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# **Statement of Material Contravention**

## **Residential Development**

**Dolcain House, Monastery Road, Clondalkin, Dublin 22**

**Randelswood Holdings Ltd.**

**January 2022**



**Hughes Planning & Development Consultants**

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## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this Statement of Material Contravention on behalf of our client, Randelswood Holdings Ltd., to accompany a planning application to An Bord Pleanála for a proposed Strategic Housing Development at Dolcain House, Monastery Road, Clondalkin, Dublin 22.

The subject application comprises the change of use and modification to the existing commercial blocks on-site, referred to as Blocks A, B and C for the purposes of this application, to provide for 101 no. apartment units. The proposed scheme also provides for the construction of a new residential block, Block D, which will comprise a total of 29 no. apartment units with the overall scheme providing for a total of 130 no. residential apartments. The subject site comprises an area of approximately 0.81 Ha (2.00 acres).

An Bord Pleanála issued a Notice of Pre- Application Consultation Opinion on 18<sup>th</sup> November under ABP Ref. ABP 310416-21. The opinion states that An Bord Pleanála “*has considered the issues raised in the pre-application consultation process and, having regard to the consultation meeting and the submission to the Planning Authority, is of the opinion that the documents submitted with the request to enter into consultations require further consideration and amendment to constitute a reasonable basis for an application for strategic housing development.*” The opinion further states that “pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission.” Item 11 of this opinion requires:

*“Consideration is required of any matters that have potential to be material contraventions of the Development Plan, with submission of a statement regarding the same if required.*”

While the Applicant does not consider the proposed height, separation distances, open space (private and public) or floor to ceiling heights to be a material contravention of the South Dublin County Development Plan 2022 – 2026, in this regard, it is a matter for An Bord Pleanála to determine if the proposed development in fact materially contravenes the South Dublin County Development Plan 2016-2022. Therefore, the Applicant has taken a conservative approach to compliance with the above requirement regarding the statutory newspaper notice and the provision of a justification for the proposed plot ratio and housing mix in the context of the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

It is respectfully requested therefore that An Bord Pleanála have regard to the following justification for a potential material contravention of the South Dublin County Development Plan 2022-20236 (as it relates to heights, density, floor to ceiling heights and public/private open space), having regard to the fact that the proposed development is by definition ‘of strategic importance’, the pattern of development approved in the area, the nature of the proposed regeneration of existing and partially vacant commercial office buildings and having regard to the compliance of the proposed development with national planning policy and section 28 Guidelines as outlined herein. These include the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, which fully support and reinforce the need for urban infill residential development at appropriate densities on sites in close proximity to public transport and within existing urban areas.

## 2.0 Legislative Context

Pursuant to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (2016 Act), where a proposed development is considered to materially contravene the relevant Development Plan (other than in relation to the zoning of the land), the Board can determine that permission should, nonetheless, be granted, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000 as amended (the Act). Section 9(6)(c) of the 2016 Act stating that:

*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 Act 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, or*
- (iii) *permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- (iv) *permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*

It is respectfully requested that An Bord Pleanála, should they determine the proposal materially contravenes the South Dublin County Development Plan 2016 - 2022, have regard to the justification for the proposed aspects of the Development provided in the subsequent sections. It is considered that the policies and objectives stated in the Section 28 Government Guidelines, including the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, provide justification for the proposed development. These policies, among others, are discussed in the below justification section. Further to this, the proposal can also be justified having regard to the strategic importance of Strategic Housing Developments and the permissions granted in the area.

### 3.0 Potential Material Contraventions

#### 3.1 Height

The South Dublin County Development Plan 2016-2022 contains a number of policies and objectives relating to residential buildings heights. Housing Policy 9 (Section 2.2.3) states that it is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.

HOUSING (H) Policy 9 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.
<b>H9 Objective 1:</b> To encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity.
<b>H9 Objective 2:</b> To ensure that higher buildings in established areas respect the surrounding context.
<b>H9 Objective 3:</b> 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).
<b>H9 Objective 4:</b> 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.
<b>H9 Objective 5:</b> To restrict general building heights on 'RES-N' zoned lands south of the N7 to no more than 12 metres where not covered by a current statutory Local Area Plan.

Figure 1 Housing Policy Objectives as set out in South Dublin County Development Plan 2016-2022

Furthermore, Section 5.1.5 of the South Dublin County Development Plan 2016 – 2022 states that varied building heights are supported in urban centres and regeneration zones and will be important in creating a sense of place, urban legibility and visual diversity. Tall buildings that exceed five storeys will be considered at strategic and landmark locations in Town Centres, Regeneration and Strategic Development Zones based on approved Local Area Plans or SDZ Planning Schemes. Urban Centres (UC) Policy 6 in relation to building heights contains the following objectives relevant to the subject lands:

*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 2: To ensure that higher buildings in established areas take account of and respect the surrounding context.*

*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.*

Furthermore, Section 11.12.7 of the South Dublin County Development Plan 2016 – 2022 sets out the following in relation to building heights:

*“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.”*

The proposed development is seeking permission for the change of use and conversion of existing commercial office buildings that are 4-5 storey in height. Permission is also sought to increase the height of the existing Blocks A, B and C to now provide for 4-5-6 no. storeys with a new Block D also proposed at 6 storeys in height. The subject site is not identified for tall buildings exceeding five storeys in an approved plan. However, it is submitted that the proposed buildings height of 6 storeys is consistent with the building heights permitted on the subject site and represents an appropriately scaled building. It is considered that the building height proposed could be considered to be a material contravention of this aspect of the Development Plan.

### 3.2 Density

Section 2.2.2 of the South Dublin County Development Plan 2016-2022s written statement outlines the following in relation to density:

*“Government policy as outlined in the Sustainable Residential Development in Urban Areas Guidelines recognises that land is a scarce resource that needs to be used efficiently. These guidelines set out a range of appropriate residential densities for different contexts based on site factors and the level of access to services and facilities, including transport. Densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services. As a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities.*

*HOUSING (H) Policy 8 Residential Densities It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.*

*H8 Objective 1: To ensure that the density of residential development makes efficient use of zoned lands and maximises the value of existing and planned infrastructure and services, including public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).*

*H8 Objective 2: To consider higher residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009)*

*H8 Objective 6: To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns/ Villages in the County.”*

The proposed development provides for a total of 130 no. apartment on a nett site area of 0.81 ha which equates to a residential density of 160 units per hectare. It is considered that the density proposed could be considered to be a material contravention of this aspect of the Development Plan.

### 3.3 Open Space – Private and Public

The South Dublin County Development Plan 2016 – 2022 sets out a number of policies and objective in relation to public and private open space.

With regards to private open space, the Development Plan states that the provision of adequate and well designed private open space is crucial in meeting the amenity needs of residents. In schemes that include apartments and duplexes **the more limited private open space provision for these units can be successfully augmented by high quality semi-private open spaces that are landscaped to a high quality and offer a range of active and passive uses for residents.**

Housing Policy 13 relating to Private and Semi-Private Open spaces notes that it is the policy of the Council to ensure that all dwellings have access to high quality private open space (inc. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments. The following specific objectives are of note:

*H13 Objective 1: To ensure that all private open spaces for apartments and duplexes including balconies, patios and roof gardens are designed in accordance with the qualitative and quantitative standards (including minimum balcony size and depth) set out under Sustainable Urban Housing: Design Standards for New Apartments, DECLG (2015),*

*the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) and the accompanying Urban Design Manual – A Best Practice Guide, DEHLG (2009).*

*H13 Objective 2: To ensure that new apartments have access to high quality and integrated semi-private open space that supports a range of active and passive uses, in accordance with the quantitative standards set out in Chapter 11 Implementation.*

Housing Policy 12 in relation to public open space states that it is the policy of the Council to ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that provides for active and passive recreation and enhances the visual character, identity and amenity of the area. The following specific objectives are of note:

*“H12 Objective 1: To ensure that public open space in new residential developments complies with the quantitative standards set out in Chapter 11 Implementation and the qualitative standards set out in Chapter 11 and Chapter 4 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009), together with the design criteria illustrated under the Urban Design Manual – A Best Practice Guide, DEHLG (2009).*

*H12 Objective 2: To ensure that there is a clear definition between public, semi-private and private open space at a local and district level and that all such open spaces benefit from passive surveillance from nearby residential development.”*

*Policy H13 Objective 1: “To ensure that all private open spaces for apartments and duplexes including balconies, patios and roof gardens are designed in accordance with the qualitative and quantitative standards (including minimum balcony size and depth) set out under Sustainable Urban Housing: Design Standards for New Apartments, DECLG (2015), the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) and the accompanying Urban Design Manual – A Best Practice Guide, DEHLG (2009).”*

Policy H13 above makes reference to the Sustainable Urban Housing: Design Standards for New Apartments, DECLG (2015) as opposed to the updated Sustainable Urban Housing: Design Standards for New Apartments 2020 Guidelines.

Chapter 11, Section 11.3.1 notes that the Planning Authority will require public open space to be provided as an integral part of the design of new residential and mixed use developments. A detailed Landscape Plan that outlines the extent of open space and details for its treatment will be required with residential developments of 10 units and above with new residential development required to incorporate a minimum of 10% of the total site area as public open space. This includes community led housing for older people in established areas on lands designated with Zoning Objective “OS” (To preserve and provide for open space and recreational amenities).

Section 11.3.2 states the following in relation to residential consolidation and open space requirements.

*“Subject to appropriate safeguards to protect residential amenity, reduced open space and car parking standards may be considered for infill development, dwelling sub-division, or where the development is intended for a specific group such as older people or students. Public open space provision will be examined in the context of the quality and quantum of private open space and the proximity of a public park. Courtyard type development for independent living in relation to housing for older people is promoted at appropriate locations. Car parking will be examined in the context of public transport provision and the proximity of services and facilities, such as shops.*

The proposed development provides for the re-use and regeneration of existing partly vacant office buildings on a brownfield site. The proposed open spaces have been designed to provide a and legible hierarchy of open spaces and has been agreed with South Dublin County Council in advance of the lodgement of the application. However the Board may be of the opinion that the public open space does

not comply with the aforementioned policies in terms of the definition of public open space and as such could be considered to be a material contravention of this aspect of the Development Plan.

With regards to private open space, the proposed development provides for 130 no. apartments of which there are 2 no. apartments that are provided with Juliette balconies that do not comply with the Design Standards for New Apartments Guidelines 2020. Whilst the South Dublin County Development Plan references the 2015 Guidelines, the Board may consider the proposal to be a material contravention of the Development Plan and as such could be considered to be a material contravention of this aspect of the Development Plan.

### **3.4 Apartment Standards – Ground to Ceiling Floor Heights, Residential Unit Mix, Unit Size and Aspect**

The South Dublin County Development Plan 2016 – 2022 notes the following in relation to residential apartment schemes:

*H14 Objective 1: To ensure that all residential units and residential buildings are designed in accordance with the relevant quantitative standards, qualitative standards and recommendations contained in Sustainable Urban Housing: Design Standards for New Apartments (2015), the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), the companion Urban Design Manual and have regard to the standards and targets contained in Quality Housing for Sustainable Communities (2007), particularly the standards and recommendations that relate to internal amenity/layout, overall unit size, internal room sizes, room dimensions, aspect, sound insulation, communal facilities, storage, sustainability and energy efficiency*

The Sustainable Urban Housing: Design Standards for New Apartments (2015) have been superseded by the Design Standards for New Apartments 2020. Therefore, there could be seen to be a material contravention of the Development Plan as the proposed development has been designed to the 2020 guidelines. The following aspects of the proposed development may be seen to be a material contravention:

#### **Ground to Ceiling Floor Heights**

Specific Planning Policy Requirement 5 of the new guidelines require that ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

The 2020 Guidelines require minimum floor to ceiling heights of 2.4m for apartments above ground floor, and 2.7m at ground floor to allow flexibility for future use. The proposal largely complies with the Guidelines in this regard. The ground floor level units in Block D fall slightly short of this standard providing for floor to ceiling heights of 2.5m, however due to the overall design of the proposed block in respect of the standard of accommodation proposed and the access to light available, it is considered that this minimal shortfall should be considered acceptable. It is considered that the ground to floor ceiling heights proposed could be considered to be a material contravention of this aspect of the Development Plan.

#### **Residential Unit Size**

Section 11.3.1 (iv) of the Development Plan states that all apartments must accord with or exceed the open space and floor area standards set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, DECLG (2015) and the minimum floor areas set out in Table 11.21.”

The appendix of the Apartment Guidelines 2015 sets out the required minimum floor areas and standards which have been updated by the 2020 Apartment Guidelines. The proposed development has been designed in line with the 2020 Guidelines and meets all of the standards of these guidelines. The 2020 guidelines introduce the inclusion of two bed three person apartments which is not included

in the 2015 guidelines. The proposed development provides for 3 no. 2 bed apartments for 3 persons. Furthermore, the 2020 Guidelines provides for minor amendments to floor area, bedroom width, and living/dining room widths. The proposed development meets the standards as set out in the 2020 guidelines with nearly all of the 2015 standards also met. Please refer to the Housing Quality Assessment prepared by HA Design Studio for further details. Noting the provision of 2 bed 3 persons apartments in the 2020 guidelines and the proposal for 3 no. units to provide same, it is considered that the proposed unit sizes could be considered to be a material contravention of this aspect of the Development Plan.

### **Dual Aspect**

Section 11.3.1 (vi) of the Development Plan states that “Dual aspect ratios in apartment schemes shall be provided in accordance with Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, DECLG (2015)”

These 2015 Guidelines have been superseded by the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, DHLGH, (2020), which include different standards. The 2015 Guidelines note that the minimum number of dual aspect apartments that may be provided in any single apartment scheme shall be 50%. The 2020 Guidelines also indicate that in suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.5ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

The proposed development provides for 61% dual aspect which complies with both guidelines.

### **Residential Unit Mix**

Section 11.3.1 (i) of the Development Plan states that with the exception of student accommodation, proposals that include a high proportion of one bedroom dwellings (more than 10%) shall be required to demonstrate a need for such accommodation, based on local demand and the demographic profile of the area.

The proposed development provides for 61 no. one bedroom units or 47%. The proposal is in accordance with the Design Standards for New Apartments 2020. It is considered that the unit mix proposed could be considered to be a material contravention of this aspect of the Development Plan.

## **3.5 Separation Distances**

With regards to separation distances Section 11.3.1 (v) states that a separation distance of 22 metres should generally be provided between directly opposing above ground floor windows to maintain privacy. The distance between the existing blocks and proposed Block D is c. 12m and between Blocks A and B the separation distance proposed is 11.3m. However, the proposed development represents the refurbishment of existing buildings and that the Design Standards for New Apartments recognises that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality. It is considered that the design of the proposed development has been carefully considered to ensure the revitalisation and reuse of a brownfield site. However, the proposed separation distances could be considered to be a material contravention of this aspect of the Development Plan.

## **4.0 Justification for the Potential Material Contraventions**

### **4.1 Building Height**

The proposed development seeks the change of use of the existing 4-5 storey commercial office blocks (Blocks A, B and C) and 1 no. new block of 6 storeys (Block D) to now provide for a residential development of 4-5-6 storeys in height. The Development Plan seeks to direct buildings in excess of 5 storeys to strategic or landmarks locations. The subject site is not located in a strategic or landmark

location in a town centre, mixed use zone, Strategic Development zone or subject to a Local Area Plan and therefore the 6 storey element of the proposal exceeds the five storeys in height as set out in Policy H9 Objective 4.

However, the subject lands have already an established height of 5 storeys with the proposal increasing the height by 1 no. storey only. Block A and the atrium ranges in height from 4 to 5 to 6 storeys with 5 storeys proposed to the north of Block A fronting Monastery Road stepping back in height, Block B will comprise 5 storeys, Block C further to the south of the subject site is proposed at 6 storeys and Block D is proposed at 6 storeys providing for a variety in heights and transitions across the subject lands. It is noted that careful consideration has been given to the height of the proposed development with separation distances in excess of 42m from Block A to the existing dwelling to the north of Monastery Road ensuring no adverse impacts on residential amenity. It is noted that it is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.

Furthermore, South Dublin County Council in their report on the Stage 2 pre-application documentation acknowledged that blanket height restrictions in the Development Plan run contrary to the Urban Development and Building Height Guidelines, specifically SPPR 1. SPPR1 supports the incorporation of increased building height and density in locations with good public transport accessibility in development plans.

The subject site is located within close proximity to a number of high-quality public transport networks including Dublin Bus routes and the Red Cow Luas Stop. The proposal is of a high- quality design which will make a positive contribution to the area and create visual interest in the streetscape. The proposed development has been designed to improve the visual quality and public realm of Monastery Road. The scale and form of the proposed development responds to the scale of existing adjacent and planned developments, with the development being appropriately recessed from adjacent lower rise buildings and sensitive interfaces, creating visual interest in the streetscape, with high quality architecture and materials/finishes.

Although the proposed development exceeds the recommended building height included in the South Dublin County Development Plan 2016-2022, we consider that the building heights of 6 no. storeys of Block D is consistent with the buildings proposed to be retained on site, Blocks A and C, which are also 6 no. storeys high. Block D's proposed height of 6 no. storeys is in keeping with heights already permitted on the subject site and so we submit that this would be an appropriately scaled building and is compliant with the Development Plan's guidelines.

In addition, the South Dublin County Development Plan 2016-2022 was adopted prior to the publication of the:

- National Planning Framework 2040;
- Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, 2020; and
- Urban Development and Building Heights - Guidelines for Planning Authorities, 2018.

## **4.2 Density**

The proposed density of 160 units per hectare may be considered a contravention of the South County Development Plan 2016-2022. It is our opinion that, given location of the subject site, the proximity of the subject lands to Clondalkin, bus transport routes along Monastery Road, proximity to the Red Cow Luas line and the re-use and revitalisation of a brownfield site is such that the proposed density, is appropriate in this instance. As discussed in the previous section, the development's highest built form elements are setback from Monastery Road at Block A so as to avoid any undue impact on the surrounding properties. The design of the development and the variety in height proposed has addressed the context of the existing buildings on site and the surrounding context.

The proposed density is also considered appropriate having regard to the subject site's proximity to services and amenities. The site is conveniently located close to Clondalkin Village which provides an array of commercial and retail facilities. There are schools located in the vicinity and the site is located immediately adjacent the Round Tower GAA club.

Finally, the proposed density is also considered appropriate having regard to the variety of transport options available to residents of the subject site. The subject site is well serviced by public transport and is near Luas and bus services. The subject site is located adjacent to Bus Stop Nos. 1974 and 1968 which are served by regular bus services providing access to Dublin city centre, including Dublin Bus Routes No. 51x, 68 and 69. Further to this, the Red Cow Luas Line is 820m to the south east of the site and offers a high frequency service with links to Tallaght Hospital, Citywest, and Dublin City Centre where passengers have the opportunity to use Heuston Station, Connolly Station and to switch to the Cross City LUAS service expanding connections to Cabra and Cherrywood. A number of bus routes use the Red Cow Luas as a transport hub with Dublin Coach providing services to Dublin Airport, Dundrum, Naas, Portlaoise, Cork, Waterford and Limerick.

The proposed density is also consistent with national and regional planning policy as will be discussed in detail in the subsequent sections of this report.

### **4.3 Open space**

The proposed development provides for 2 no. separate areas of open space – Zone A – Public open space comprising 810 sq.m (10% of site area) and Zone B communal open space of 1,375 sq.m. providing for a total of 2,185 sq.m. of open space.

Zone A is located to the north of the proposed building entrance and to the East of main block. (see diagram below). 'Zone A' is defined by two style of areas, the first is the entrance and acts as the main threshold welcoming space. The space is functional and positioned over the existing basement podium. Specimen tree planting within high-quality containers shall be positioned within the area to denote its importance. High backed seating shall be incorporated to facilitate community engagement at this threshold. The second area is between Block A and B. The spaces main features include natural play pieces for junior play, soil mounds, and seating. The existing vegetation to the South of this open space shall create an intimate garden space. Additional Soft landscaping including multistem and standard trees, mixed ornamental planting and augmentation of existing vegetation shall increase the biodiversity and welcoming space for residence to enjoy.

Zone B is located to the south and west of the main Block A, the area is a multifunctional which encourages both active and passive activities. The communal open space has both play for younger and older aged groups, with the emphasis on natural imaginative play through soil moulding, large rocks and boulder. Play equipment pieces have been selected for their quality and universal inclusion. Away from the moulded playful landscape there is a small tranquil garden space with ornamental planting and a lawn area for older residence to enjoy. The proposed area of hard landscaping facilitates the necessary emergency access route and emergency turning circle. Although this area may be functional, it also provides an opportunity for resident to pass through and informally congregate within.

The proposed open space represents a significant increase to that currently on site with a large portion of hardstanding to the west of the site proposed to be removed and replaced with open space.

The proposed development also provides for a high quality of private open space with 128 apartments provided with balconies. In line with discussions with the Planning Authority, the proposed balconies have been increased to provide for large balconies and high quality amenity for residents. 2 no. apartments are provided with Juliette balconies. However the high quality and quantum of open space proposed within the overall scheme and that the proposal is refurbishing an existing building is such that the proposed development provides for a high quality of residential amenity for future residents.

Given that the proposed development provides for the upgrade, refurbishment and re-use of existing office buildings which will facilitate the provision of quality, sustainable housing for individuals and families who are in need of it. The proposed development will effectively revitalise the subject site through the provision of well-planned and designed residential units, which will rejuvenate the site and its immediate surrounds. On the basis of the above, and in consideration of the minimal number of units effected, we request that a relaxation is allowed in this instance given the nature of the scheme and the large areas of communal open space allocated for all apartments.

#### 4.4 Apartment Standards – Ground to Ceiling Floor Heights, Residential Unit Mix, Unit Size and Aspect

The proposed development is to provide for a high-quality residential scheme at an appropriate location whilst having due regard for the character and existing built context of the surrounding area, as well as the amenity of adjacent properties. It is submitted that the proposal accords with the proper planning and sustainable development of the area and will facilitate the provision of much needed additional residential units at an accessible and central location.

Given that the proposed development provides for the upgrade, refurbishment and re-use of existing office buildings which will facilitate the provision of quality, sustainable housing or individuals and families who are in need of it. The proposed development will effectively revitalise the subject site through the provision of well-planned and designed residential units, which will rejuvenate the site and its immediate surrounds. In consideration that the floor to ceiling heights are established on site, it is requested that a relaxation, as allowed for under the Design Standards for New Apartments 2020, is applied in this instance.

Furthermore, the proposed development provides an opportunity to strengthen and consolidate through infill and brownfield redevelopment. The proposed development has been designed in light of unit size and mix that is in accordance with the current Design Standards for Apartment developments that are being applied nationally to apartment schemes. The proposed unit sizes, unit mix and aspect accord with current standards and comprise a high quality and standard of apartments for a refurbishment and infill scheme within the urban footprint of Dublin.

#### 4.5 Separation Distances

The proposed development is seeking to refurbish existing office blocks to now provide for residential development. The separation distances are in existence between Blocks A, B and C. However HA Design Studio have designed the proposed scheme to ensure a high quality of amenity is provided for all residents. Between Blocks A and B, HA Design studio have used careful consideration and design techniques to ensure no overlooking or reduction in amenity. Figure 2 below illustrates that a hallway is proposed between apartments and the western elevation of Block B such that no direct overlooking of Block A occurs.

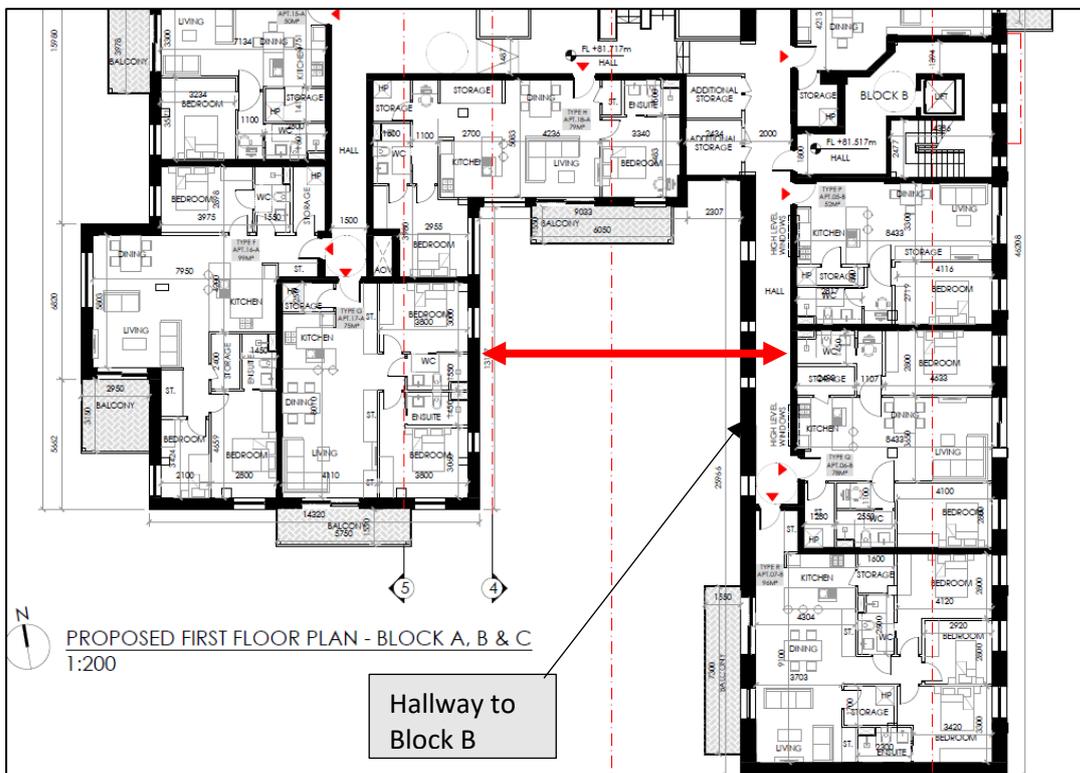


Figure 2 Hallway to Block B which reduces overlooking

The proposed separation distance between existing Block B and proposed Block D comprise 12.1m. However, Block D has been carefully sited to ensure that there is no directly opposing windows to Block B. This is illustrated in Figure 3 below.

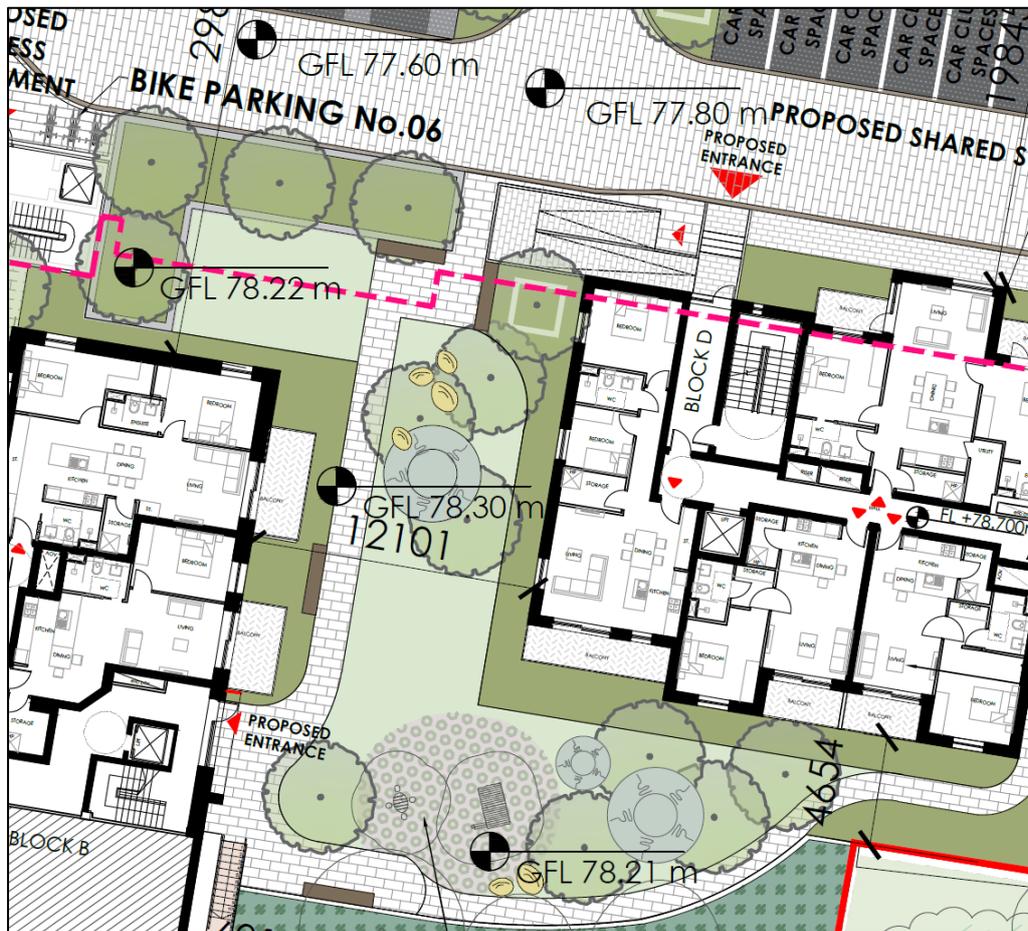


Figure 3 Extract from Site Layout Plan illustrating no directly opposing windows from Block B to Block D

Given the proposed design techniques and that the proposed development is seeking to refurbish an existing building on a brownfield site, it is submitted that the relaxation in standards for refurbishment schemes or infill schemes that the Planning Authority and An Bord Pleanála may exercise discretion on a case-by-case basis in relation to separation distances subject to overall design quality. It is submitted that the overall design quality of the proposed development is such that a relaxation in standards is warranted.

## 5.0 Justification for Potential Material Contraventions pursuant to Section 37(2)(b) of the 2000 Act.

A justification for the potential material contraventions of the South Dublin County Development Plan 2016 – 2022 is set out below, under the relevant parts of Section 37(2)(b) of the 2000 Act.

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

The proposed development comprises of inter alia the provision of 130 apartments on a site of c. 0.81 hectares. The proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. On this basis it is submitted that the proposed development is, of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland.

## **5.2 Part (ii) - There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned**

The South Dublin County Development Plan 2016-2022 contains a number of policies and objectives relating to residential buildings heights with Policy 9 stating that it is the Policy of the Council to support varied building heights across residential areas and mixed use areas in South Dublin County.

However, the height policy also restricts this varied height to buildings 5 storeys or less with Policy H9 objective 4 stating that tall buildings that exceed 5 storeys in height should be directed to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved LAP.

The blanket restrictions in the Development Plan run contrary to the Urban Development and Building Height Guidelines, specifically SPPR 1 which is set out further in Section 5.3 below. However, it is considered that there are additional objectives in the Development Plan which seek to increase densities and heights that conflict with Housing Policy 9 of the South Dublin Development Plan 2016-2022 including:

### *H8 Objective 1:*

*To ensure that the density of residential development makes efficient use of zoned lands and maximises the value of existing and planned infrastructure and services, including public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).*

### *H8 Objective 2:*

*To consider higher residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).*

### *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.*

Furthermore, Section 2.0 of the Development Plan states that in a predominantly urban county such as South Dublin, new housing will be delivered in established areas through sustainable intensification, infill development and the re-use of brownfield lands while respecting the amenity value of existing public open spaces. Expansion will focus on the creation of sustainable new communities at locations that can be served by high quality public transport.

It is submitted that the strategic location of the site close to Clondalkin, the Red Cow Luas Stop and Dublin Bus services immediately adjoining the site is such that the proposal accords with policies and objectives for increased density. The proposal also seeks to refurbish, regenerate and utilise an existing office development to provide for a high quality residential development.

It is evident from the above policies that the site is an appropriate location for higher density and taller development to reflect the proximity to Clondalkin, public transport, and also in terms of urban design and providing for improved urban legibility, placemaking and visual diversity in the area.

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

The following section shall demonstrate how the height, density and open spaces are justified in the context of recent National Planning Policy and Section 28 Government Guidelines.

### 5.3.1 Project Ireland: National Planning Framework 2040

The National Planning Framework 2040 (NPF) seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl, increase the sustainability of public transport networks and meet the housing needs of our growing population. The NPF seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built up areas over the lifetime of the framework.

The following objectives and guidance regarding brownfield development in the NPF are of particular relevance:

**National Policy Obj. 3a** *Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.*

**National Policy Obj. 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 Obj. 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*

*To enable brownfield development, planning policies and standards need to be flexible, focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas.*

The proposed building height is considered appropriate given the brownfield nature of the subject site and the location of this under-utilised site, in close proximity to Clondalkin which is c.780m to the west and multiple public transport services. More specifically, the subject site is well-served by public transport with regular bus services providing access to Dublin city centre, including Dublin Bus Routes 51X, 13, 68 and 69 with the latter two having stops immediately north of the site. Furthermore, the Red Cow LUAS Park and Ride facility is c. 820m to the south east of the site and is accessible by foot offering a high frequency service with links to Tallaght Hospital, Citywest, and Dublin City Centre where passengers have the opportunity to use Heuston Station, Connolly Station and to switch to the Cross City LUAS service expanding connections to Cabra and Cherrywood. A number of bus routes use the Red Cow Luas as a transport hub with Dublin Coach providing services to Dublin Airport, Dundrum, Naas, Portlaoise, Cork, Waterford and Limerick

The proposed development is therefore in accordance with the objectives of the NPF in this regard. Restricting development building heights at such a location, well served by public transport, under the South County Dublin Development Plan 2016-2022 is a direct contravention of National policy which promotes increased heights and densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

### 5.3.2 Urban Development and Building Heights Guidelines for Planning Authorities, 2018

The Urban Development and Building Height Guidelines, 2018, are intended to set out national planning policy guidelines on building heights and development intensity in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040. Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord

Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.

The Height Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and to increase building heights and overall density, and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.

The Height Guidelines, 2018, state that the:

*Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.*

The Guidelines also note that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured. Chapter 3 of the Height Guidelines, 2018 expressly seeks increased building heights in urban locations:

*In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.*

Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. The Height Guidelines state that *'the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights'*.

The Height Guidelines note Local Authorities have set generic height limits within their functional areas and state the following:

*Such limits have resulted from local-level concerns, like maintaining the character of an existing built-up area, for example. However, such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes.*

The Guidelines state that it is appropriate to support heights of at least six storeys at street level with scope for greater height subject to design parameters. This is contrary to the height limitations provided in the South Dublin County Development Plan 2016-2022. It is further stated that in some cases Development Plans have set out overly restrictive maximum heights limits which leads to development being displaced to less suitable locations resulting in a lost opportunity for key urban areas.

Chapter 2 of the Guidelines sets out the following Specific Planning Policy Requirement:

***Specific Planning Policy Requirement 1***

*In accordance with Government policy to support increased building height and density 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, regeneration 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.*

We would contend that the height limit set out in the South Dublin County Development Plan 2016-2022 is contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans. It is noted that the South Dublin County Development Plan was adopted prior to these Guidelines and that the Planning Authority in their assessment of the proposed development at Stage 2 acknowledged that the blanket restrictions in the Development Plan run contrary to the guidelines.

Chapter 3 of the Guidelines sets out the following Specific Planning Policy Requirement:

**Specific Planning Policy Requirement 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 guideline these are not required to be reviewed.*

We have demonstrated how the proposed development satisfies the specified criteria set out in Specific Planning Policy Requirement 3 of the Height Guidelines as follows:

Development Management Criteria		
	Assessment Criteria	Comment
At the scale of the relevant city/town	<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>	<ul style="list-style-type: none"> <li>The subject site is located adjacent to Bus Stop Nos. 1974 and 1968 which are served by regular bus services providing access to Dublin city centre, including Dublin Bus Routes No. 51x, 68 and 69. The subject site is also proximate to Clondalkin Village which is c. 780m to the west of the subject site which offers additional bus services.</li> <li>Further to this, the Red Cow Luas Line is 820m to the south east of the site and offers a high frequency service with links to Tallaght Hospital, Citywest, and Dublin City Centre where passengers have the opportunity to use Heuston Station, Connolly Station and to switch to the Cross City LUAS service expanding connections to Cabra and Cherrywood. A number of bus routes use the Red Cow Luas as a transport hub with Dublin Coach providing services to Dublin Airport, Dundrum, Naas, Portlaoise, Cork, Waterford and Limerick</li> </ul>
	<i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of</i>	<ul style="list-style-type: none"> <li>It has been detailed in the Architectural Design Statement, prepared by HA Design Studio, and the Statement of Consistency &amp; Planning Report, prepared by Hughes Planning and Development Consultants, how the development will be assimilated into its surrounding context. We note that the subject site is not located within an</li> </ul>

	<p><i>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</i></p>	<p>architecturally sensitive area and is not surrounded by any unique locational characteristics. It is considered that the architectural composition of the proposed buildings which extend from 4 no. up to 6 no. storeys afford visual interest in this area. It is also important to note that the proposal is seeking 1 no. additional storey to that established on site.</p> <ul style="list-style-type: none"> <li>• The proposed development will revitalise and regenerate the subject lands noting that two of the office blocks are vacant.</li> <li>• The proposed development does not impact on key landmarks or key views. Photomontages are included with the planning application demonstrating the increase in 1 no. storey would not adversely impact on the visual amenity of the surrounding area.</li> <li>• The proposal is of a high- quality design which will make a positive contribution to the area and create a visual interest in the streetscape. The proposed development has been designed to improve the visual quality and public realm of Monastery Road. The scale and form of the proposed development responds to the scale of existing adjacent and planned developments, with the development being appropriately recessed from adjacent lower rise buildings and sensitive interfaces ,creating visual interest in the streetscape, with high quality architecture and materials/finishes.</li> </ul>
	<p>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.</p>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<p><b>At the scale of district/ neighbourhood/ street</b></p>	<p><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</i></p>	<ul style="list-style-type: none"> <li>• The high quality design of the proposed development has regard to clear guidance provided in national planning policy which seeks the densification of sites in close proximity to significant employment locations and public transport such as the subject site.</li> <li>• The proposed development has been designed having regard to the site's existing brownfield nature with the stepping back of upper blocks of Block A, the varying heights across the scheme and the proposed increase in open space ensuring that the proposal response to the natural and built environment.</li> <li>• The high-quality materials utilised and landscaping in the scheme ensures that the development will make a positive contribution to the streetscape.</li> </ul>
	<p><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></p>	<ul style="list-style-type: none"> <li>• We note that this high-quality scheme provides adequate relief, the 4 no. blocks proposed varying in height from 4 to 6 storeys, with the 5 and 6 no. storey elements appropriately sited at a distance from adjoining residents to ensure no adverse impacts on residential amenity. A comprehensive Architectural Design Statement has been prepared by HA Design Studio and is submitted with this planning application which demonstrates the rationale for the design approach and how conscious efforts have been</li> </ul>

		made to provide architecturally interesting forms and spaces.
	<i>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)</i>	<ul style="list-style-type: none"> <li>We note that the scheme will provide active surveillance of the open spaces and pedestrian/cycle paths proposed as part of the development the development.</li> <li>We note that a Site Specific Flood Risk Assessment has been carried out by Lohan &amp; Donnelly Consulting Engineers which has due regard to the Flood Risk Management Guidelines and which confirms that the likelihood of on site flooding is deemed to be low.</li> </ul>
	<i>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.</i>	<ul style="list-style-type: none"> <li>The high quality design of the scheme will ensure the development will be a legible and attractive addition to the area.</li> <li>A 2.0m path can be provided now or in the future which facilitates connection with future cycle links immediately east of the site once the adjoining lands are developed by a third party or by South Dublin County Council.</li> <li>A new pedestrian/cycle ramp is proposed to the north of the subject site onto Monastery Road which enhances permeability and connectivity whilst also providing a greater degree of integration between the proposed development its surrounding suburban environment. The proposal presents a significant improvement on the site when compared to the existing use of the site and is consistent with the surrounding land uses.</li> </ul>
	<i>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</i>	<ul style="list-style-type: none"> <li>As set out at Section 1.0 of this report, the proposed application seeks permission for a strategic housing development comprising a residential development featuring 130 no. apartments, in variety of sizes and layouts, and increased open spaces. The mix of apartments proposed on the subject site will ensure the creation of a sustainable community with ease of access to services and facilities in the surrounding area.</li> </ul>
<b>At the scale of the site/building</b>	<i>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</i>	<ul style="list-style-type: none"> <li>The proposed scheme has been designed having regard to access to natural daylight, ventilation and views and minimising overshadowing and loss of light with generous setbacks adopted from the northern boundary adjacent to sensitive interfaces, including windows and open space areas, and provision of generously proportioned open space areas with a variety of orientations within the proposed scheme.</li> <li>Design changes informed by daylight/sunlight analysis, including amendments to windows and balconies, reductions in height and massing and an increase in separation distances, have been adopted as the project has evolved to enhance the level of sunlight, daylight and ventilation received and minimise overshadowing and loss of light.</li> </ul>
	<i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like</i>	<ul style="list-style-type: none"> <li>We refer to the Daylight and Sunlight Assessment Report, prepared by Digital Dimensions, submitted with this application, which assesses all apartments within the scheme and demonstrates a high quality living environment internally and externally for future</li> </ul>

	<p><i>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'</i></p>	<p>residents when assessed against the quantitative standards. This study confirms that all of the habitable rooms across the development have achieved the daylight factor target. The Design team has taken extensive care to ensure that ADF criteria were met. All open space areas receive the minimum 2 hours of sunlight required by the requirements.</p> <ul style="list-style-type: none"> <li>• In the context of the surrounding properties, the study notes that the impact from the proposed development on the daylight of residential properties is negligible and would meet the recommendations of the BRE Guidelines.</li> </ul>
	<p><i>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.</i></p>	<ul style="list-style-type: none"> <li>• As outlined in the Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, the proposed development meets the requirements of daylight provision.</li> <li>• The EN17037:2018 Standard was enacted prior to the publication of Sustainable Urban Housing: Design Standards for New Apartments in 2020 which has no reference to the new standard. Additionally to date it is not referenced in any planning guidance document by any local authority. 95.8% of the rooms exceed the minimum illuminance level values for daylight provision. It must also be noted that the proposed development is for the reconfiguration of an existing building and therefore it is considered that the proposal meets a high standard of illuminance.</li> </ul>
<b>Specific Assessments</b>	<p><i>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.</i></p>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
	<p><i>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</i></p>	<ul style="list-style-type: none"> <li>• In preparing the Ecological Impact Assessment, Altamar Ltd conducted a bat survey to assess the suitability of the site for roosting, feeding and commuting bats. No evidence of bat activity was noted within the buildings. No trees of bat roosting potential are to be felled as part of the proposal. No bats were noted emerging from the buildings on site. No significant negative impacts on roosting animals are expected to result from the proposed redevelopment. Noting, foraging activity within the area may be lost unless lighting is controlled. A post construction assessment of the light spill on site to ensure compliance with bat lighting guidelines will be carried out, carried to ensure conformity with the "Bats &amp; Lighting Guidance Notes for: Planners, engineers, architects and developers".</li> </ul>
	<p><i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i></p>	<ul style="list-style-type: none"> <li>• The proposed development is retaining the existing telecommunications mast on site with the mast to be slightly relocated in accordance with the provider.</li> </ul>

	<i>An assessment that the proposal maintains safe air navigation.</i>	<ul style="list-style-type: none"> <li>This is not applicable as the subject site is not proximate to any airports or hospitals.</li> </ul>
	<i>An urban design statement including, as appropriate, impact on the historic built environment.</i>	<ul style="list-style-type: none"> <li>An Architectural Design Statement prepared by HA Design Studio has been submitted with the application. The buildings featuring on site currently are not considered to be of any historical or architectural merit.</li> </ul>
	<i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i>	<ul style="list-style-type: none"> <li>An Appropriate Assessment Screening Report and Ecological Impact Assessment, both prepared by Altermar Ltd, are submitted with the planning application. An EIAR Screening Assessment Report and Regulations 299B Statement prepared by AWN are also enclosed with the application.</li> </ul>

The Guidelines incorporate the principles of the NPF, in particular to need to increase levels of residential development in urban centres and increase building heights and overall density. It identifies the need to focus planning policy on “reusing previously developed “brownfield” land, building up urban infill sites”. They place significant emphasis on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks.

The building heights/density set out in the South Dublin County Development Plan 2016-2022 are considered to be conservative and an inefficient use of zoned land and is considered to be contrary to the objectives of the Urban Development and Building Height Guidelines, 2018. As discussed previously, the subject site is in close proximity to Clondalkin Village, the Red Cow Luas stop and multiple bus services running along Monastery Road. The proposal seeks to increase density and height by 1 no. storey through the re-use of existing brownfield lands and within the existing urban footprint. The proposed development therefore represents an opportunity to provide for increased height and densities in accordance with national planning policy.

### **5.3.3 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020**

The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, build upon the provisions of the NPF by moving away from blanket restrictions on height in certain locations in favour of an evidence based approach on performance criteria.

The Guidelines state that *“apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.”*

Furthermore, Section 2.3 notes that City and County Development plans should make *“provision for more residential development to take place on infill and brownfield sites and as refurbishment of existing buildings, to increase urban residential densities.”*

In light of this, the Apartment Guidelines note that *“City and County Development Plans must appropriately reflect this, in the context of the need to both 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. This means making provision for more residential development to take place on infill and brownfield sites and as refurbishment of existing buildings, to increase urban residential densities.”*

Section 2.23 of the Guidelines also recognises that 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.”*

The site is conveniently located close to Clondalkin village which provides an array of commercial/ retail facilities and employment opportunities. There are schools and a hospital located in the vicinity with Round Tower GAA Club immediately adjacent to the west of the subject site. The subject site is also proximate to regular bus services providing access to Dublin city centre, including Dublin Bus Routes 68 and 69 immediately adjoining the subject site. The Red Cow Luas Line is 820m to the south east of the site and offers a high frequency service with links to Tallaght Hospital, Citywest, and Dublin City Centre where passengers have the opportunity to use Heuston Station, Connolly Station and to switch to the Cross City LUAS service expanding connections to Cabra and Cherrywood. A number of bus routes use the Red Cow Luas as a transport hub with Dublin Coach providing services to Dublin Airport, Dundrum, Naas, Portlaoise, Cork, Waterford and Limerick.

The 2020 Apartment Guidelines sets out Specific Planning Policy Requirements (SPPRs) which “*take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes*”. In this regard the proposed development has been designed in line with the 2020 Guidelines.

In relation to ground to ceiling heights, Specific Planning Policy Requirement 5 states that “ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality”.

The 2020 Guidelines require minimum floor to ceiling heights of 2.4m for apartments above ground floor, and 2.7m at ground floor to allow flexibility for future use. The proposal largely complies with the Guidelines in this regard. The ground floor level units in Block D fall slightly short of this standard providing for floor to ceiling heights of 2.5m, however due to the overall design of the proposed block in respect of the standard of accommodation proposed and the access to light available, it is considered that this minimal shortfall should be considered acceptable.

Section 3.39 of the Guidelines states that *private amenity space standards for apartments are set out in Appendix 1. **For building refurbishment schemes on sites of any size** or urban infill schemes on sites of up to 0.25ha , **private amenity space requirements may be relaxed in part** or whole, on a case-by-case basis, subject to overall design quality.*

The proposed development provides for 130 apartments of which 2 no. apartments are proposed to be provided with Juliette Balconies. These are located at first floor level of Block B (Apartment 06-B and Apartment 05-B). The proposed development is utilising the existing constructed footprint of Block B and refurbishing the existing building. It is not possible to provide balconies to these apartments due to site levels and existing site constraints. The apartments have been designed in excess of the minimum floor standards and meet and exceed daylight requirements. The proposed development is also provided with a high quality and variety of open spaces for residents to enjoy with 2,185 sq.m. of open space proposed. It is submitted that the refurbishment of the existing and partially vacant office blocks accords with the proper planning and sustainable development of the area, providing compact growth on an underutilised site in close proximity to a range of amenities and facilities for residents. It is submitted to the Board that the relaxation of the private amenity space for 2 no. apartments is warranted and justified in this instance.

Section 2.23 of the 2020 Apartment Guidelines notes “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.”

Section 2.24 goes on to state “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.”

Although the distance between the existing and proposed block D is c. 12m, care has been taken during the design to ensure these blocks do not comprise directly opposing. Block B has also carefully

designed to provide a hallway to the west further improving internal separation distances and ensuring no direct overlooking occurs. In addition, Digital Dimensions have assessed the proposed amendments and have determined that the proposed layout is acceptable in terms of daylight, sunlight and overshadowing.

In relation to residential unit mix and unit sizes the residential apartment guidelines incorporate the principles of the NPF, in particular a move away from rigid application of blanket planning standards in favour of performance standards to ensure well-designed outcomes, an aim to need to increase levels of residential development in urban centres and increase the number of apartments, densities and provide a consistent approach to apartment standards. SPPR 1 relates to housing mix and states:

*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).*

It is submitted that the proposed unit mix which comprises 47% one bed units is considered an appropriate unit mix and will add to the housing stock in the area. However, should the Board consider that the proposed unit mix represents a material contravention of Section 11.3.1 (i) of the Development Plan, it is included for in this statement.

With regards to unit size, the Apartment Guidelines 2020 sets out the required minimum floor areas and standards which have updated the 2015 Apartment Guidelines. The proposed development has been designed in line with the 2020 Guidelines and meets all of the standards of these guidelines. The 2020 guidelines introduce the inclusion of two bed three person apartments which is not included in the 2015 guidelines. The proposed development provides for 3 no. 2 bed apartments for 3 persons. Furthermore, the 2020 Guidelines provides for minor amendments to floor area, bedroom width, and living/dining room widths. The proposed development meets the standards as set out in the 2020 guidelines with nearly all of the 2015 standards also met. Please refer to the Housing Quality Assessment prepared by HA Design Studio for further details. The proposed development fully complies with current guidelines.

Similarly the proposed development provides appropriate dual aspect units with 61% dual aspect units achieved. This is in excess of the 50% requirement and thus accords with these guidelines.

#### **5.3.4 Rebuilding Ireland – Action Plan for Housing and Homelessness**

Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 no. homes and deliver 47,000 no. units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.

Rebuilding Ireland is set around 5 no. pillars of proposed actions. Pillar 3 seeks to – Build More Homes: Increase the output of private housing to meet demand at affordable prices and Pillar 4, ‘Improving the Rental Sector’, includes build-to-rent and encourages “build-to-rent” as a key action.

The proposed increase in height to a maximum of 6 storey and provision of 130 residential apartments will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3.

#### **5.3.5 Regional Spatial and Economic Strategy for the Eastern and Midland’s Region, 2019**

The Regional and Spatial Economic Strategy for the Eastern and Midland’s Region (RSES) was adopted in 2019. It is a strategic plan and investment framework to shape future development and to better manage regional planning and economic development throughout the Region to 2031 and beyond. It identifies regional assets, opportunities and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. The RSES builds on the foundations of Government policy in Project Ireland 2040 and replaces the current Regional Planning Guidelines (RPGs). The following commentary from section 4.7 ‘Self-Sustaining Growth Towns and Self-Sustaining

Towns'. We note the following commentary from Regional Policy Objective 4.3 'Consolidation and Re-intensification' of the RSES:

*'Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin city and suburbs and ensure that the development of future development areas is coordinated with the delivery of key water infrastructure and public transport projects.'*

The proposed development is consistent with the above as it will provide 130 no. residential apartments on a brownfield site through the re-use of a partially vacant commercial office development. The proposed development thus allows for the efficient intensification of a site within a built-up area and is thus in accordance with the aims of the Regional and Spatial Economic Strategy for the Eastern and Midland's Region.

#### 5.4 Part (iv) - Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted in the area since the making of the development plan

We would contend that permission for the proposed development should be granted having regard to the pattern of development approved in the South Dublin County Development Plan. A number of Strategic Housing Developments have been approved in South Dublin which involve a similar height as the subject proposal. These include the following:

##### Site at the corner of Airton Road and Belgard Road, Tallaght, Dublin 24

#### **ABP Ref. ABP-305763-19**

Permission was granted by An Bord Pleanála on 20<sup>th</sup> February 2020 for a Strategic Housing Development on a site at the corner of Airton Road and Belgard Road, Tallaght, Dublin 24 for the demolition of the existing industrial buildings on site (4,800sq.m) and the construction of 2 no. blocks comprising 328 no. apartments (93 no. 1 bed, 222 no. 2 bed and 13 no. 3 bed), ancillary residential support facilities and commercial floorspace measuring 31,147sq.m gross floor space above a single basement level measuring 5,861sq.m ranging in height from part 5 to part 9 storeys. The development also consists of the provision of a landscaped courtyard; public plaza at the corner of Airton and Belgard Road; pedestrian access from Airton Road to the Technological University campus; 184 no. car parking spaces at basement level including 14 no. club car spaces, 10 no. disabled parking spaces and 4 no. crèche parking spaces; 727 no. basement and surface bicycle parking spaces; 4 no. motorbike parking spaces; bin storage; boundary treatments; green roofs; hard and soft landscaping; plant; lighting; Vodafone cabin sub-station; ESB sub-stations, switch rooms and generators; and all other associated site works above and below ground.



Figure 2.0 Northern elevation (fronting Airton Road) approved under ABP Ref. ABP-305763-19



Figure 3.0 Western elevation (fronting Belgard Road) approved under ABP Ref. ABP-305763-19

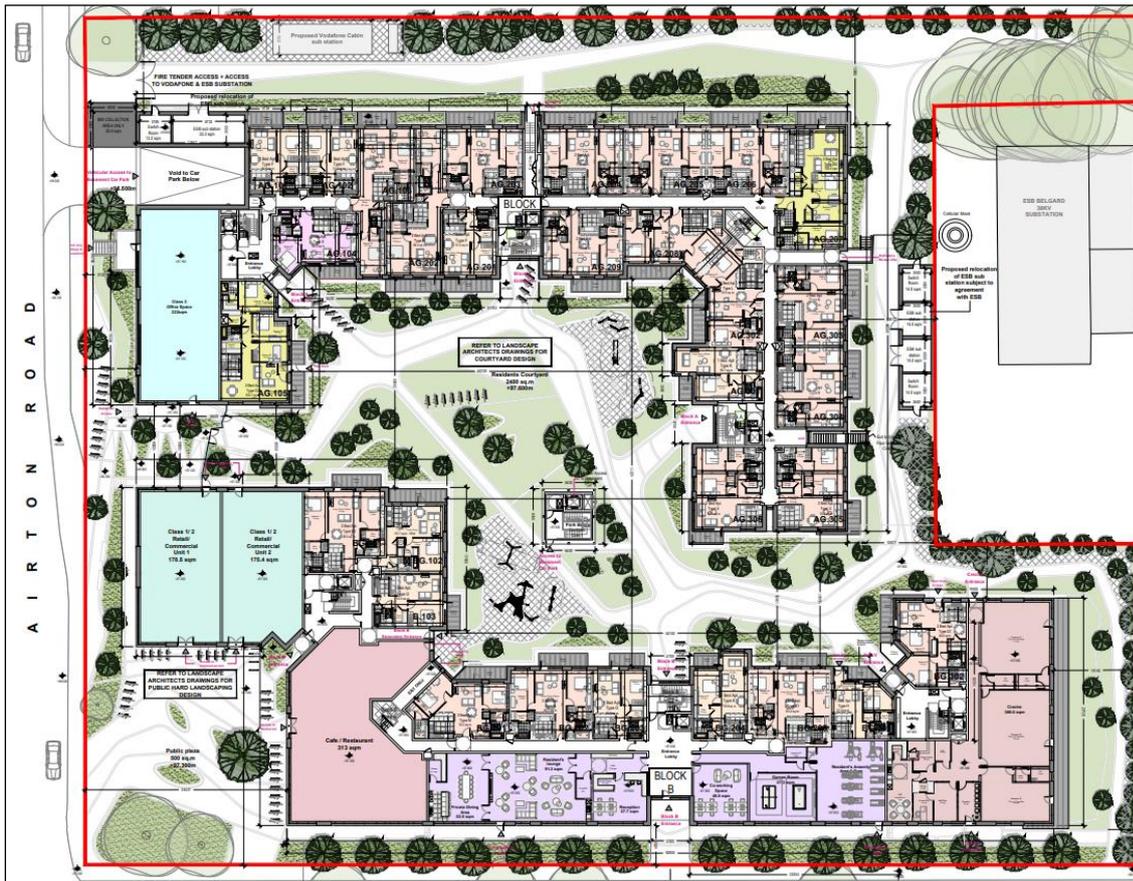


Figure 4.0 Ground floor layout plan approved under ABP Ref. ABP-305763-19

This planning permission remains in force until 2025 and sets a precedent for the construction of suitably designed residential developments in the South Dublin County Council administrative area at an increased scale and density.

*Belgard Gardens, Belgard Square North and Belgard Road, Tallaght, Dublin 24*

**ABP Ref. ABP- 303306-18**

Permission was granted by An Board Pleanála on 15<sup>th</sup> April 2019 for a Strategic Housing Development on lands at Belgard Gardens, Belgard Square North and Belgard Road, Tallaght, Dublin 24 (immediately east and south-east of the subject site). In summary, the proposed Strategic Housing Development involves demolition of all existing buildings and construction of a mixed use residential development (total GFA 55,180 sqm) comprising a new urban quarter and streets with 5 no. blocks to provide 438 no. apartment units (including live/work units) and associated amenity facilities, a 403 no. bedspace student

accommodation scheme and associated amenity facilities, childcare facility (c.380 sqm), 6 no. retail / commercial units (c.632 sqm in total) and a security room (c.52 sqm). This will comprise phase I of the overall development of the c.7.2 ha. site and will be located on a net site area of 3.45 ha. (excluding proposed temporary car park at grade).

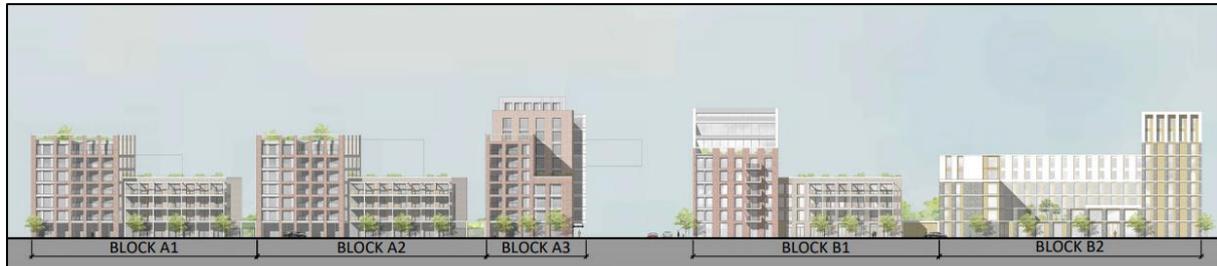


Figure 6.0 South contextual elevation of development proposed under An Bord Pleanála Case No. 303306



Figure 7.0 Site layout plan approved under An Bord Pleanála Case No. 303306-18



Figure 8.0 Site layout plan of development approved under An Bord Pleanála Case No. 303306-18 including the second phase of development which is to follow

The development ranged from 4 to 10 storeys in height. In the Inspector's Report, dated April 2019, it is noted that the site is suitable for the construction of 10 storeys. The Inspector states:

*'In relation to urban design I consider that the site is wholly capable of establishing its own height. It addresses two public roads with suitable separation distances and in addition to the further phase of development, it effectively is a new urban quarter in the area given the size of the site. The higher elements of the proposed scheme are located at pivotal corners and junctions which create a presence for the development and way finding for the wider area. The design of the buildings which is discussed elsewhere provides that the height can be appropriately absorbed into the overall design and into the wider area. I consider therefore that in urban design terms the height strategy for the site is appropriate.'*

The Inspector's Report notes that the development was in contravention of the 2006 Tallaght Town Centre Local Area Plan before noting that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: where development is of strategic or national importance; conflicting objectives in the development plan; regional planning guidelines or guidelines under Section 28 etc. or the pattern of development permissions granted in the area since the adoption

of the development plan. The Inspector's Report notes that the development is a Strategic Housing Development Application and is therefore of significant or national importance. It is noted:

*'The current application has been lodged under the strategic housing legislation and the proposal is considered to be strategic in nature. Government policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. This site would meet these requirements.'*

Based on the criteria set out in Section 37(2)(b), the Inspector made the following comment regarding increased height:

*'Furthermore, as the applicant points out in their statement, National Policy 13 and 35 refer to building height and car parking being based on performance criteria and increasing density through area or site based regeneration and increased building height. Therefore, it is clear that a significant and sustained increase in housing output and apartment type development is not only necessary but is Government Policy in order to meet the need for residential units. Therefore, I consider that the proposal herein would meet the requirements of Section 37(2)(b)(i).'*

In light of this decision by the Board, it is considered that the proposed development to which this report pertains, should be assessed similarly. It is submitted that the site is suitable for an increased residential density and the proposed increase in height to the existing blocks, as well as the addition of a new block of 6-storey's in height is appropriate.

Hughes Planning and Development Consultants would also like to confirm that there are Strategic Housing Development Schemes that have been permitted with reduced private amenity space. In this instance we note that planning permission was granted under Reg. Ref. ABP 303358-19 on lands at Swiss Cottage Public House, Swords Road and School House Lane, Santry, Dublin 9 whereby c. 10 - 12 apartment units were permitted without private balconies. It is acknowledged that the proposed scheme was a Build to Rent scheme and as such internal residential amenity facilities were also proposed. However, the current proposed development provides for the refurbishment of existing buildings and that the Design Standards for New Apartments 2020 recognises that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25 ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality. The proposed development provides for a high quality of open spaces which have been designed with a hierarchy of functions and useability. Furthermore, the proposed development achieves a high level of daylight and sunlight as confirmed in the enclosed Daylight and Sunlight report. The proposal is a high-quality development on an underutilised site within a suburban context and presents a significant improvement on the site when compared to the existing use of the site. It is submitted to the Board that precedents existing for the reduction in private amenity space as set out above and that the Apartment Guidelines 2020 note that the refurbishment of existing buildings are essential to ensuring appropriate and sustainable developments.

The approval of the above mentioned residential schemes indicates that South Dublin County Council and An Bord Pleanála consider it to be acceptable to construct taller and higher density schemes such as that proposed in the subject scheme, in the South Dublin County Council administrative area more broadly. The proposed scheme will not be at odds with the evolving character of the surrounding area, either in terms of residential density, height or built form.

## **6.0 Conclusion**

Having regard to the foregoing, including the SHD precedent development referenced above, it is considered that the proposed building heights, density, ground to floor heights, apartment mix, size and standards including separation distances and open space is justified in this instance. It is submitted that the proposed development is consistent with the proper planning and sustainable development of the area, and is consistent with all relevant national and regional planning policies and guidelines.

Under Section 9(6)(c) of the 2016 Act An Bord Pleanála may grant permission for a strategic housing development that materially contravenes a development plan or local area plan where inter alia it considers that permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister, or any Minister of the Government.

It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the South Dublin County Development 2016 - 2022 that an appropriate justification is set out within this statement demonstrating that the proposed development is appropriate having regard to the policies and objectives set out within the Section 28 Guidelines, as well as the strategic nature of the development and the pattern of development approved in the surrounding area.



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Anne McElligott MIPI  
Director  
For and on behalf of HPDC Ltd.