



## Material Contravention Statement

Proposed Strategic Housing Development (SHD)

Units 64 & 65, Cherry Orchard Industrial Estate, Palmerstown, Dublin  
10

**AAI Palmerstown Limited**

December 2021

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**Connecting places.**



# Contents

<b>01.</b>	<b>Introduction</b>	<b>1</b>
1.1	Purpose of Statement	1
1.2	Development Description	1
1.3	Specific Zoning Objective	2
1.4	Potential Contraventions of Existing County Development Plan and / or Local Area Plan	3
<b>02.</b>	<b>Policy Background</b>	<b>5</b>
	Local Policy	5
2.1	South Dublin County Development Plan 2016 - 2022	5
	National Policy	6
2.2	Project Ireland 2040: National Planning Framework	6
2.3	Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020)	7
2.4	Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)	7
<b>03.</b>	<b>Possible Material Contravention</b>	<b>10</b>
3.1	Provisions in the Act	10
3.2	Justification for the Proposed Development	10
3.3	Application of Section 37 (2)(B) Considerations to the Proposed Development	12
<b>04.</b>	<b>Conclusion</b>	<b>14</b>

# 01. Introduction

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## 1.1 Purpose of Statement

HW Planning have been appointed by AAI Palmerstown Limited to prepare this statement to address potential development matters associated with the proposed Strategic Housing Development at Units 64 & 65, Cherry Orchard Industrial Estate, Palmerstown, Dublin 10 that may be considered to material contravene the South Dublin County Development Plan 2016 - 2022.

Section 8(1)(iv)(II) of the Act of 2016 specifies that where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2) (b) of the Act of 2000. This statement addresses the possibility that the proposed development could be deemed by An Bord Pleanála to represent a material contravention of some of the policies and objectives contained in the South Dublin County Development Plan 2016 - 2022.

Ultimately it is a matter for An Bord Pleanála to determine whether the proposed development does in fact materially contravene the relevant Development Plan / Town Plan. However, for the purposes of this planning application, the applicant has identified the aspects of the proposed development that may be considered a material contravention.

## 1.2 Development Description

The proposed development of a Strategic Housing Development (SHD) which will consist of the demolition of an existing warehouse / factory building and the construction of a residential development of 144 no. apartments with supporting tenant amenity facilities (gym and activity areas, lounges and meeting room), employment uses including 2 no. incubator units and a remote working space, building management facilities and all ancillary site development works. The proposed development includes 72 no. 1-bedroom apartment and 72 no. 2-bedroom apartments to be provided as follows: Building A (35 no. 1-bedroom & 24 no. 2-bedroom over 5-9 storeys), Building B (7 no. 1-bedroom & 10 no. 2-bedroom over 3-4-storeys), Building C (16 no. 1-bedroom, 19 no. 2-bedroom over 5-storeys), Building D (14 no. 1-bedroom & 19 no. 2-bedroom over 4-5-storeys). Vehicular access to the proposed development will be provided via an entrance from the existing estate road as accessed from Kennelsfort Road Upper.

The proposal includes improvement works on the northern side of the junction at the estate road/Kennelsfort Road Upper, new pedestrian/cycle paths on the estate road to the south of the site, and provision of a controlled pedestrian crossing on Kennelsfort Road Upper to the west as part of enabling infrastructure. The proposed development provides for outdoor amenity areas, landscaping, external podium lift, under-podium and street car parking, bicycle parking, bin stores, ESB substation, public lighting, roof mounted solar panels and all ancillary site development works.

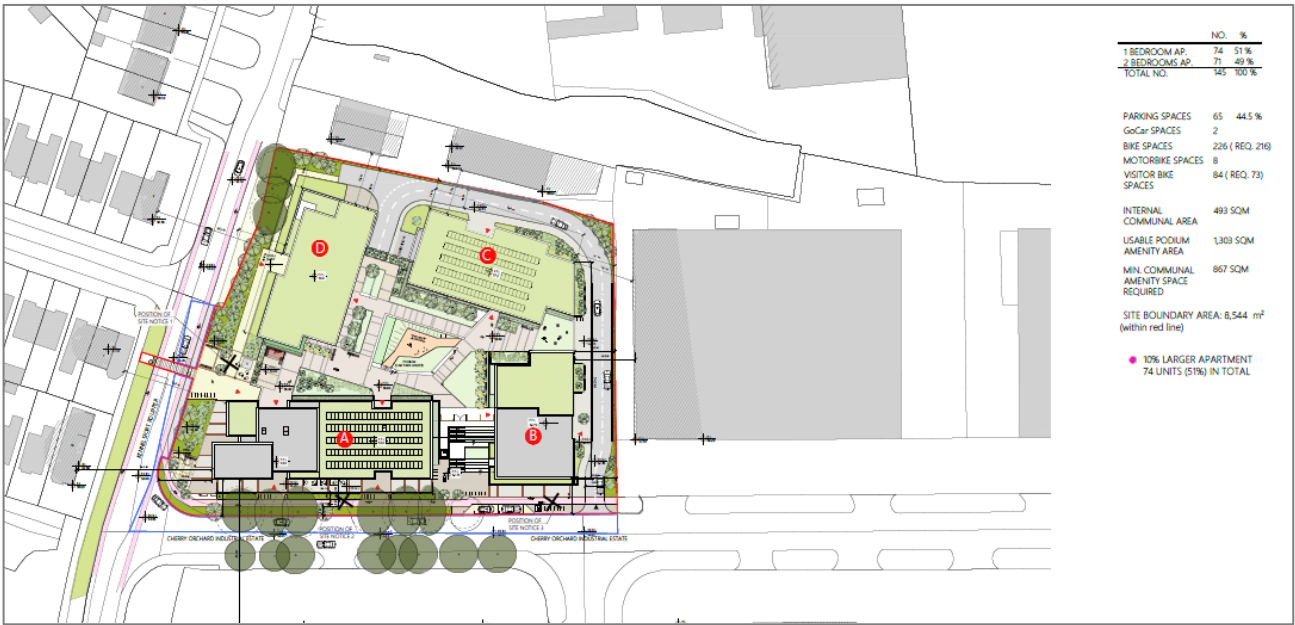


Figure 1.1 Site Layout Plan with Key figures of proposed development

### 1.3 Specific Zoning Objective

The subject site is zoned REGEN in accordance with Core Strategy Policy 1 Objective 2 of the South Dublin County Development Plan 2016 (as varied) (SCCDP) - to promote and support the regeneration of underutilised industrial areas (to facilitate enterprise and/or residential led development). The subject lands are also identified as a housing capacity site in Section 1.6.4 of the Development Plan.

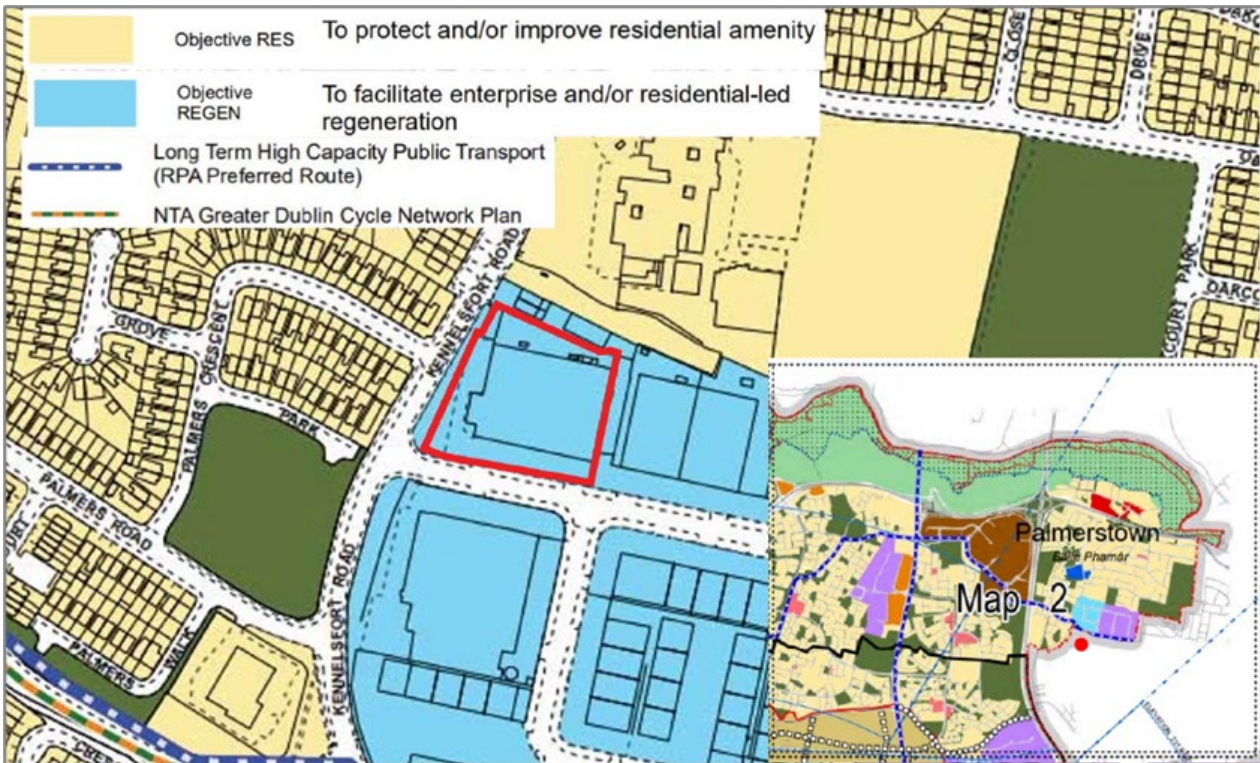


Figure 1.1 Zoning Objective for the subject lands – South Dublin County Council Development Plan 2016

Section 1.8.0 of the Development Plan establishes phasing priorities for the delivery of development commensurate with infrastructure. In relation to REGEN lands, it states the following:

*'4) Underutilised industrial lands that are close to town centres and transport nodes are designated with Zoning Objective Regeneration 'REGEN' (to facilitate enterprise and/or residential led regeneration). These lands are serviced and offer significant potential for more intensive employment and/or residential development and associated uses. The transition from underutilised industrial areas is likely to occur on an incremental basis and may need to be supported by an economic regeneration strategy. It is envisaged that not more than 50% of these areas will come forward for housing during the period 2016-2022'.*

#### 1.4 Potential Contraventions of Existing County Development Plan and / or Local Area Plan

- The SDCCDP Housing Policy 9 - Objective 3 establishes that a gradual change in building heights should be incorporated where new residential development is to be located in close proximity to existing one and two storey housing. The policy cross references supporting text under Section 11.2.7 of the plan which states that new residential development that adjoins existing one and/or two-storey housing, shall be no more than two storeys in height, unless a separation distance of 35m or greater is achieved. It also states that the appropriate maximum or minimum height of any building will be determined by inter alia the prevailing building height in the surrounding area. There is a change in height from 9 storeys to 2 storeys between Building A and Palmers Park. The separation distances between the proposed development and existing housing to the west range between 26.7m and 34.1m, and do not meet this requirement in the strictest sense.
- The SDCCDP Housing Policy 9 - Objective 4 requires tall buildings that exceed five storeys in height to be directed to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme. The subject site does not fall within these categories.
- The SDCCDP Housing Policy 10 - Objective 1 provides generally that new residential developments should cater for a wide variety of housing types, sizes and tenures in line with the Interim South Dublin County Council Housing Strategy 2016-2022. This strategy has a specific requirement for a minimum of 30% 3-bedroom units to be provided in residential schemes. The proposed scheme provides for 1 and 2-bedroom units only.

In the interest of clarity we ask the Board to note that we consider the following items do not contravene the SDCCDP:

- Section 11.4.3 of the SDCCDP stipulates that 'Basement car parks that protrude above the ground level as a street interface will generally not be acceptable in town and village centres due to their visually obtrusive and inactive nature. A protrusion of up to 1.2m may be acceptable in residential areas provided the facade is screened with planting and it does not inhibit levels of passive surveillance from residences or the formation of 'own door'. We ask to Board to note that the parking provision in the proposed scheme is under-podium level and not at basement level. Nonetheless podium edges have been designed to ensure that more active, non-residential uses address the street and landscaped to ensure they are not visually obtrusive.
- In addition, Policy C8 (b) of the SDCCDP Policy C8 (b) states it is the policy of the Council to require the provision of new childcare facilities in tandem with the delivery of new

communities. As noted in the accompanying Childcare Statement, having regard to the 2020 Apartment Guidelines, it is considered that the 72 no. 2-bedroom apartments falls below the 75-unit threshold that would typically trigger the requirement for a 20 no. child place creche.

- Furthermore, we note item 3 in the ABP Opinion, relating to the potential for a material contravention arising from any deviation from deviations from public open space policy. As noted in Section 00 of the Landscape Design Strategy Strategy, we consider the open space provision is in line with the quantum, quality, functionality and usability requirements as set out in SDCCDP policy.



# 02. Policy Background

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## Local Policy

### 2.1 South Dublin County Development Plan 2016 - 2022

#### Housing (H) Residential Building Heights

It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.

##### H9 Objective 1:

- To encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity

##### H9 Objective 2:

- To ensure that higher buildings in established areas respect the surrounding context.

##### H9 Objective 3:

- To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Height).

##### H9 Objective 4:

- To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme.

##### H10 Objective 1:

- To ensure that new residential developments provide for a wide variety of housing types, sizes and tenures in line with the Interim South Dublin County Council Housing Strategy 2016-2022.

##### UC6 Objective 1:

- To encourage varied building heights in town, district, village, local and regeneration areas to support compact urban form, sense of place, urban legibility and visual diversity while maintaining a general restriction on the development of tall buildings adjacent to two-storey housing.

##### UC6 Objective 3:

- To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centre, Regeneration and Strategic Development Zones, and subject to an approved Local Area Plan or Planning Scheme.

### 11.2.7 Building Height

Varied building heights are supported across residential areas, urban centres and regeneration zones in South Dublin County, subject to appropriate safeguards to protect the amenity of the area.

Development proposals that include 'higher buildings' that are greater than the prevailing building height in the area should be supported by a strong urban design rationale (as part of a Design Statement) and provide an appropriate series of measures that promote the transition to a higher building.

Proposals for higher buildings of over three storeys in residential areas should be accompanied by a site analysis (including character appraisal) and statement that addresses the impact of the development (see also Section 11.2.1 – Design Statements).

The appropriate maximum or minimum height of any building will be determined by:

- The prevailing building height in the surrounding area.
- The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.
- The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.
- The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.

Proposals for 'tall buildings', that exceed five storeys will only be considered at areas of strategic planning importance such as key nodes, along the main street network and along principal open spaces in Town Centres, Regeneration zones and Strategic Development Zones, and subject to an approved Local Area Plan or Planning Scheme.

## National Policy

The key National Policies of relevance to the proposed development are considered to be

- Project Ireland 2040: National Planning Framework.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments (2018 & 2020); and.
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

### 2.2 Project Ireland 2040: National Planning Framework

One of the principal goals of the NPF is to deliver compact growth through the activation of strategic areas and achieving effective density and consolidation. Promoting the compact growth approach rather than a continued sprawl of urban development, is listed as the Framework's top priority and will be achieved by future developments complying with the following National policy Objectives

National Policy Objective 4 - Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 3A- Deliver at least 40% of all new homes nationally, within the built up footprints of existing settlements.

National Policy Objective 11

*In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*

National Policy Objective 13

*In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.*

National Policy Objective 35

*Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

## 2.3 Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020)

The Guidelines contain various Specific Planning Policy Requirements and objectives that apply to the proposed development. These include:

Specific Planning Policy Requirement 1

*Housing 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).*

The Guidelines also state the following in respect of the application of blanket height and separation distances policies:

*In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location of the site where it can be demonstrated that residential amenity and adequate light is not compromised'*

## 2.4 Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)

The Guidelines introduced Special Planning Policy Requirements (SPPRs) which were broader in focus than those contained in the *Sustainable Urban Housing: Design Standards for New Apartments (2018)*.

- SPR1 - In accordance with Government policy to support increased building height in locations with good public transport accessibility, particularly town/City cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.
- SPR3 - It is a specific planning policy requirement that where:
  - » 1. an applicant for planning permission sets out how a development proposal complies with the criteria below; 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.

### Development Management Criteria

In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the following criteria:

- At the scale of the relevant city/town
  - » The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
  - » 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.
  - » On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing 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.
- At the scale of district/ neighbourhood/ street The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape:
  - » The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered.
  - » 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).

- » The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.
- » The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.
- At the scale of the site/building
  - » 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.
  - » 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’.
  - » 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.
- Specific Assessments
  - » To support proposals at some or all of these scales, specific assessments may be required, and these may include: Specific impact assessment of the micro-climatic effects such as down-draft. 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.
  - » 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.
  - » An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links. An assessment that the proposal maintains safe air navigation.
  - » Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.

# 03. Possible Material Contravention

## 3.1 Provisions in the Act

In accordance with Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board may grant permission for a proposed strategic housing development that materially contravenes the Development Plan or Local Area Plan, other than in relation to zoning. Section 9(6)(a) states:

*“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.”*

Section 9(6)(c) of the 2016 Act, states that the Board may only grant permission for a development that materially contravenes a Development Plan (other than in relation to the zoning of the land) where it considers that, if section 37(2)(b) of the Planning & Development Act of 2000 were to apply, it would grant permission for the proposed development.”

Section 37(2)(b) of the Planning Act, 2000, states that where a proposed development materially contravenes the Development Plan, the Board may grant permission where it considers that:

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

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

*(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,*

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

## 3.2 Justification for the Proposed Development

The policies and objectives of the South Dublin County Development Plan which the proposed development may contravene are outlined below followed by an interpretation of how Section 37(2)(b) considerations apply to this case.

### Height

The proposed development includes elements of increased height that exceed five storeys and is therefore of a height that the SDCCDP Housing Policy 9 - Objective 4 states should be directed to ‘Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme’. While the subject site does not fall within these

classifications we consider the proposed height is appropriate in the context of two separate Section 37(2)(b) criteria:

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

*(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,*

In relation to criteria 37(2)(b)(ii) we note the inclusion of regeneration zones in the areas considered appropriate for tall buildings UC6 Objective 3:

*To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centre, Regeneration and Strategic Development Zones, and subject to an approved Local Area Plan or Planning Scheme.*

Therefore, we consider the proposed increased height is supported by UC6 Objective 3.

We consider however, that criteria 37(2)(b)(iii) applies in that we consider the proposed increased height is in compliance with the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and meets the criteria set out in SPR3. Details of this are set out in the enclosed planning Statement and statement of consistency prepared by HW Planning. The South Dublin County Council's Opinion (dated 09/07/2021) supports this view and states that:

*'the applicant may be able to satisfactorily meet the criteria set out in the Guidelines and SPPR 3 for the level of increased building height proposed. It is recognised that an increase in regeneration areas, particularly a site such as this, on the edge, is reasonable having regard to SPPR 3, the associated criteria and noting the sustainable location'.*

The County Development Plan pre-dates the Section 28 Ministerial Guidance document - the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018). These Guidelines contain unequivocal support for increased heights and compact developments, particularly in accessible urban areas. The application includes detailed assessment of how the proposed development complies in full with Section 3 criteria for increased building heights as contained in the Urban Development and Building Heights Guidelines for Planning Authorities 2018.

## Separation Distance

With separation distances between the proposed development and existing housing to the west ranging between 26.7m and 34.1m, the proposed scheme does not meet the prescriptive requirement set out in the supporting text related to SDCCDP Housing Policy 9 - Objective 3 requiring a separation distance of 35m or greater in a new residential developments more than two storeys in height immediately adjoining existing one and two storey housing. However, we note that Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020) advocates greater flexibility and a move away from rigid blanket standards:

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*2.23 The National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. In particular, general*

*blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.*

*2.24 While it would not be appropriate for these Guidelines to indicate performance criteria for building height or building separation distance relative to location, it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities. This is subject to separate guidance to planning authorities with regard Urban Development and Building Heights, issued in December 2018.*

Again, the County Development Plan pre-dates the Section 28 Ministerial Guidance document. These Guidelines contain unequivocal support for flexible interpretation of separation distance standards in order to achieve increased apartment development. We consider that criteria 37(2)(b)(iii) applies in this instance. The proposed development has been subject to detailed performance criteria assessment having regard to its proximity to existing adjoining properties which includes, inter alia, focused studies on daylight, sunlight, townscape and visual impact assessment.

## Housing Mix

The scheme that was presented at the Tripartite meeting was originally conceived as a Built to Rent scheme. However, following feedback from the Council, the proposed scheme has evolved to a Built to Sell proposal. While there were previously no restrictions on the proposed housing mix, in line with SPR8 of the Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020), as a Built to Sell development the scheme has been revised in accordance with SPPR1. This specifies that up to 50% of the scheme may comprise 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.

The scheme now comprises 50% one-bedroom and 50% two bedroom units in full compliance with this policy. While this is not in line with the SDCCDP Housing Policy 10 - Objective 1 which refers to the Interim South Dublin County Council Housing Strategy 2016-2022, which has a specific requirement for a minimum of 30% 3-bedroom units to be provided in residential schemes, it is considered that as this mix is appropriate based on Ministerial Guidelines. It will be accommodated across a range of different apartment formats and will provide for a diverse choice of unit type. It also provides an alternative to the predominantly 2 & 3 and 4 bedroom semi-detached typology dwellings provided locally. In this respect we consider the contravention is in line with criteria 37(2)(b)(iii) as the proposed mix complies with the Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020).

### 3.3 Application of Section 37 (2)(B) Considerations to the Proposed Development

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, provides the Board with the ability to grant permission for a proposed strategic housing development that materially contravenes the Development Plan or Local Area Plan, other than in relation to land use zoning. As demonstrated in the accompanying Statement of Consistency the proposed development is consistent with the zoning objective for the site in that it provides for a residential development with supporting employment use and makes provision for improvements to the local road network, which have been agreed with South Dublin County Council.

Section 9(6)(c) of the 2016 Act, states that the Board may only grant permission for a development that materially contravenes a Development Plan where it considers that, if Section



37(2)(b) of the Planning & Development Act of 2000 were to apply, it would grant permission for the proposed development. Section 37(2)(b)(ii) and (iii) of the Planning Act, 2000, provides the Board with the ability to grant permission for a proposed development, which materially contravenes the Development Plan, where the Board considers that:

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

*(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,*

The proposed development is considered to be consistent with current Government policy for the sustainable delivery of housing to meet population growth projections, as articulated in NPF and RSES objectives for the Eastern and Midlands Region. The proposed development is consistent with National Policy Objectives 3(a), 4, 11 and 35, which prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location and increased densities in settlements.

The proposed development is consistent with relevant Ministerial Guidelines issued in accordance with Section 28 of the Planning and Development Act, 2000 and which are

- Sustainable Urban Housing: Design Standards for New Apartments (2018 & 2020); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

The proposed development is in accordance with SPR1 and SPPR 3 of Urban Development and Building Heights Guidelines for Planning Authorities (December 2018), which specify that it is Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city core, and that planning authority may approve such development, even where specific objectives of the relevant development may indicate otherwise when the assessment criteria are met, such as in the present case.

Furthermore, the relaxation of the County Development Plan building design standards in terms of separation distances are in line with the Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020) which specifically advocates '*a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcome*'. We consider the proposed scheme would result in a high quality outcome and this relaxation in relation to the 35m separation distance is justified in design term.

The relaxation of the housing mix objective for a minimum of 30% 3-bedroom units to be provided in residential schemes, as contained in the Interim South Dublin County Council Housing Strategy 2016-2022, is considered appropriate in view SPPR1 of the Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020). This specifies that up to 50% of the scheme may comprise 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. The proposed scheme complies fully with this requirement.

## 04. Conclusion

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On the basis of the reasons and considerations set out in the report above, we consider that sufficient justification is available for An Bord Pleanála to grant permission for the proposed development in accordance with Section 37(2)(b)(ii) and (iii) of the Planning Act, 2000, if the Board considers the development contravenes the height, separation distance and housing mix policies of the South Dublin County Development Plan 2016 – 2022.

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HW Planning  
5 Joyce House,  
Barrack Square,  
Ballincollig, Co. Cork

[www.hwplanning.ie](http://www.hwplanning.ie)  
[info@hwplanning.ie](mailto:info@hwplanning.ie)  
+353 (0)21 487 3250





