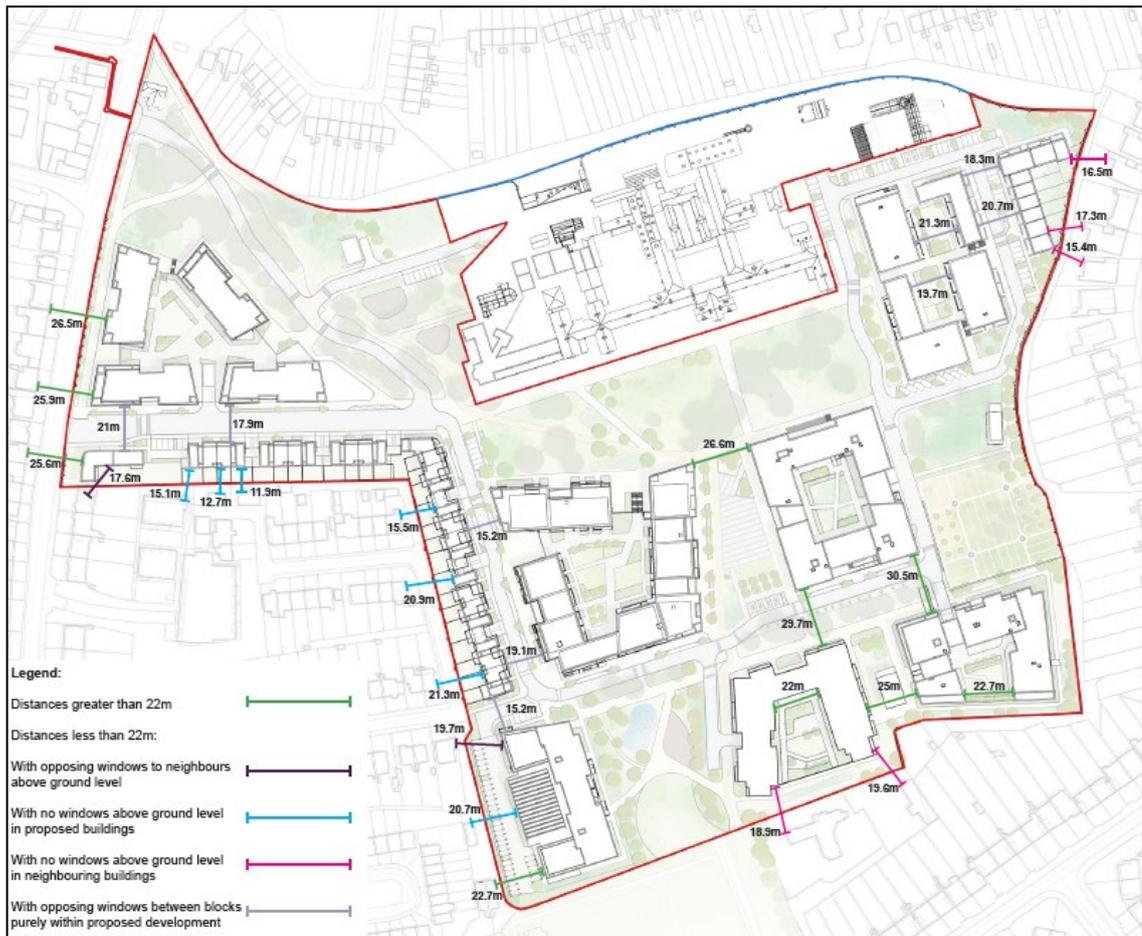


Figure 2.12: Illustrative site layout plan showing separation distances between the proposed buildings within the development and in respect of neighbouring buildings.

### 2.13.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to the above, it is also our view that this material contravention can be justified under Section 37(2)(b)(iv) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is identified as a material contravention, we confirm that despite the reduced separation distances, the design strategy, which includes staggered windows and indirect views, ensures that the proposed development does not give rise to unacceptable impact upon the proposed standard of accommodation or surrounding neighbouring amenity.



In summary, the proposed development which presents reduced separation distances in some places delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high quality environment for both future residents and neighbours. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.



### 3.0 CONCLUSION

Having regard to the above, it is submitted that there is ample justification for An Bord Pleanála to permit the identified material contraventions of the *Dún Laoghaire-Rathdown Development Plan 2016 – 2022* having regard to Section 37(2)(b)(i),(iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.

The proposed development will provide a significant and strategically important residential development, comprising 977 no. new homes. As well as responding to acute housing need, the proposed development will provide approximately 3.01 ha of public open space which has been carefully designed to serve both the new and existing communities as well as maintaining the open character and important landscape features, unique to these former Institutional lands.

The redevelopment of the Central Mental Hospital lands by the LDA directly delivers legislative provisions and national and regional planning policy objectives surrounding the delivery of housing. It complies with the overarching themes of the National Planning Framework by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The proposed development is also considered to align with the pattern of development in the surrounding area.

The proposed development accords with the relevant National Planning Objectives in addition to a full suite of national and regional policy and guidelines, as summarised below.

- *National Planning Framework (Ireland 2040 – Our Plan) (2018)*
- *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) – Guidelines for Planning Authorities (2009)*
- *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*
- *Urban Development and Building Height Guidelines (2018)*
- *Regional Spatial & Economic Strategy for The Eastern and Midlands Region (2019)*

On this basis, we conclude that the Board can grant planning permission for the proposed development in respect of the various items discussed throughout, having regard to Section 37(2)(b)(i),(ii),(iii) and (iv) below:

Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)* states:

*“(2) (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, (our emphasis), 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.”*



**APPENDIX A - Applicant's Response to the criteria set out in Section 3.2 in line with Policy SPPR3. (Urban Development and Building Heights: Guidelines for Planning Authorities (2018)).**

Development Management Criteria – Building Height		
Scale	Criteria	Response
City / Town	The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	<p>The subject site is located approx. 450 meters (less than 10 minute walk) from Luas Green Line Windy Arbour with services at 3 minute intervals during peak hours. As well as providing a direct route into Dublin city centre, the Luas provides a direct route into Dundrum Town Centre, albeit just one stop to the south.</p> <p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue which is within a 10 minute walk of the site.</p> <p>We therefore conclude that the subject site is well connected by public transport that provides frequent services to key employment and educational destinations, as well as providing access to surrounding social infrastructure. The public transport options in close proximity connect the site to a wide range of key destinations.</p> <p>In terms of capacity, we note that the public transport that serves the site, namely the Luas and Dublin Bus routes, are high-capacity modes of public transport. The TTA, prepared by ILTP provides an assessment of capacity and frequency to demonstrate this. This includes results of site surveys undertaken to determine capacity and frequencies and information known in respect of Luas/ bus capacity.</p> <p>The TTA concludes that the city bound Luas (in the AM peak hour (8.00-9.00) has a theoretical capacity of 7,344 persons per direction per hour, or 6,606 persons per direction per hour if using the assumed operational capacity. This is based upon a Luas capacity of 408 persons and a frequency of 3 min intervals.</p> <p>In this regard, the TTA also concludes that recent upgrades to 55m trams are now in operation. The survey result contained within the TTA are based upon the new capacity.</p> <p>In terms of the bus services that serve the site, an assessment of capacity and frequency determined that</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
		<p>there is a total capacity of 1,710 persons in the AM peak hour. This is based on an operational capacity of 90 passengers per bus.</p> <p>The TTA further notes that capacity will be further increased by 25% over the coming years due to BusConnects.</p> <p>We conclude, having regard to existing public transport, that the site is served by high capacity and frequency public transport. Refer to the TTA for full details (Sections 3, 4 and 8).</p>
	<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>The proposed development includes a series of new buildings planned in a Masterplan context across the 9.6 ha extent of the site ranging in height from 2-6 storeys. The prevailing height of the subject proposal is predominantly 4-6 storeys. The design strategy locates lower heights around the edge of the site (2 and 3 storeys) in closest proximity to existing residential properties in order to minimise potential impacts on the residential amenities of these properties in relation to overlooking, daylight and sunlight impact, overshadowing and overbearing, with greater heights located towards the centre of the site. The topography of the site has also been used, where possible, to minimise visual impact yet deliver buildings to an appropriate height and scale. It is considered that this approach successfully integrates the new development into the area and whilst clearly comprising a new and higher density form of development than the prevailing two storey housing, it will not give rise to significant amenity or visual impacts as evidenced by the enclosed Townscape/ Landscape and Visual Impact Assessment (chapter 13 of the EIAR), prepared by Macroworks and Daylight, Sunlight and Overshadowing Assessments undertaken by GIA. This assessment considers the visual impact of the development proposed when viewed from 17 no. viewpoints from a range of locations external to the site.</p>
	<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing</p>	<p>The proposed development will deliver a new mixed use urban quarter on a large former institutional infill site. The proposed development is designed around a series of new internal streets and spaces or character areas, which serve to create a diverse and animated development. The scheme will deliver a gross density of 102 units per ha (or c. 150 units per ha in net density terms) through the provision of a range of architectural styles and contrasting scales within the development. As noted within the TVIA contained at Chapter 13 of the EIAR, the townscape</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
	and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.	<p>impact of the development is considered to be moderate/positive. An extract from the TVIA is provided below:</p> <p><i>“The campus style of the development allows for physical and visual permeability thorough the site where tree planting can be retained and supplemented. Furthermore, the architectural design style varies between buildings giving an organic / evolved feeling that helps to integrate it more readily with the surrounding context. It is considered that these design objectives are successful in integrating this development within its townscape setting particularly in a relative sense against the existing baseline of a ‘perceptual void’.”</i></p> <p>As noted above, the proposed development responds to the scale of adjoining development through the varied use of building heights (lower around the edges (2-3 storeys) through the site and the creation of generous separation distances between the taller elements of the scheme and neighbouring properties. The relationship of new development to the Proposed Protected Structure complex on the site is assessed in detail within the application submission and ensures that the sensitive architectural context is respected. Refer to Chapter 15 of the EIAR for a full architectural heritage assessment of the proposed development in the context of the site’s heritage.</p>
<b>District / Neighbourhood / Street</b>	The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape	<p>The proposal is designed to maintain the site’s open character through the provision of significant public open space and to retain as much of the site’s valuable natural environment as possible including important features such as the walled garden and the mature trees on the site. The landscape strategy for the lands will enhance and complement the adjoining existing public open space (Rosemount Green) and promote the provision of pedestrian and cycle routes through the site. In addition, the site’s existing built environment is also incorporated into the proposed development through sensitive interventions and placement of buildings in the immediate setting of the Proposed Protected Structure complex, which will be adapted and re-used as an enterprise/innovation centre as part of the wider Masterplan proposal. Intervention to the site’s iconic boundary wall represents a balance between achieving increased permeability and connectivity into the surrounding area and a sensitive approach aimed at retaining the vast majority of an important heritage asset.</p> <p>In terms of improving permeability and connectivity, the site’s primary interface with the surrounding road</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
		network is onto Dundrum Road and proposes the part-removal of the boundary wall in this location in order to open up the site (heretofore fully enclosed) and facilitate public interaction between the development and the adjoining roadway. This also facilitates permeability through the site and provides a new urban edge and contemporary streetscape to the overall site.
	The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.	<p>The subject development comprises a series of individual buildings all designed in a different architectural style of varying scale, form and height. There are no <i>'uninterrupted walls of building in the form of slab blocks'</i>.</p> <p>Within the site, the buildings are broken down in scale by introducing steps in the facades in both plan and elevation. Each building is designed to relate to its character area through scale, materiality and dwelling mix. A simple palette of materials, the use of setbacks at penthouse levels and the introduction of a variety of balcony types provide appropriate visual variety to the elevations and the massing of the buildings.</p> <p>The design also proposes to open up the existing wall onto Dundrum Road, providing relief from the existing road and creating new access routes into the site.</p>
	The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).	<p>Regarding flood risk, the site was subject to a flood risk assessment in line with the requirements of <i>"The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009)</i>, which concluded that the site will not be subject to flood risk due to it being in Flood Zone C and is therefore appropriate for residential development.</p> <p>The proposed development will deliver a series of significant new public open spaces that can be accessed by a range of thoroughfares primarily by pedestrians and cyclists. The creation of these spaces enables buildings predominantly ranging in height from 2 – 6 storeys to be established on the site. The framing of these significant public spaces by buildings in this height range provides an appropriate sense of scale and enclosure in what is a very significant 11.39 ha (overall) landholding.</p>
	The proposal makes a positive contribution to the improvement	The proposed development, which will introduce a new residential neighbourhood together with commercial uses will be a new destination for the future occupiers of the



Development Management Criteria – Building Height		
Scale	Criteria	Response
	<p>of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</p>	<p>development and the existing community. To ensure connectivity and accessibility between the proposed development and existing surrounding streets, the proposal includes a number of new pedestrian and cyclist access points which enable connection into the existing network.</p> <p>We also note the new positive interface between the subject lands and Rosemount Green at this location which is facilitated by the proposed removal of a significant section of perimeter wall. The enhanced permeability in this location will provide for an increased movement and fluidity of pedestrians and cyclists between the two public spaces, providing greater opportunities for a range of users and activities. The proposed open space, together with its connectivity with the existing open space to the south, will significantly enhance the green infrastructure network in the local area.</p>
	<p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p>	<p>The proposed development will deliver a good range of uses including residential, crèche, café, restaurant, retail, medical and community. These uses will all contribute to the range of services available to the existing area and future neighbourhood being created on site. In terms of dwelling typologies, the proposal will deliver a range of residential unit types that will serve a wide range of household types. The unit mix will include 1, 2 and 3+ bedroom apartments together with studios, duplex units and houses. We also note that units have been designed to cater for the possibility of future conversion into age appropriate living. This unit mix will ensure that a variety of unit types to complement the predominant two storey family housing that characterises the area will be provided in this development.</p>
<p><b>Site / Building</b></p>	<p>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p>	<p>The development is designed to ensure that there will be no significant overshadowing or loss of daylight or sunlight to adjoining residential properties. Heights are modulated throughout the scheme to minimise impact on access to sunlight or daylight on adjoining dwellings. The enclosed <i>Daylight and Sunlight – Impact on Neighbouring Properties Report</i> and <i>Transient Overshadowing Assessment</i>, both prepared by GIA, provides further details in this regard.</p> <p>Furthermore, the development has also been designed to maximise daylight and sunlight access to the proposed residential units and amenity spaces within the development. The enclosed <i>Daylight and Sunlight – Internal Daylight and Sunlight Report</i> and <i>Overshadowing Assessment</i>, both prepared by GIA, provides further details of the overall positive performance of the proposed development in this regard.</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
	Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’	<p>As set out in detail in the enclosed Daylight and Sunlight reports, the proposed development is assessed having regard to the BRE ‘<i>Site Layout Planning for Daylight and Sunlight</i>’ (2nd edition) or BS 8206-2: 2008 – ‘<i>Lighting for Buildings – Part 2: Code of Practice for Daylighting</i>’, which confirms that daylight and sunlight assessment undertaken accords in full with the methodology set out in the above referenced guidance.</p> <p>Further to this, a sample of the proposed units have also been assessed in line with the new European Standard on daylight – ‘EN 17037:2018 Daylight in buildings’</p>
	Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.	<p>As noted above, the daylight, sunlight and overshadowing assessments demonstrate an excellent level of compliance with the target values set out in the BRE Guidelines.</p> <p>We note that whilst a number of shortfalls are evident, these are minor in nature and are compensated by the overall quality of the scheme from a standard of accommodation and amenity perspective. For example, where an internal courtyard is unable to meet the BRE Guideline target value for hours of sunlight on the ground, all effected residents would have access to a fully sunlight roof garden, in addition to their private balconies and the open space across the site. Further to this, the proposed buildings within the development have been given careful consideration in terms of site planning and the arrangement of apartments in each building in order to maximise the number of dual aspect apartments. Refer to <i>Architectural Design Report</i> for further detail on compensatory measures.</p> <p>Furthermore, the proposed development has been designed in accordance with national and regional policy objectives pertaining to housing delivery and compact growth which require additional densities and identify increased building height as an important mechanism for achieving this. The LDA, as a state body, has a remit to deliver significant housing growth and contribute towards enabling an affordable housing sector in Ireland. In specific relation to the Central Mental Hospital lands, in addition to the requirement for the delivery of a significant quantum of housing, the redevelopment of the lands, due to their former institutional use, is also required</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
		to retain the open character of the land and deliver at least 25% public open space. The balancing of these site specific policy requirements has informed the proposed site layout, including the height, arrangement and density of the proposed buildings. In this respect, the proposed development successfully balances somewhat conflicting policy requirements and on the whole, provides an excellent standard of residential accommodation for future occupiers as well as relating sensitively to the surrounding context.
<p><b>Specific Assessments</b></p> <p>(To support proposals at some or all of these scales, specific assessments may be required and these may include)</p>	<p>Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</p>	<p>A detailed microclimate assessment has been undertaken and is contained at Chapter 16 of the EIAR. It concludes that safety and pedestrian comfort is maintained in accordance with the Lawson Comfort and Distress Criteria with the proposed development in place.</p> <p>Refer to Chapter 16 of the EIAR for full details.</p>
	<p>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.</p>	<p>This planning application is supported by a full biodiversity assessment enclosed as Chapter 8 of the EIAR and a <i>Natura Impact Statement</i>.</p> <p>The various assessments are supported by a full suite of ecology surveys including bat surveys and wintering birds.</p> <p>The NIS concludes with the following:</p> <p><i>“Following the implementation of the mitigation measures outlined, the construction and presence of this development would not be deemed to have a significant impact. No significant impacts are likely on Natura 2000 sites, alone in combination with other plans and projects based on the implementation of mitigation measures.”</i></p> <p>In terms of birds, two seasons of wintering bird surveys have taken place covering the 20/21 and 21/22 seasons. Refer to Appendix 8.1 and 8.2 for the survey reports and full conclusions. In summary, no direct impacts to any of the SPAs within the zone of influence are expected, indirect effects on the SPAs are considered unlikely. It further concludes that while some disturbance impacts may occur to the SPI species (Black-headed gull) recorder, this would not be deemed to be of potential significance.</p>



Development Management Criteria – Building Height		
Scale	Criteria	Response
		<p>A full assessment has also been undertaken in respect of bats, the conclusions of the survey works are as follows:</p> <p><i>“No bats were roosting in buildings on site. A bat roost within a Horse Chestnut tree will be lost. Foraging activity within the darker areas of the site may be reduced due to the presence new buildings and lighting. It would be expected that with a sensitive light strategy foraging activity in the vicinity of the existing buildings on site would increase. A pre construction, inspection will be carried out on onsite trees with bat roosting potential, that are to be removed. The proposed development will result in a long term/low adverse/not significant/negative impacts on bats.”</i></p> <p>In terms of bats, we further note that the project ecologist liaised closely with the M+E engineers to ensure the proposal of bat sensitive lighting across the scheme.</p> <p>In terms of collisions, given that the maximum height of the proposed development is 6 storeys and the limited bird activity recorded in respect of the site, it is not considered that bird collisions are likely to present as an issue in this scenario.</p>
	An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.	We note that the application site is currently served by the EIR network which enters the site from Dundrum Road. A Virgin Media network extends around the perimeter wall. The EIAR in support of this planning application has regard to the impact of the proposed development upon the existing telecommunication network. It concludes that the proposed development would have a neutral impact upon telecommunications in the surrounding area.
	An assessment that the proposal maintains safe air navigation.	Due to the distance of the site from the airport and the medium rise scale of the tallest building within the scheme, it is not considered that the proposed development will give rise to any impacts in this regard.
	An urban design statement including, as appropriate, impact on the historic built environment.	This application is accompanied by a detailed Masterplan, which sets out the urban design principles underpinning the overall design approach to the site’s re-development. It is also supported by an <i>Architectural Design Report</i> which details the proposal in design terms and sets out the design rationale for the development. In addition, the application includes heritage assessments (EIAR Chapter 15) that address the impact of new development on the Proposed Protected Structures and wider historic built form and the manner in which the historic structures and landscape have informed the wider design approach.



<b>Development Management Criteria – Building Height</b>		
<b>Scale</b>	<b>Criteria</b>	<b>Response</b>
	Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	<p>The planning application is accompanied by an Environmental Impact Assessment Report (EIAR), which includes a Biodiversity chapter addressing the potential impacts of new development on the ecology of the site. The application also includes a Natura Impact Assessment (Stage 2 Appropriate Assessment).</p> <p>These assessments enable the robust assessment of the proposed development upon the receiving environment and are supported by extensive survey work.</p>



---

**APPENDIX B: Supplementary Material Contravention Statement for Dundrum Central SHD  
addressing the Draft Policies of the Draft *Dún Laoghaire Rathdown Development Plan 2022-2028***



## 1.0 INTRODUCTION

The purpose of this *Supplementary Material Contravention Statement* is to address the Draft *Dún Laoghaire Rathdown County Development Plan 2022-2028* in the context of material contravention and the *Planning and Development (Housing) and Residential Tenancies Act, 2016* which states the way in which An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan or Local Area Plan, other than in relation to the zoning of land.

Whilst the *Dún Laoghaire Rathdown County Development Plan 2016-2022* is the current development plan at the time of writing, this supplementary material contravention statement covers the eventuality that the new County Development Plan is in legal effect at the time that An Bord Pleanála determine this planning application.

The Draft County Development Plan 2022-2028 went on public display on 12 January 2021.

The County Development Plan 2022-2028 was adopted by elected members on 10<sup>th</sup> March 2022. It is understood that the adopted Plan will come into force 6 weeks after it was adopted on 21<sup>st</sup> April 2022.

In this context, it is further noted that the policy wording addressed within the supplementary statement is draft and based upon the original Draft Plan and the Proposed Amendments version of the Plan. For the avoidance of doubt, we acknowledge that the final wording of the new County Development Plan will be subject to further consideration by Elected Members before reaching the adoption stage. This supplementary statement therefore provides a basis for An Bord Pleanála to assess potential material contraventions arising from the (draft) new County Development Plan.

The proposed development which is the subject of this supplementary Material Contravention Statement, is outlined in Section 1.1 of the main Statement. Refer to this for further details.

## 1.1 LEGISLATIVE CONTEXT

As set out in Section 1.2 of the main Statement, the basis upon which planning permission can be granted by An Bord Pleanála, where material contraventions of the Development Plan or Local Area occur (other than in relation to zoning of the land), is the *Planning and Development (Housing) and Residential Tenancies Act, 2016*. The relevant sections state:

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

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

*(c) Where the proposed strategic housing development would materially*



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

Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)* states:

*“(2) (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, (our emphasis), 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.”*

This supplementary statement demonstrates the reasons why An Bord Pleanála can grant planning permission for the proposed development, despite the potential material contraventions of the Draft County Development Plan identified, we provide a detailed overview of the relevant draft local policy context together with any national planning policy that rationalises such material contraventions.



## 2.0 THE MATERIAL CONTRAVENTIONS, PLANNING CONTEXT AND JUSTIFICATION

The Draft *Dún Laoghaire Rathdown County Development Plan 2022-2028* sets out the relevant draft policies and objectives for the development of Dún Laoghaire-Rathdown. The relevant draft provisions of this Plan with respect to the identified material contraventions are considered below.

Below we set out the details of the material contraventions that arise in respect of the proposed development and provide justification in the context of Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)*.

In summary, the following identified material contraventions are considered to occur:

- **Requirement For a Masterplan (in an INST context)**
- **Residential Density (in an INST context)**
- **Housing Mix**
- **Separation Between Blocks**
- **Glazing in Habitable Rooms**
- **Car Parking**
- **Private Open Space for Houses**
- **Separation Distances for Houses**
- **Number of Apartment Units per Core per Floor**
- **Loading Bays**



## 2.1 A SCHEME OF NATIONAL AND STRATEGIC IMPORTANCE

Before discussing the detail of the identified material contraventions, it is our view that all of the material contraventions arising in respect of the scheme are justifiable in the context of Section 37(2)(b)(i) of the *Planning and Development Act, 2000 (as amended)* on the basis that:

- a) the proposed development is nationally important; it seeks the redevelopment and optimal use of historically and nationally important state-owned lands for housing, including affordable housing; and
- b) the proposed development is strategically important as it makes a significant contribution to the delivery of national and regional policy objectives surrounding housing, consolidated and compact growth and efficient use of land.

We note that in justifying the strategic importance of the scheme in the context of its compliance with national and regional policy objectives, we also demonstrate that planning permission can be granted for all of the material contraventions identified by this document in the context of Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that scheme complies with national and regional planning policy.

Refer to Section 2.1 of the main *Material Contravention Statement* for our justification in this regard.



## 2.2 REQUIREMENT FOR A MASTERPLAN (IN AN INST CONTEXT)

The application site is subject to the INST Objective which triggers the application of Section 12.3.8.11 'Institutional Lands' and Section 4.3.1.4, which contains Policy Objective PHP21: 'Development on Institutional Lands', of the Draft Development Plan.

Section 12.3.8.11 of the Draft Development Plan, *inter alia*, states:

*"The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standard of development a comprehensive Masterplan should accompany a planning application for institutional sites."*

It further states:

*"Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed Masterplan for the overall site. Should any proposed development deviate from the agreed Masterplan then a revised Masterplan shall be agreed with the Planning Authority."*

In the supporting text of Policy Objective PHP21, the Draft Development Plan states:

*"Any proposal for development other than that directly related to an existing social infrastructure and/or institutional uses, will require the preparation and submission of a masterplan."*

### 2.2.1 Detail of Material Contravention

The draft policy requirement set out by Section 12.3.8.11 'Institutional Lands' suggests that the Masterplan prepared for the lands should be agreed with the Planning Authority. This has been acknowledged through the significant engagement undertaken with DLRCC during the masterplanning and SHD preparation process. Detail of this pre-application stage engagement is set out in Section 2.7 of the *Planning Report*, prepared by Tom Phillips + Associates.

Whilst we contend that we have complied with the spirit of this policy requirement through very significant consultation, we have not received explicit 'agreement' from DLRCC in respect of our Masterplan proposal and a number of outstanding concerns can be identified within their pre-application correspondence to date. This includes concerns relating to the movement strategy and the overall development strategy. Although we provide detailed rationale and justification in respect of these issues throughout this submission, we identify the lack of clear 'agreement' from DLRCC, in respect of the Masterplan, as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.



Despite this, we further highlight that for the purposes of decision making in respect of SHD's, An Bord Pleanála has jurisdiction to determine compliance with the Development Plan (including Section 12.3.8.11, Section 4.3.1.4 and Policy Objective PHP21) and grant planning permission.

## 2.2.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this supplementary statement.

Further to the above, it is also our view that this material contravention can be justified under Section 37(2)(b)(iv) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is detailed within the *Supplementary Statement of Consistency* pertaining to the Draft County Development Plan, we note that the redevelopment of the site is supported by a comprehensive Masterplan which fully accounts for the provisions of the Institutional policy objectives attached to the lands. In this respect, the Masterplan retains the open character and special landscape features/ natural assets of the lands, provides a significant quantum of publicly accessible open space, secures the adaptive reuse of the heritage assets and will support the creation of a sustainable and distinctive neighbourhood.

The Masterplan proposal is clearly acceptable to DLRC from a policy perspective in principle, even if some specific elements have not been explicitly agreed. DLRC has outlined agreement in relation to some important components of the Masterplan proposal, including the principle of increased building height and residential density, the sensitive removal of sections of perimeter wall to provide for enhanced permeability and the quantum and quality of open space provided.

Furthermore, An Bord Pleanála has jurisdiction to determine compliance with the Development Plan, including in respect of Policy Objective PHP21, and grant planning permission should it be considered that the proposed Masterplan is acceptable, in the context of the policy objective. As the decision maker for SHD's, it is therefore our view that the Board's 'agreement' of the Masterplan, as part of the decision-making process, is sufficient to satisfy the relevant policy requirements.

In conclusion, we provide ample justification above as to why planning permission can be granted by An Bord Pleanála, even where a material contravention is considered to occur, having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*. In addition to this, we highlight the acceptability of the Masterplan proposal for the subject lands and confirm that the Masterplan ensures compliance with the wider requirements associated with the INST designation and related policy requirements. Therefore, in addition to detailing why any material contravention in this regard can be justified, we further highlight the acceptable nature of the Masterplan, which will enhance and benefit this important site.



## 2.3 RESIDENTIAL DENSITY (IN AN INST CONTEXT)

The general residential density policy contained within the Draft Development Plan is Policy PHP18: 'Residential Density'. It states:

*"It is a Policy Objective to:*

- *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/ brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*
- *Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development."*

In the supporting text associated with Policy Objective PHP18, the Draft Development Plan provides a general minimum net density of 35 units per hectare for new residential developments in the County. For sites with high public transport accessibility, the Draft Development Plan requires higher densities at a minimum of 50 units per hectare.

Section 12.3.3.2 of the Draft Development Plan also refers to 'Residential Density' and states:

*"In general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the Government Guidelines document:*

- *'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009).*
- *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020)*

*As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport. (See policy PHP18, Chapter 4)."*

Notwithstanding the above, in relation to residential density on INST sites specifically, Policy Objective PHP21 of the Draft Development Plan states:

*"Average net densities should be in the region of 35 - 50 units p/ha. In certain instances, higher densities may be permitted where it can be demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands."*



### 2.3.1 Detail of Material Contravention

The proposed SHD development has a gross residential density of 102 no. units per hectare, based on 977 no. units and a site area of 9.6 ha approximately. The overall Masterplan area (11.39 ha) has a gross residential density of 93 no. units per hectare).

Taking the SHD net site area into account (excluding public open space provision and a standalone non-residential building), the proposed development will provide a net residential density of 150 no. units per hectare (based on a net site area of 6.54 ha).

We note that the above densities have been calculated in accordance with Appendix A of the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities* (2009) which states that a “gross density measure is best applied to estimating overall land areas required for mixed use developments or for Local Area Plans”.

Appendix A of the above guidelines also references ‘net site density’ as a more ‘refined’ estimate of density, primarily to be used where residential uses only are being proposed. These guidelines define net density as follows:

*“A net site density measure is a more refined estimate than a gross site density measure and includes only those areas which will be developed for housing and directly associated uses. These will include:*

- *access roads within the site;*
- *private garden space;*
- *car parking areas;*
- *incidental open space and landscaping; and*
- *children’s play areas where these are to be provided.*

*It therefore excludes:*

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

*A net density is the most commonly used approach in allocating housing land within Local Area Plans and is appropriate for development on infill sites where the boundaries of the site are clearly defined and where only residential uses are proposed. It is also appropriate where phased development is taking place in a major development area (perhaps spanning different plan periods) and individual housing areas have been identified.”*

Whilst the proposed development does not comprise residential uses only, the net density has been provided for completeness. Importantly, the net density figure excludes the public open space (on the basis that it will ‘serve the wider area’, i.e. beyond the residents themselves) and the footprint of the Gate Lodge, a standalone non-residential building, which will provide 78 sq m of café floorspace. The majority of the non-residential floorspace has not been excluded from the calculation on the basis that it is integrated within the residential blocks.



For ease of reference, the various density calculations are set out again below:

**Table 3.1: Density calculations.**

Density Measure	Density (u/ph)
Masterplan Gross	93 units p/ha
SHD Gross	102 units p/ha
SHD Net	150 units p/ha

Referring back to the policy objectives surrounding residential density, we reiterate that the Draft Development Plan states that it is Council policy to promote higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development. We further note that the Draft Development Plan seeks minimum residential densities of 35 u/ph County-wide and 50 u/ph in well-connected locations, close to public transport.

We further acknowledge the Institutional designation of the subject lands and the specific policy requirements that accompany this designation. Policy Objective PHP21 states (as detailed in the *Supplementary Statement of Consistency*) that it is Council policy to retain the open character and/or recreational amenity of land parcels that are in institutional use and are proposed for redevelopment. As set out above, Policy Objective PHP21 refers to a residential density range (35-50 units p/ha) which is to be considered in the context of achieving the objective to retain the open character of the lands.

As set out within the *Supplementary Statement of Consistency*, it is our view that the proposed residential density contributes towards the objective of retaining the open character and recreational amenities of the lands by facilitating the provision of c.32% of the site area as publicly accessible public open space. The concentration of development in certain parts of the site ensures the proposal of appropriate and sustainable density (in line with wider policy objectives) whilst delivering significant planning gain to the area in the form of public open space which also retains the open character and recreational amenity of the lands.

Notwithstanding the circumstances referred to in connection with Policy Objective PHP21 whereby higher densities may be allowed, we highlight that the proposed residential density at the site exceeds the density range set out in relation to Institutional lands (35-50 units p/ha) and therefore is identified as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### 2.3.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this supplementary statement.

In our view, this material contravention can also be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable*



*Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') provides for higher densities and are Section 28 guidelines which take precedence over the Development Plan policies where conflict occurs.

We also refer to the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)*, which are also Section 28 guidelines and do not provide absolute maximum density limitations in respect of residential development, or lands deemed to be Institutional in nature.

We highlight that the Apartment Guidelines referred to above are inextricably linked to the *National Planning Framework (NPF) – Ireland 2040 (2018)*, insofar as they are designed to implement the National Policy Objectives (NPOs) which relate to the delivery of compact urban growth and sustainable development. The *Statement of Consistency* addresses the relevance of the NPF to the proposed development in detail and highlights the NPOs pertaining to the aforementioned principles. Whilst these are not repeated here, we draw attention to the fact that the NPF notes that the consolidation of the Dublin Metropolitan Area, which includes all of the Dún Laoghaire-Rathdown administrative area, will be critical to achieving the national strategic outcomes. This NPF also proposes that 50% of all new homes within the five designated cities and their suburbs are to be delivered within the existing built-up footprint of these settlements.

In this regard, we note that the proposed development, which comprises a strategic regeneration landholding, will contribute significantly to the realisation of the national objectives. Given the locational characteristics, it is our view that the subject site must be developed at higher densities to ensure that the efficient use of lands is achieved.

Below, specific regard is given to the compliance of the proposed development with the relevant Section 28 guidelines which provide for higher density development at the subject site and therefore provide justification for this material contravention under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.

**Compliance with the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)*.**

These Guidelines provide national guidance in relation to the appropriate locations for the siting of higher density residential development, having regard to the locational characteristics of the lands in question.

Section 5.4 onwards has regard to 'Appropriate locations for increased densities' and states that in general, increased densities should be encouraged on residentially zoned lands and particularly in the locations listed below (not exhaustive):

- Brownfield sites (within city or town centres);
- Public transport corridors; and
- Institutional lands.

In relation to 'Brownfield' sites (within city or town centres), the Guidelines state:



*“Brownfield’ lands, which may be defined as “any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces”, generally comprise redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas. **Where such significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.**”*

Having regard to the above criterion, we identify the subject lands as a brownfield site on the basis that it has been in use as a mental health facility/ hospital since the 1800’s. We therefore confirm that the above guideline, which promotes the redevelopment of such sites to higher densities, applies to the subject site. We further confirm that the subject site is located close to a public transport corridor, which is addressed further below.

In relation to ‘public transport corridors’, the Guidelines state:

*Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such 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.***

In this regard, we confirm that the subject site is located within walking distance (less than 500m) from a key public transport node (Luas stop). Beyond this, there are a number of bus stops within a 15 minute walk of the site. The *Traffic and Transport Assessment (TTA)* prepared by ILTP has regard to the capacity of the relevant public transport and concludes that the site is served by high frequency and high capacity public transport.

On this basis, having regard to the above criterion, we contend that the subject site is an appropriate location for increased residential density (greater than 50 units p/ha).

In relation to ‘Institutional lands’, the Guidelines state:

*A considerable amount of developable land in suburban locations is in institutional use and/or ownership. Such lands are often characterised by large buildings set in substantial open lands which in some cases may offer a necessary recreational or amenity open space opportunity required by the wider community. In the event that planning authorities permit the development of such lands for residential purposes, **it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the quality and provision of existing or proposed open space in the area generally. In the development of such lands,***



***average net densities at least in the range of 35-50 dwellings per hectare should prevail and the objective of retaining the open character of the lands achieved by concentrating increased densities in selected parts (say up to 70 dph). The preparation of local area plans setting out targets for density yields, recreational uses and urban form should be considered in advance of development. In the absence of an LAP, any application for development of institutional lands should be accompanied by a masterplan outlining proposals for the entire landholding.***

[Our emphasis.]

The subject site is subject to an Institutional designation; the above criterion therefore applies. As demonstrated throughout this planning application submission, the proposed development retains the open character and recreational amenities of the lands through the provision of c. 3.01 ha of publicly accessible open space and the retention of existing landscape features such as trees and the walled garden.

The concentration of development in certain parts of the site ensures the proposal of appropriate and sustainable density (in line with wider policy objectives) whilst delivering significant planning gain to the area in the form of public open space which also retains the open character and recreational amenity of the lands. The concentration and siting of development is further influenced by the requirement to sensitively respond to the proposed Protected Structures present on the site.

Having regard to the above, we highlight that this criterion, whilst stressing the importance of respecting the open character of such lands, does not prescribe a maximum density for the redevelopment of Institutional sites. On the basis that the proposed development carefully retains the open character of the lands and provides a significant quantum of new public open space, it is our view that the proposed residential density is appropriate in the context of this criterion.

We conclude that proposed development accords with this national guidance and provides a sustainable urban residential development which optimises the delivery of housing on a well-located, brownfield, underutilised and serviced site.

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

These Guidelines highlight the need to increase residential densities in order to sustainably increase housing supply and to ensure that a greater proportion of housing development takes place within the existing built-up areas of Ireland's cities and towns.

The *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)* identifies three broad types of locations suitable for apartment development, and advises that Planning Authorities should have regard to these proximity and accessibility considerations.

When applying the locational criteria set out within the Guidelines, the proposed development is considered to fall within the 'Central and/or Urban Accessible Locations'



category, having regard to considerations below in Table 3.1. For such locations, the Guidelines state:

*“Such locations are generally suitable for small to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments”*

Comprising of 977 residential units, 3,889 sq m of non-residential floorspace and 30,146 sq m of public open space, the proposed development is considered to be a large-scale development that predominantly provides apartments (98%). In our view, the proposed development, from a scale perspective, is therefore appropriate for a ‘Central and/or Urban Accessible Location’.

Further to this, we have applied the ‘Central and/or Urban Accessible Locations’ locational criteria below to demonstrate the alignment of the application site with this category.

**Table 3.2: Central and/or Accessible Urban Location Criteria. (Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)).**

Central and/ or Accessible Urban Locations	
Criteria	Application Site
Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions.	<p>As existing, the application site is located approximately 1,600 metres from Dundrum Town Centre, a Town Centre and significant employment location. With the proposed development in place, which includes a number of new pedestrian and cyclist access points, the distance to Dundrum Town Centre will reduce to 1,400 metres.</p> <p>Dundrum Business Park, a large employment location, is also approximately 210 metres to the north of the site.</p> <p>There are also a number of schools in close proximity, namely, Our Lady’s National School, Jesus and Mary College, Our Lady’s Grove and Our Lady’s Grove Primary School which jointly would employ a notable number of people within the County.</p> <p>Whilst approximately 2,500 metres from the site, University College Dublin (UCD) is within reasonable reach of the site and therefore considered relevant for the purposes of addressing this criteria. UCD, which is a significant employer and educational institute, can be reached by foot within approximately 30 mins and by bike within approximately 10 mins.</p> <p>We therefore conclude that the subject site is located in close proximity to a Town Centre and multiple employment destinations.</p>



	<p>Furthermore, we confirm that all employment locations and educational institutes referred to above are accessible via sustainable modes of transport as addressed below.</p>
<p>Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas)</p>	<p>The subject site is located approx. 450 meters (less than 10 minute walk) from Luas Green Line Windy Arbour with services at 3 minute intervals during peak hours. As well as providing a direct route into Dublin city centre, the Luas provides a direct route into Dundrum Town Centre, albeit just one stop to the south.</p> <p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue which is within a 10 minute walk of the site.</p> <p>We therefore conclude that the subject site is well connected by public transport that provides frequent services to key employment and educational destinations, as well as providing access to surrounding social infrastructure. The public transport options in close proximity connect the site to a wide range of key destinations.</p> <p>In terms of capacity, we note that the public transport that serves the site, namely the Luas and Dublin Bus routes, are high-capacity modes of public transport. The TTA, prepared by ILTP provides an assessment of capacity and frequency to demonstrate this. This includes results of site surveys undertaken to determine capacity and frequencies and information known in respect of Luas/ bus capacity.</p> <p>The TTA concludes that the city bound Luas (in the AM peak hour (8.00-9.00) has a theoretical capacity of 7,344 persons per direction per hour, or 6,606 persons per direction per hour if using the assumed operational capacity. This is based upon a Luas capacity of 408 persons and a frequency of 3 min intervals.</p>



	<p>In this regard, the TTA also concludes that recent upgrades to 55m trams are now in operation. The survey result contained within the TTA are based upon the new capacity.</p> <p>In terms of the bus services that serve the site, an assessment of capacity and frequency determined that there is a total capacity of 1,710 persons in the AM peak hour. This is based on an operational capacity of 90 passengers per bus.</p>
<p>Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.</p>	<p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services into Dublin city centre at hourly intervals. Further to this, Dublin Bus Route No.11 has a 15-30 minute frequency and operates along the Drummartin Road between Wadelai Park through Dublin City Centre and the Sandyford Business District. Dublin Bus Route 175 from Kingswood Avenue to UCD passes along Dundrum Road every 30 minutes. Bus facilities adjacent to the site.</p> <p>Further to this, the site is less than a 15 minute walk from Dublin Bus Routes on Goatstown Road which provides services into Sandyford Business District (a significant employment location) at 20 minute intervals.</p> <p>Notably, the 142 Dublin Bus Route provides services into UCD from Bird Avenue (within a 15 min walk/cycle from site)</p> <p>As part of the BusConnects programme, it is proposed to further enhance the number of bus services in the area, and the existing services will be replaced by the no. 10 Route with 30 minute frequency along R825 between Ticknock and the City Centre; and the no. S6 Route with 10-15 minute frequency between Mount Merrion and Firhouse along R112 (this will also provide access to the Luas Green line via the Dundrum Transport Interchange for those unwilling or unable to walk).</p>

As set out above, the locational characteristics of the application site aligns with the ‘*Central and/or Urban Accessible Location*’ criteria. The defining locational characteristics of the subject site include its proximity to Dundrum Town Centre (c. 1600m), a significant employment location, and high-capacity urban public transport stops, including the Luas line. The delivery of higher density apartment development at the application site is therefore considered to be appropriate.

The proposed residential gross density of 102 units p/ha and a net density of 150 units p/ ha is considered to align with the broad guideline of ‘higher density development’.



In conclusion, it is our view that the proposed development complies with the Section 28 guidelines cited above. On this basis, An Bord Pleanála can grant planning permission in respect of the proposed residential density, in the context of the Institutional nature of the lands, having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.4 HOUSING MIX

Section 12.3.3.1 'Residential Size and Mix' of the Draft Development Plan states:

*"In order to demonstrate compliance with Policy Objective PHP26 and based on the findings of the Draft Housing Strategy and Interim HNDAs, planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County."*

It further states:

*"The proposed provision of residential units (both houses and apartments), shall provide a mix that reflects existing, and emerging household formation, housing demand patterns and housing demand patterns and trends identified locally and/ or within the County. New residential communities (as set out in the Core Strategy and Figure 2.9 of the Core Strategy Map) shall ensure an appropriate mix including a proportion of larger units. Applications received in both new residential communities and within the residual built up area shall include:*

- *Details of existing and permitted unit types within a 10-minute walk of the proposed development.*
- *A detailed breakdown of the proposed unit type and size including a percentage split between 1/2/3+ bed units which in the case of apartments (and duplexes) shall generally be in accordance with Table 12.1.*
- *A site and/or floor plans that clearly identify proposed units that:*
  - *Are designed and located having regard to the needs of older people and/or persons with a disability.*
  - *Are designed having regard to the concept of lifetime adaptable and/or multigenerational homes.*
- *A statement outlining how the scheme has been designed for the needs of older people and / or persons with a disability and / or lifetime homes.*
- *No more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person apartment types.*

*Table 12.1 sets out the mix requirements for apartment developments. Duplexes are considered to be apartments for the purposes of mix."*

Table 12.1 sets out the apartment mix requirements referred to by Section 12.3.3.1 above.



**Table 12.1 Apartment Mix Requirements**

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and duplexes)	3+ bed Requirement (Apartments)
New Residential Community (See figure 2.9 Core Strategy Map)	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units and with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Lands within SUFP	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Existing Built up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 20% 3+ bedroom units

Figure 3.1: Extract from Table 12.1 of the Draft Development Plan containing Apartment Mix Requirements.

### 2.5.1 Detail of Material Contravention

The proposed development comprises of 977 no. residential units; 940 no. apartments, 17 no. duplex units and 20 no. houses.

The quantitative standards in respect of unit mix contained within Section 12.3.3.1 of the Development Plan applies to all residential development, including apartments and houses.

Table 3.3 below demonstrates the percentage of each unit type on a scheme wide basis (i.e. including houses). The second table (Table 3.4) has regard to the unit mix relating to the apartment component of the scheme, inclusive of the duplex units.

Table 3.3: Scheme wide unit mix.

	Apartments	Duplexes	Houses	Total	
Studio	53			53 (5.4%)	
1 bed	423			423 (43.3%)	
2 bed (3 person)	37			357 (36.5%)	
2 bed	317	3			
3 bed	110	14	7	131 (13.4%)	144 (14.7%)
4 bed			13	13 (1.3%)	
	940	17	20	977	

**Table 3.4: Apartment development unit mix.**

	Apartments	Duplexes	Total	
Studio	53		53 (5.5%)	
1 bed	423		423 (44%)	
2 bed (3 person)	37		357 (37.3%)	
2 bed	317	3		
3 bed	110	14	124 (12.9%)	124 (12.9%)
4 bed			0	
	<b>940</b>	<b>17</b>	<b>957</b>	

Having regard to the apartment development specific requirements of Section 12.3.3.1 and associated Table 12.1, we note that schemes of over 50 units in existing built-up areas are required to generally comply with the following.

In respect of mix of studio/ one/ two bedroom requirements, Table 12. 1 requires:

*“Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios.”*

In respect of 3+ bedroom requirements, Table 12.1 requires:

*“Minimum 20% 3+ bedroom units.”*

As shown in Table 2.2 above, the proposed apartment mix does not comply with Section 12.3.3.1 and Table 12.1 of the Draft Development Plan, as explained below:

- The combined total of proposed studio and one bed units is 49.5% which exceeds the 30% restriction on the combined total of these unit types as set out in Table 12.1.
- The proposed apartment development comprises 12.9% three bed units which falls below the minimum requirement for 20% 3+ bed units as set out in Table 12.1.

We therefore note this as a material contravention of the Draft Development Plan.

We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

## 2.5.2 Justification for Material Contravention

In our view, this material contravention can be justified under [Section 37\(2\)\(b\)\(i\)](#) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this Statement.

We also outline how this material contravention can be further justified under [Section 37\(2\)\(b\)\(iii\)](#) of the *Planning and Development Act, 2000 (as amended)* on the basis that the

*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which take precedence over the Development Plan policies where in conflict with the SPPR's. In this regard, the Apartment Guidelines (page 4) states the following:

*"These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.*

*Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements."* (our emphasis)

Specific Planning Policy Requirement (SPPR) 1 of the Apartment Guidelines sets out the requirements for housing mix. The relevant extract is below.

#### Specific Planning Policy Requirement 1

**Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).**

Figure 3.2: Extract from SPPR 1 of the Apartment Guidelines.

As shown by the percentages set out in Table 3.4, the unit mix relating to the apartment component of the scheme complies in full with SPPR 1. On the basis that the SPPR's take precedence over any conflicting development plan policies or standards, we contend that the housing mix is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.5 SEPARATION BETWEEN BLOCKS

Section 12.3.5.2 of the Draft Development Plan, states:

*“All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces.*

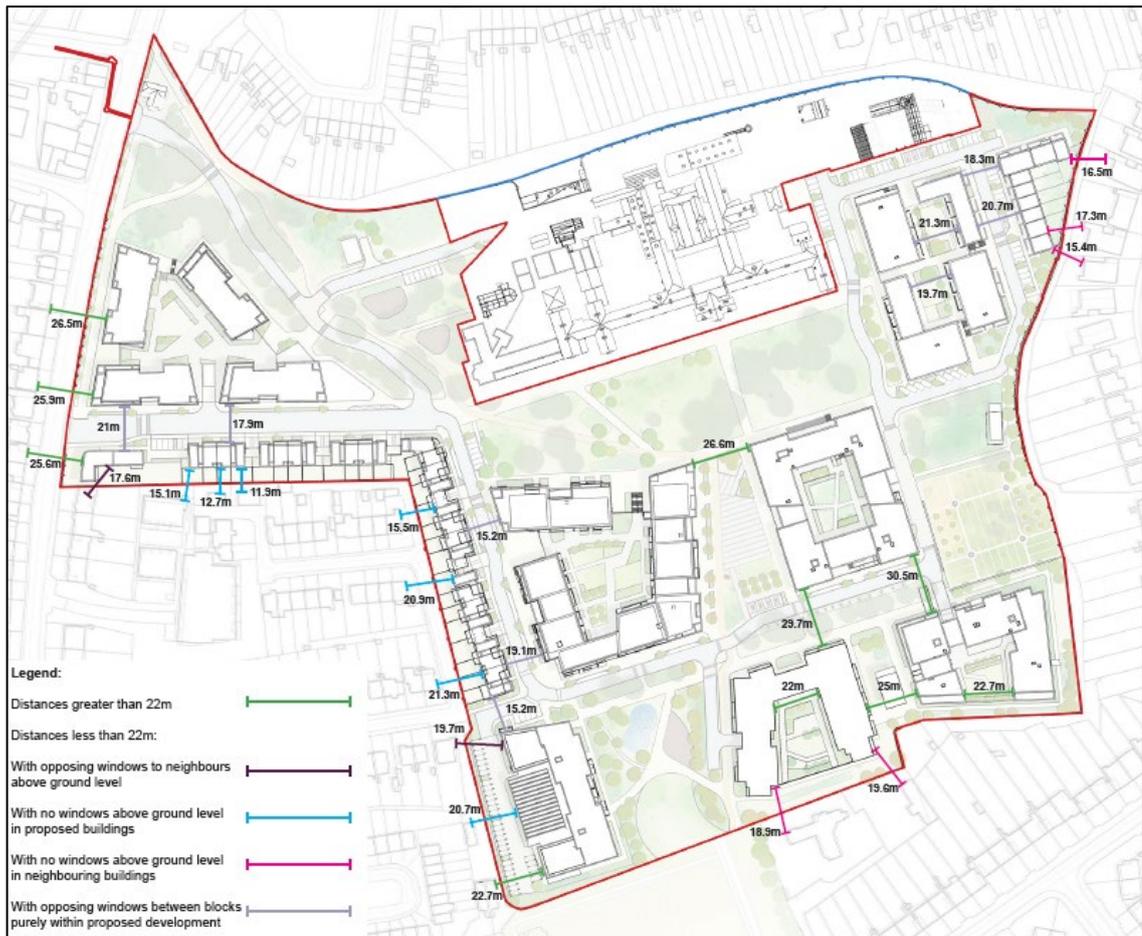
*A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.”*

### 2.5.1 Detail of Material Contravention

The proposed design strategy has sought to maximise separation distances between opposing windows to ensure a high standard of residential accommodation within the scheme and also mitigate adverse impact upon neighbouring development.

There are however a number of instances where the separation distances between opposing windows, both within and outside of the development, fall below 22 metres. We do however note the instances referred to by Section 12.3.4.2 whereby reduced separation distances may be acceptable and in this context we confirm that a full daylight and sunlight assessment of the proposed development is enclosed with this planning application.

Although the proposed development is considered to be acceptable in this regard (for the reasons expanded upon below), we identify the separation distances between opposing windows across the scheme (see Figure 3.3 below) which fall below 22 metres as a material contravention of the Draft Development Plan.



**Figure 3.3: Illustrative site layout plan showing separation distances between the proposed buildings within the development and in respect of neighbouring buildings.**

## 2.5.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to the above, it is also our view that this material contravention can be justified under Section 37(2)(b)(iv) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is identified as a material contravention, we confirm that despite the reduced separation distances, the design strategy, which includes stepped height in places and staggered windows, ensures that the proposed development does not give rise to unacceptable impact upon the proposed standard of accommodation or surrounding neighbouring amenity. The results of the daylight, sunlight and overshadowing assessments are considered to evidence the above position, demonstrating that in the very few instances where the BRE Guideline target values are not met, the impact is minor in nature.



In summary, the proposed development which presents reduced separation distances in some places delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high quality environment for both future residents and neighbours. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.



## 2.6 GLAZING TO HABITABLE ROOMS

The original wording of the Draft Plan (as published on 12<sup>th</sup> Jan 2021) contains Section 12.3.4.2 'Habitable Rooms' which sets out that minimum sizes for habitable rooms should conform with National guidelines. It further states, which is the subject of this material contravention, the following:

*"All habitable rooms within new residential units shall have access to appropriate levels of natural /daylight and ventilation. In this regard, and in order to maximise available light, glazing to all habitable rooms should not be less than 20% of the floor area of any habitable room. Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated guidance. A daylight analysis will be required for all proposed developments of 50+ units. The impact of any development on existing habitable rooms should also be considered."*

We note that this requirement was then amended following publication of the Material Alterations to the Draft Plan on 11<sup>th</sup> November 2021, removing the wording that is the subject of this material contravention. We note that with the proposed amendments in place, the proposed development would not materially contravene the Draft Development Plan in relation to Section 12.3.4.2. This section has been left within this Statement in the interest of caution, on the basis that the final new Development Plan wording is not yet in the public domain. Refer to the Statement of Consistency for details surrounding compliance with the amended wording of Section 12.3.4.2.

### 2.6.1 Detail of Material Contravention

The proposed development has been designed to comply with the *Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)* guidelines (BRE Guidelines). This accords with the requirements of the Apartment Guidelines.

The above policy requirement to achieve glazing to all habitable rooms of not less than 20% of the floor area is additional to the requirements of the BRE Guidelines. Notwithstanding the excellent level of compliance achieved by the proposed development when considered against the BRE Guidelines, the proposed development does not comply in full with this additional glazing percentage requirement.

We reiterate that this is considered to be a material contravention of the original wording of the Draft Plan (as published on 12<sup>th</sup> Jan 2021).

### 2.6.2 Justification of Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this Statement.

Further to the above, it is also our view that this material contravention can be further justified under Section 37(2)(b)(iv) of the *Planning and Development Act, 2000 (as amended)*, having



regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is identified as a material contravention of the original wording of the Draft Plan (as published on 12<sup>th</sup> Jan 2021), we confirm that despite the percentage of glazing in habitable rooms across the development, the proposed development provides a high quality of residential accommodation from a daylight and sunlight perspective. The results of the results of the daylight and sunlight assessment of the proposed development are considered to evidence the above position.

In summary, the proposed development delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high-quality environment for both future residents and neighbours, including from a daylight and sunlight perspective. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.



## 2.7 CAR PARKING

Section 12.4.5 ‘Car Parking Standards’ of the Draft Development Plan outlines ‘Parking Zones’ (as per Section 12.4.5.1) whereby the County has been divided into four parking zones which are allocated via Map T2 Supplementary Map T2 of the Draft Development Plan. A different set of parking standards are applied to each of the parking zones and are contained in Table 12.6. According to Map T2, the subject lands are considered to fall within Parking Zones 2 and 3, with the majority designated as Zone 3. For Zone 2 and 3 locations, the parking requirements are ‘standards’, for both residential and non-residential car parking.

Land Use		Zone 1 MTC Areas and Blackrock	Zone 2 Near Public Transport	Zone 3 Remainder of County (non-rural)	Zone 4 Rural
Houses:	Criterion	Maximum	Standard	Standard	Standard
House 1 bed	unit	1	1	1	Case by case
House 2 bed	unit	1	1	1	Case by case
House 3 bed or more	unit	1	2	2	Case by case
Apartments and Sheltered Housing:					
Apt 1 bed	unit	1	1	1*	Case by Case
Apt 2 bed	unit	1	1	1*	Case by Case
Apt 3 bed +	unit	1	2	2*	Case by Case

Figure 3.4: Extract from Table 12.6 Car Parking Zones and Standards for Residential Development.

Land Use		Zone 1 MTC Areas and Blackrock	Zone 2 Near Public Transport	Zone 3 Remainder of County (non-rural)	Zone 4 Rural
Other Uses	Criterion	Maximum	Standard	Standard	Standard
Childcare	GFA (including set down)	1 per 80	1 per 60	1 per 40	1 per 40
Retail:	Criterion	Maximum	Standard	Standard	Standard
Retail Conv > 100sqm	GFA	1 per 60	1 per 40	1 per 30	n/a
Retail Conv < 100sqm	GFA	none	none	1 per 30	n/a
Retail / Financial Services < 100sqm (standalone)	GFA	none	none	1 per 50	n/a
Retail / Financial Services > 100sqm	GFA	1 per 200	1 per 150	1 per 100	
Retail Comp	GFA	1 per 200	1 per 100	1 per 50	n/a
Retail Warehouse	GFA	1 per 100	1 per 50	1 per 50	n/a
Leisure:	Criterion	Maximum	Standard	Standard	Standard



Restaurant, Café, Bar, Lounge < 100sqm (standalone)	GFA	none	none	1 per 30	1 per 25
Restaurant, Café, Bar, Lounge > 100sqm	GFA	1 per 100	1 per 50	1 per 30	1 per 25
Community:	Criterion	Maximum	Standard	Standard	Standard
Community facility, library, museum, art gallery	GFA	1 per 150	1 per 100	1 per 50	1 per 50
Medical facility	Consulting Room	1	2	2	n/a

Figure 3.5: combined extract from Table 12.6 Car Parking Zones and Standards of the Draft Development Plan for Non-Residential Development (as per the original wording of the Draft Plan (as published on 12<sup>th</sup> Jan 2021))

We note that in the original wording of the Draft Plan (as published on 12<sup>th</sup> Jan 2021) the non-residential parking requirements were stated as ‘standards’ and therefore were required to be met to comply with the policy in full. The proposed material alterations to the Draft Plan subsequently amended the non-residential parking requirements to ‘maximums’ rather than standards. With this amendment in place, the proposed non-residential car parking complies with the Draft County Development Plan. This section (relating to non-residential car parking) has been left within this Statement in the interest of caution, on the basis that the final new Development Plan wording is not yet in the public domain.

We note that Section 12.4.5.2 of the Draft Development Plan provides a criteria for deviation from the car parking standards set out in Table 12.6. The relevant extract is provided below:

*“Assessment Criteria for deviation from Car Parking Standards (set out in Table 12.6)*

- *Proximity to public transport services and level of service and interchange available.*
- *Walking and cycling accessibility/permeability and any improvement to same.*
- *The need to safeguard investment in sustainable transport and encourage a modal shift.*
- *Availability of car sharing and bike / e-bike sharing facilities.*
- *Existing availability of parking and its potential for dual use.*
- *Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).*
- *The range of services available within the area.*
- *Impact on traffic safety and the amenities of the area.*



- Capacity of the surrounding road network.
- Urban design, regeneration and civic benefits including street vibrancy.”

Furthermore, Section 12.4.5.3 of the Draft Development Plan also requires the following:

*“For both residential and non-residential car parking, 4% of car parking provision shall be suitable for use by disabled persons. In certain circumstances the Planning Authority may consider that a higher disabled parking content may be required depending on the nature of development. All disabled parking should be clearly marked and suitably sign posted for convenient access.”*

*“A minimum of 4% of car parking spaces provided shall be reserved for parent and child parking for commercial, retail, health, childcare, hotels, medical and leisure uses, but a higher number may be required depending on the nature and location of the development.”*

## 2.7.1 Detail of Material Contravention

### **Residential Car Parking Provision**

The proposed development provides the following car parking provision in respect of the residential component of the scheme. The table below compares the proposed provision with the Draft Development Plan car parking standards. As noted above, the car parking requirements for zone 2 and zone 3 locations are ‘standards’ and therefore are required to be met to comply with the Draft Plan.

Proposed Unit Type/ Land Use	Size/ No. of Units	DLRCC Draft Development Plan Standards	DLRCC Parking Requirement	Proposed Car Parking Provision
<b>Houses</b>				
House 1 bed	0	Zone 2 – 1 per unit Zone 3 – 1 per unit	0	<b>0</b>
House 2 bed	0	Zone 2 – 1 per unit Zone 3 – 1 per unit	0	<b>0</b>
House 3 bed +	20	Zone 2 – 2 per unit Zone 3 – 2 per unit	40	<b>27</b>
<b>Apartments</b>				
Apartment 1 bed	476 (including studios)	Zone 2 – 1 per unit Zone 3 – 1 per unit*	476	<b>73</b>
Apartment 2 bed	357	Zone 2 – 1 per unit Zone 3 – 1 per unit*	357	<b>171</b>
Apartment 3 bed +	124	Zone 2 – 2 per unit	248	<b>132</b>



		Zone 3 – 2 per unit*		
<b>Allocated Residential Subtotal</b>	<b>977</b>		<b>1,121</b>	<b>402</b>
Additional 15% of Residential Parking for Visitor Parking				<b>60</b>
12 no. Car Club				<b>12</b>
15 no Travel Club				<b>15</b>
<b>Total Residential Car Parking</b>	<b>977</b>			<b>489</b>
<b>Total Residential Motorcycle Parking</b>				<b>49</b>
<b>Disabled Parking</b>				<b>4% of total</b>

\* plus 1 in 10 visitor parking for apartments in Zone 3

**Table 3.5: Proposed Residential Car Parking Provision in context of Draft Development Plan Requirements.**

Table 3.5 above demonstrates that the proposed car parking provision does not comply with the standards relating to Zone 2 and 3 locations for the residential component of the scheme. Whilst we consider that the proposed car parking provision is supported by Section 12.4.5.2 of the Draft Development Plan, which provides for the deviation from the car parking standards (as addressed in further detail in Table 3.7 below), we identify the shortfall in car parking spaces as a material contravention of the Draft Development Plan.

### ***Non-Residential Car Parking Provision***

The proposed development provides the following car parking provision in respect of the residential component of the scheme. The table below compares the proposed provision with the Draft Development Plan car parking standards. As noted above, the car parking requirements for zone 2 and zone 3 locations are 'standards' and therefore are required to be met to comply with the Draft Plan.

<b>Proposed Unit Type/ Land Use</b>	<b>Size/ No. of Units</b>	<b>DLRCC Draft Development Plan Standards</b>	<b>DLRCC Draft Development Plan requirement</b>	<b>Proposed Car Parking Provision</b>
<b>Café</b> (<100 sq m)	78 sq m	Zone 2 – (None) Zone 3 – 1 per 30	0 (use located in Zone 2)	<b>0</b>
<b>Medical</b> <b>(3 no. consulting rooms)</b>	245 sq m	Zone 2 – 2 per consulting room Zone 3 – 2 per consulting room	6 (use located in Zone 3)	<b>6</b>



<b>Restaurant</b>	307 sq m	Zone 2 – 1 per 50 Zone 3 – 1 per 30	10.2 (use located in Zone 3)	<b>5</b>
<b>Retail (Blocks 03 and 07)</b>	1,112 sq m	Zone 2 – 1 per 40 Zone 3 – 1 per 30	37.1 (use located in Zone 3)	<b>19</b>
<b>Community</b>	1684 sq m	Zone 2 – 1 per 100 Zone 3 – 1 per 50	33.7 (use located in Zone 3)	<b>17</b>
<b>Creche</b>	463 sq m	Zone 2 – 1 per 60 Zone 3 – 1 per 40	7.7 (use located on edge of Zone 2) (or 11.6 (for zone 3)	<b>11 (comprises 5 no. staff spaces and 3 drop off)</b>
<b>Total Non-Residential Parking</b>	<b>3,889</b>		<b>94.7 (or 98.6)</b>	<b>58</b>
<b>Non-Residential Motorcycle Parking Disabled Parking</b>		4 per 100 spaces		<b>21</b> <b>4% of total</b>

**Table 3.6: Proposed Residential Car Parking Provision in context of Draft Development Plan Requirements.**

Table 3.6 above demonstrates that the proposed car parking provision does not comply with the standards relating to Zone 2 and 3 locations for the non-residential component of the scheme. Whilst we consider that the proposed car parking provision is supported by Section 12.4.5.2 of the Draft Development Plan, which provides for the deviation from the car parking standards (as addressed in further detail in Table 3.7 below), we identify the shortfall in car parking spaces as a material contravention of the Draft Development Plan. We note that the car parking provision for the medical centre complies with the Draft Development Plan.

In addition, we note that the proposed development includes a minimum of 1 fully equipped Electric Vehicle (EV) charging space per 5 spaces proposed. Provision will be made for all spaces to be EV compatible in the future. Furthermore, a total of 70 no. motorcycle spaces are proposed (5% of the number of residential units within the development, plus additional for the non-residential). Car share schemes and car club, such as Go Car, will also be provided. Both child and parent spaces and disabled parking provision will be provided at 4% of the total.

Whilst the proposed development does not comply in full with the numerical car parking standards set out in the aforementioned tables contained within the Draft Development Plan (wording of 12<sup>th</sup> Jan 2021), we refer back to the supporting text set out in Section 12.4.5.2 which provides a flexibility clause surrounding the provision of reduced car parking standards. In our view, the proposed development accords with the vast majority of the listed criteria and justifies the proposed reduced quantum of car parking. We address these criteria in full below.



Criteria for reduced car parking standards under Section 12.4.5.2 of the Draft Development Plan	Justification surrounding compliance of the proposed development.
Proximity to public transport services and level of service and interchange available.	<p>The subject site is located approx. 450m (less than 10 minute walk) from Luas Green Line Windy Arbour with services at 3 minute intervals during peak hours.</p> <p>It is also less than a 10-minute walk from Dublin Bus Routes on Dundrum Road with services at hourly intervals.</p>
Walking and cycling accessibility/permeability and any improvement to same.	<p>The provision of the proposed new cycle (and pedestrian) link through the proposed development provides a strategic new link that significantly augments the existing and planned cycle network in the area. It provides new connections for existing communities as well as the new planned community and will promote sustainable travel in the area. In addition, it links with the existing pedestrian/cycle crossing on Dundrum Road and provides access to low volume traffic routes to the north and south of the subject lands. This additional strategic link through the proposed development represents a significant contribution to the local mobility.</p> <p>Furthermore, with the implementation of the proposed internal infrastructure, the 15-minute walking catchment of the site would significantly increase to the east and south of the subject lands particularly. This very significant increase in catchment will further promote the use of walk and cycle modes for the new development and importantly benefits the existing community by providing shorter walk and cycle route.</p>
The need to safeguard investment in sustainable transport and encourage a modal shift.	<p>A <i>Mobility Management Plan (MMP)</i> prepared by ILTP is enclosed with this planning application. The MMP proposes special measures to enable modal shift towards sustainable travel modes. As part of this, we note that the applicant, the LDA, is committed to delivering a low carbon development with the emphasis on sustainable travel modes and reduced private car dependency in line with the strategic objectives of the National Planning Framework.</p>
Availability of car sharing and bike / e-bike sharing facilities.	<p>As set out above, the proposed development includes provision for Car Club and Travel Club.</p> <p>In terms of bicycle share facilities, the Applicant team have identified potential for future provision and will continue to explore it as an option.</p> <p>Such facilities are not proposed as part of the scheme at this stage due to the reliance on third party providers. As a public body the LDA are required to tender such service and are therefore precluded from obtaining commitment from providers at this early stage, prior to following proper procurement procedures.</p>
Existing availability of parking and its potential for dual use.	<p>The existing parking at the site is associated with the current use of the site as the Central Mental Hospital. All parking associated with the existing use, within the site boundary, will be discontinued as a result of the proposed development and will therefore no longer exist.</p>



	The proposed parking strategy does however provide for the dual use of delivery bays with the intention for them to be delivery bays during the day and residential parking at night.
Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).	<p>The internal street layout and the provision of cycle and pedestrian connectivity through the site will further promote sustainable travel patterns for both the existing and new community.</p> <p>The allocation of car parking is also proposed to prioritise the larger units to address potential greater need in respect of car ownership.</p>
The range of services available within the area.	The proposed development will include for a variety of local facilities, which means that many services will be available within the development and within a short walk of the new residential development proposed. This will reduce the need to travel and also encourage more people to use local facilities.
Impact on traffic safety and the amenities of the area.	Refer to the <i>Traffic and Transport Assessment (TTA)</i> , <i>DMURS Compatibility Statement, Stage 1 Quality Audit</i> and <i>Stage 1 Road Safety Audit</i> for full details in this regard. The relevant assessments conclude that the proposed development, from a traffic perspective, would not have an unacceptable adverse impact upon the receiving environment.
Capacity of the surrounding road network.	Refer to the <i>Traffic and Transport Assessment (TTA)</i> which concludes that the proposed development would not have a significant adverse impact on the surrounding area.
Urban design, regeneration and civic benefits including street vibrancy.”	The proposed development brings a currently insular site into active use, including a number of pedestrian and cyclist links that connect it to the surrounding residential areas. As a high security mental health facility, the site is currently inaccessible to the public and surrounded by a 4-5m high perimeter wall. As well as making a significant contribution to the delivery of housing in line with national policy objectives, the proposed development enhances the Dundrum Area from a placemaking and regeneration perspective. The proposed development will deliver significant civic benefits, including a significant quantum of public open space, community facilities, local facilities and high-quality housing which will contribute to the overall vibrancy and quality of Dundrum as a place to live. Furthermore, the proposal includes the removal of sections of perimeter wall at both Dundrum Road and adjacent to Rosemount Green to the south of the site. This is considered to greatly enhance the relationship between the subject lands and the surrounding public realm, providing increased permeability and resultant movement of people, an enhanced network of community facilities and spaces and increased active frontage and natural surveillance.

**Table 3.7: Applicant’s Response to Section 12.4.5.2 of the Draft Development Plan in respect of reduced car parking provision.**

Notwithstanding this, it is acknowledged that this assessment is subject to the opinion of the decision maker surrounding whether the site and development qualify for reduced standards, in the context of the design and locational criteria. On this basis, it is further acknowledged that there is the potential for the Board to reach a different conclusion surrounding compliance with the criteria.

On this basis, we highlight the proposed car parking provision, which falls below the numerical car parking standards set out in Table 12.6 of the Draft Development Plan (as per the 12<sup>th</sup>



January 2021 Draft Plan wording) as a material contravention. We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

## 2.7.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is referred to in Section 2.1 of this Statement.

It is also our view that this material contravention can be further justified under Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)* on the basis that the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') are Section 28 guidelines which supersede Development Plan policies, where in conflict with these guidelines.

Section 4.18 'Car Parking' of the Apartment Guidelines states:

*"The quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria."*

In terms of the proximity and accessibility criteria referred to above, the following locational categories are provided and reflect those detailed in respect of density: Central and/or Accessible Urban Locations; Intermediate Urban Locations; and Peripheral and/or Less Accessible Urban Locations.

As set out in detail in respect of residential density considerations, we demonstrate that the subject site is a Central and/or Accessible Urban Location (see full justification Section 2.3.2 of this Supplementary Statement). For such locations, the Apartment Guidelines state:

*"In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, **the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.** The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.*

*These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services."* (Section 4.19 – 4.20)

The proposed development is a large scale, higher density development as demonstrated within earlier sections of this Statement, and within the assessment undertaken in the *Statement of Consistency*. As further demonstrated throughout the submission and within



Section 2.3.2 of this Supplementary Statement, in our view, the subject site constitutes a Central and/or Accessible Urban Location.

To accord with the Apartment Guidelines in respect of such locations, the policy requirement is for “car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances”. It is our view that the proposed development complies with the Guidelines in this respect.

We note Sections 4.23 to 4.26 of the Apartment Guidelines also provide further requirements applicable to proposed development with reduced car parking. This includes the following:

*“For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided.*

*As well as showing that a site is sufficiently well located in relation to employment, amenities and services, it is important that access to a car sharing club or other non-car based modes of transport are available and/or can be provided to meet the needs of residents, whether as part of the proposed development, or otherwise. ‘Car free’ development is permissible and if developed, must be fully communicated as part of subsequent apartment sales and marketing processes.*

*Where any underground car parking is proposed, such facilities must be well lit and adequately ventilated. Where surface parking is provided, it should be clearly accessible to the entrance to, and where appropriate, overlooked by, the units it serves. Car parking may be provided on-street at the edge(s) of a development site in some locations.*

*Decked or multi-storey car parking may also be considered, but should not be compromise the quality of amenity space, building design or streetscape. At least one principal façade of multi-storey car parks should be fronted by development, for example a south-facing elevation and such structures may also provide an opportunity for rooftop amenity space. In all cases, designated parking spaces for disabled drivers should be provided.”*

We confirm that the characteristics of the proposed development enables car parking provision to be reduced at the subject site. As part of this, we also confirm compliance with the above, having regard to the key points below:

- As previously demonstrated, the subject lands are located in close proximity to a number of significant employment locations, including Dundrum Town Centre (c.1,600 m); Dundrum Business Park (c.210 m) to the north of the site; and a number of schools.



- The proposed development provides 3 no. drop off bays associated with the crèche, 2 no. flexible loading (service) bays, 60 no. visitor spaces and 4% of the total car parking provision will be accessible spaces suitable for disabled users (in line with the Draft Development Plan).
- The application submission is supported by a detailed *Mobility Management Plan* (MMP), prepared by ILTP, which provides support measures to promote sustainable travel and a modal shift away from car dependency.
- The proposed development provides for a car sharing scheme, with 15 EV cars available for general public use, including the residents of the scheme.
- The majority of the car parking is provided by way of podium parking, whereby, alike underground parking, the parking is integrated within the building. It is confirmed that the car parks will be well-lit in line with Part M regulations. In terms of ventilation, we also confirm that the podium car parks are designed to meet the ventilation requirements set out in relevant Technical Guidance documents and associated Standards. Where natural ventilation is being provided, a minimum aggregate free area not less than 2.5% of its floor area will be provided on opposing elevations. All mechanical extract systems will achieve a minimum of 10 air changes per hour.
- A number of spaces are provided at surface level specifically at Block 02, Block 06 and Blocks 08 and 09; these spaces are well-lit as demonstrated by the proposed public lighting scheme and are overlooked by the residential units within those blocks. Furthermore, the spaces are directly adjacent to entrance doors and therefore easily accessed by the users.

We therefore conclude that the proposed development complies in full with the Apartment Guidelines in respect of car parking provision. On the basis that the Guidelines take precedence over any conflicting development plan policies or standards, we contend that the proposed development is acceptable in this regard. We further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.

## 2.8 PRIVATE OPEN SPACE FOR HOUSES

Section 12.8.3.3(i) 'Private Open Space for Houses' of the Draft Development Plan refers to the private open space requirement for houses. It sets out the following standards:

- 3 bedroom houses to have a minimum of 60 sq m;
- 4 bedroom (or more) houses to have a minimum of 75 sq m;
- Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it is useable, good quality space. Narrow strips of open space to side of dwellings shall not be included within any of the above calculations.

It further states that in instances where an innovative design response is provided on site, a relaxation in the quantum of private open space may be considered on a case-by-case basis.

### 2.8.1 Detail of Material Contravention

The proposed development includes 20 no. houses with private rear gardens which have been broadly designed in line with the standards set out in Section 12.8.3.3(i). It is however noted that a number of the gardens do not comply with the above minimum standards.

Proposed Houses	House No.	DLRCC Minimum Standard	Proposed Garden Size (sq m)
3 bed	Block 02 – B2-H1	60 sq m	125
	Block 02 - B2-H2		70.2
	Block 02 - B2-H3		77.4
	Block 02 - B2-H4		85.8
	Block 02 - B2-H5		66.8
	Block 02 - B2-H6		57.8
	Block 02 - B2-H7		113.9
4 bed	Block 09 – B9-H1	75 sq m	66.7
	Block 09 – B9-H2		66.5
	Block 09 – B9-H3		66.4
	Block 09 – B9-H4		66.4
	Block 09 – B9-H5		66.4
	Block 09 – B9-H6		75.4
	Block 08 – B8-H1		69.2
	Block 08 – B8-H2		97.9
	Block 08 – B8-H3		92.8
	Block 08 – B8-H4		85.1
	Block 08 – B8-H5		90.5
	Block 08 – B8-H6		75.6
	Block 08 – B8-H7		70.9

Table 3.8: Comparison between proposed garden sizes for the houses within the scheme and the Draft Development Plan requirement.



We provide detailed justification for this material contravention below which sets out why An Bord Pleanála can grant planning permission for the proposed development.

### 2.8.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to this, we note that the standard of residential accommodation proposed by the scheme is of a high quality, providing residents with excellent standard of residential amenity, including excellent levels of daylight and open space. With specific regard to the proposed houses, notwithstanding the shortfall of rear gardens in the context of the Development Plan numeric standards, we highlight their full compliance with the *Quality Housing for Sustainable Communities Guidelines (2007)* which provides the national guidelines in respect of house design, including the design and quality of rear gardens. This is further detailed in the *Housing Quality Assessment (HQA)* prepared by Reddy A + U. We further note the overall quantity and quality of open space provided across the site and consider this to compensate the minor shortfalls in private rear garden size.

In summary, we confirm that the proposed development complies in full with the *Quality Housing for Sustainable Communities Guidelines (2007)* in respect of overall standard of accommodation and quality of private open space and delivers on the objectives of national planning policy surrounding compact growth and higher density development. Therefore, we further conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.9 SEPARATION DISTANCES FOR HOUSES

Section 12.8.7.1 'Separation distances' of the Draft Development Plan refers to separation distances in respect of housing. We have confirmed that a material contravention occurs in respect of separation distances between apartment blocks in Section 2.5 of this Supplementary Statement. We therefore consider Section 12.8.7.1 in the context of the houses proposed in this section.

The Draft Development Plan sets out the following requirement:

*"A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments. This normally results in a minimum rear garden depth of 11 metres. However, this required rear garden depth may be prior to any domestic rear extensions, which may require planning permission or be exempted development being carried out. Adequate separation distances, between directly opposing rear first floor windows, should be provided when extending existing dwellings at first floor level, to ensure the retention of adjoining residential amenity. For single storey dwellings, a reduction in the rear garden depth may be considered, subject to the protection of adjoining residential amenity.*

*However, where sufficient alternative private open space (e.g. to the side) is available, the required separation distance for new developments may be reduced, subject to the maintenance of privacy and protection of adjoining residential amenities.*

*In all instances, private open space should not be unduly overshadowed and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum separation distances to boundaries should be increased.*

*In an exceptionally well-designed scheme providing an otherwise very high-quality living environment and that is in close proximity to existing public open spaces, the above standards may be relaxed.*

*Any relaxing of standards will be assessed on a case by-case basis and should not be seen as setting a precedent for future development."*

### 2.9.1 Detail of Material Contravention

The proposed design strategy has sought to maximise separation distances between opposing windows to ensure a high standard of residential accommodation within the scheme and also mitigate adverse impact upon neighbouring development.

There are however a small number of instances where the separation distances between opposing windows associated with the proposed houses, both within and outside of the development, fall below 22 metres.

Although the proposed development is considered to be acceptable in this regard (for the reasons expanded upon below), we identify the separation distances between opposing

windows across the scheme (see Figure 3.6) which fall below 22 metres as a material contravention of the Draft Development Plan.

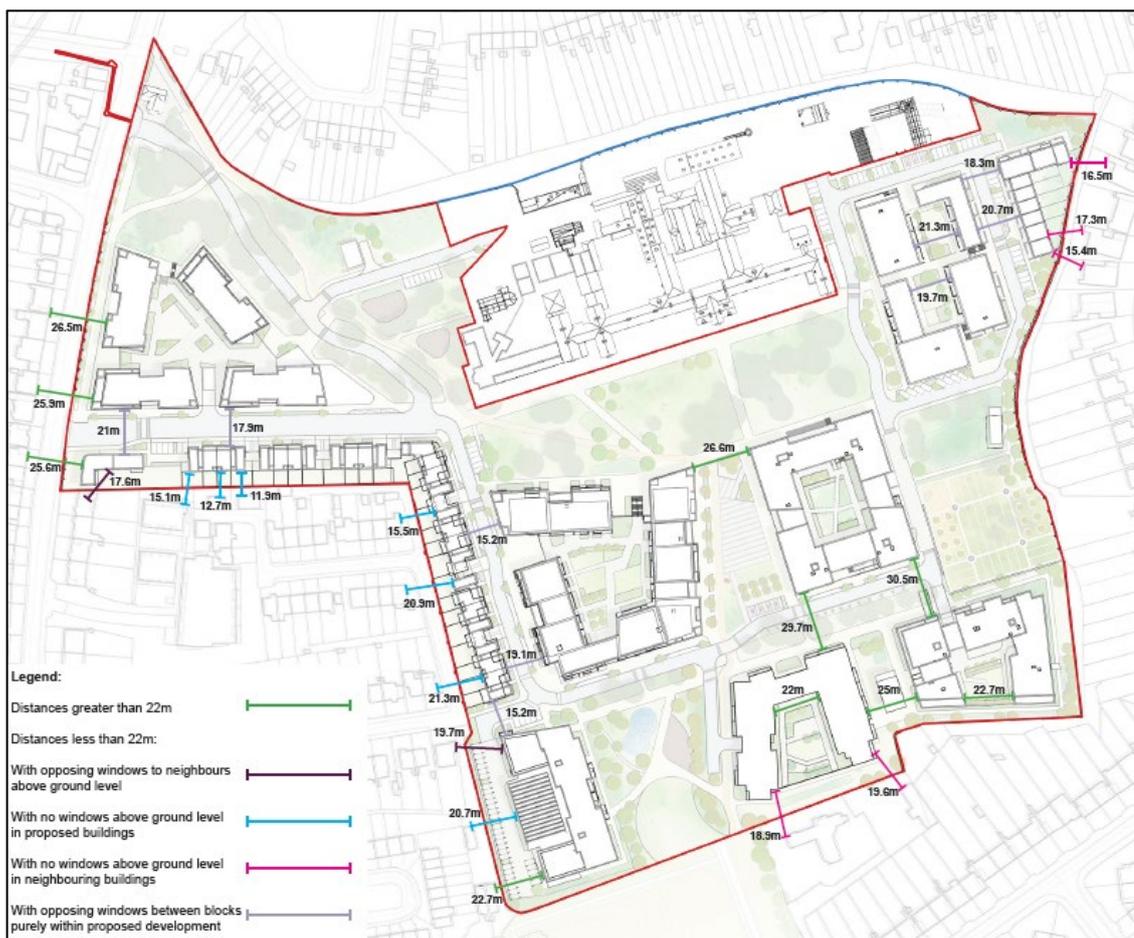


Figure 3.6: Illustrative site layout plan showing separation distances between the proposed buildings within the development and in respect of neighbouring buildings.

## 2.9.2 Justification for Material Contravention

In our view, this material contravention can be justified under [Section 37\(2\)\(b\)\(i\)](#) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Further to the above, it is also our view that this material contravention can be justified under [Section 37\(2\)\(b\)\(iv\)](#) of the *Planning and Development Act, 2000 (as amended)*, having regard to the pattern of development and permissions granted in respect of other lands in the surrounding area.

Whilst this is identified as a material contravention, we confirm that despite the reduced separation distances, the design strategy, which includes staggered windows and indirect views, ensures that the proposed development does not give rise to unacceptable impact upon the proposed standard of accommodation or surrounding neighbouring amenity.



In summary, the proposed development which presents reduced separation distances in some places delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high quality environment for both future residents and neighbours. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i), (iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.

## 2.10 NUMBER OF APARTMENT UNITS PER CORE PER FLOOR

Section 12.3.5.6 of the Draft Development Plan notes that “a maximum of 12 apartments per floor per core may be provided in apartment schemes”. We have confirmed that a material contravention occurs in respect of this requirement; there are instances in Block 05, as referred to in the *Housing Quality Assessment*, where the number of units per core exceeds 12 (13 no. unit per core in total).

We note that Section 12.3.5.6 also requires ground level apartment floor to ceiling heights to be a minimum of 2.7m. On this basis, we confirm full compliance with this requirement.

### 2.10.1 Detail of Material Contravention

In terms of the number of apartments per floor, per core, the scheme generally complies with this requirement. There are instances in Block 05, as referred to in the *Housing Quality Assessment*, where the number of units per core exceeds 12 (13 no. unit per core in total) (as illustrated on Figure 3.7 below). In this instance, the floors are served by two lifts and a staircase which provides for ample circulation and escape opportunities. Notwithstanding this, due to the minor shortfall in this regard, non-compliance with Section 12.3.5.6 is identified as a material contravention.



Figure 3.7: Extract from Block 05, Second Floor, GA Plan Dwg. No. DCD-RAU-02-B05\_02-DR-A-1502 showing 13 units per core.



### 2.10.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Whilst this is identified as a material contravention, we confirm that despite the additional unit per floor, per core, we confirm that the proposed development provides an excellent standard of residential accommodation for future occupiers. Further to this, we confirm that the floors with 13 units per core are served by two lifts and a staircase which provides for ample circulation and escape opportunities.

In summary, the proposed development which provides an additional unit per core per floor at Block 05 delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing a high quality environment for both future residents and neighbours. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



## 2.11 LOADING BAYS

Section 12.4.5.7 requires the following (inclusive of additional wording added as a Proposed Amendment to Draft Development Plan):

*“In general, parking bays shall be a minimum 2.4 metres in width and 4.8 metres in length - with increased dimensions required for short-stay retail parking spaces and loading/set down parking areas. The configuration whereby double parking bays are placed length to length is discouraged. Carparking dimensions for in curtilage parking is set out in Section 12.4.8.1 (5.5 metres x 3 metres minimum). Parking bay widths suitable for people with disabilities shall be a minimum of 2.4 metres wide – with a 1.2 metres buffer on both sides - and 6.0 metres in depth.*

*Parking bay widths suitable for parent and child parking shall be a minimum of 3.3 metres wide, or 5.7 metres if paired with 0.9 metres hatching between the parking spaces.*

*Parking bays for people with disabilities or parent and child shall be located on firm, level ground, preferably at ground floor level, be in close proximity to access points/lifts and avoid potential conflict points such as ramps, steps etc. All parking bays should be in accordance with Part M of the Building Regulations. The location of disability or parent and child parking bays should be highlighted as part of pre-planning discussions.*

*Where there is a need for loading and unloading in a development, additional parking bays suitable for loading should be provided in addition to the parking requirements set out in Table 12.6.*

***Residential developments of more than 50 units should have at least one loading bay and there shall be a ratio of not less than 1 loading bay per 100 units in larger developments. Loading bays shall be situated so as to minimise traffic hazard, reduce distance to carry goods and encourage its use for home deliveries. This standard may be relaxed if the planning authority consider it is appropriate based on the location and the nature/design of both the street and the residential development.”***

### 2.11.1 Detail of Material Contravention

In terms of loading bays, the proposed development provides 2 no. flexible loading bays. We note that this falls short of the above policy requirement to provide 1 no. loading bay per 100 units in large developments, which would result in a requirement 10 no. loading bays.

Whilst, in our opinion, the design of the street layout and provision of ample visitor car parking spaces would facilitate home deliveries without the provision of further loading bays, we highlight this as a material contravention of the Draft Development Plan.

We confirm compliance with the measurements and dimensions in respect of car parking and loading bays referred to above.



### 2.10.2 Justification for Material Contravention

In our view, this material contravention can be justified under Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*. The explanation for this is set out in Section 2.1 of this Statement.

Whilst this is identified as a material contravention, we confirm that despite the fact that a reduced number of loading bays are proposed, the design of the street layout and provision of ample visitor car parking spaces would facilitate home deliveries without the provision of further loading bays

In summary, the proposed development which provides a reduced number of loading bays delivers on the objectives of national planning policy surrounding compact growth and higher density development, whilst providing for sustainable mobility, including reduced reliance on car use. We therefore conclude that An Bord Pleanála can grant planning permission having regard to Section 37(2)(b)(i) and (iii) of the *Planning and Development Act, 2000 (as amended)*.



### 3.0 CONCLUSION

Having regard to the above, it is submitted that there is ample justification for An Bord Pleanála to permit the identified material contraventions of the Draft *Dún Laoghaire-Rathdown Development Plan 2022 – 2028* having regard to Section 37(2)(b)(i),(iii) and (iv) of the *Planning and Development Act, 2000 (as amended)*.

The proposed development will provide a significant and strategically important residential development, comprising 977 no. new homes. As well as responding to acute housing need, the proposed development will provide approximately 3.05 ha of public open space which has been carefully designed to serve both the new and existing communities as well as maintaining the open character and important landscape features, unique to these former Institutional lands.

The redevelopment of the Central Mental Hospital lands by the LDA directly delivers legislative provisions and national and regional planning policy objectives surrounding the delivery of housing. It complies with the overarching themes of the National Planning Framework by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The proposed development is also considered to align with the pattern of development in the surrounding area.

The proposed development accords with the relevant National Planning Objectives in addition to a full suite of national and regional policy and guidelines, as summarised below.

- *National Planning Framework (Ireland 2040 – Our Plan) (2018)*
- *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) – Guidelines for Planning Authorities (2009)*
- *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*
- *Urban Development and Building Height Guidelines (2018)*
- *Regional Spatial & Economic Strategy for The Eastern and Midlands Region (2019)*

On this basis, we conclude that the Board can grant planning permission for the proposed development in respect of the various items discussed throughout, having regard to Section 37(2)(b)(i),(ii),(iii) and (iv) below:

Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)* states:

*“(2) (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, (our emphasis), 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.”*