

MATERIAL CONTRAVENTION STATEMENT

LANDS ADJOINING CLONKEEN COLLEGE, CLONKEEN ROAD, BLACKROCK, CO. DUBLIN



PREPARED FOR:
CLONKEEN INVESTMENTS DAC

PREPARED BY:
TOM PHILLIPS + ASSOCIATES
TOWN PLANNING
CONSULTANTS
80 HARCOURT STREET

DUBLIN 2 D02 F449

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1.0 INTRODUCTION

Clonkeen Investments DAC intend to apply for planning permission for a mixed-use development on a c. 3.3 ha site located at Lands Adjoining Clonkeen College, Blackrock, Co. Dublin. The proposed development can be summarised as follows;

“Clonkeen Investments DAC intend to apply to An Bord Pleanála (the Board) for permission for a Strategic Housing Development with a total application site area of c. 3.3 ha, on a site located at Lands Adjoining Clonkeen College, Clonkeen Road, Blackrock, Co. Dublin. The development, with a total gross floor area of c 33,851 sq m, will provide 299 no. residential units and a 1 no. storey 353 sq m childcare facility with dedicated play area 231 sq m. The development will consist of 18 no. ground floor 3 bedroom duplex apartments and 18 no. 2 bedroom apartments above and 12 no. ground floor 2 bedroom apartments with 12 no. 3 bedroom duplex apartments above. The 60 no. duplex units are arranged in 6 no. three storey blocks. The development will also consist of 239 no. apartment units (111 no. 1 bedroom apartments, 120 no. 2 bedroom apartments and 8 no. 3 bed apartments) arranged in 4 no. 6 storey blocks over 1 no. storey basement; public open space, communal open space and private open space (including all balconies, terraces and individual unit gardens at all levels); 614 sq m communal resident facilities including concierge and welcome area (195 sq m), residents’ flexible work facility (219 sq m), residents’ lounge (100 sq m) and residents’ gym area (100 sq m).

The development will also provide for the demolition of the 2 no. storey office building (‘St. Helen’s’, Meadow Vale - 470 sq m) to facilitate new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale.

The development will also include the provision of 2 no. designated play areas; internal roads and pathways; bin stores; 248 no. car parking spaces, including 167 no. at basement level and 2 no. shared vehicle (GoCar) spaces, 388 no. bicycle parking spaces, and 10 no. motorcycle parking spaces at basement and surface level; hard and soft landscaping; plant; boundary treatments including the repair and replacement of some existing boundary treatments; the provision of new surface water and foul drainage pipes and any required pipe diversion works or build over works; internal foul pumping station; a new internal access road and paths; changes in level; services provision and related pipework, ducting and cabling; electric vehicle charging points; 4 no. stormwater attenuation tanks; 1 no. ESB substation; photovoltaic panels; SUDS including green roof provision; signage; provision for future pedestrian access to Monaloe Park to the east of the development, including the provision of a pedestrian bridge, extending over the drainage ditch; public lighting and all site development and excavation works above and below ground.”

As outlined in the enclosed *Design Statement*, prepared by Scott Tallon Walker Architects, the apartments have been situated to the more central areas of the site, with the lower-scale duplex units arranged around the perimeter, to respond directly to the established surrounding housing. These 3 storey blocks, with low pitch roofs, are of an appropriate domestic scale so as to be in sympathy with the existing 1960’s houses adjacent to site boundary. The massing of buildings has been stepped towards the six storey apartment blocks at the centre of the site, so as to minimise visual impact and potential for overshadowing, whilst simultaneously generating a clear hierarchy of form.



This gives the development as a whole a coherent character and identity. The apartment buildings have been organised on a north/south axis so as to maximise daylight to the school playing pitches to the North.

This arrangement also allows the majority of apartments to be east/west aspect, to maximise their amenity value, whilst minimising overlooking of adjacent lands. Further information on the proposed development is outlined in greater detail in the supporting documentation enclosed with this application.

1.1 Purpose of this Document

This document seeks to address the issue of Material Contravention of the *Dun Laoghaire-Rathdown County Development Plan 2016-2022*, as required under Strategic Housing Development legislation. In this case, in our opinion, the Material Contravention of the Development Plan arises in respect of:

- *Building heights,*
- *Density,*
- *Car parking provision within the proposed development,*
- *Dual aspect,*
- *In addition, consideration is also provided in this document, should the lands be regarded as Institutional Lands for the purposes of the policies and objectives of the Development Plan under Chapters 2 and 8 relating to such lands.*

These issues are described in greater detail below together with the grounds by which the Board may grant permission for the subject proposal, having regard to Section 37(2) of the *Planning and Development Act 2000* (as amended).

Legislative Context

Section 9 of the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, as amended ('the 2016 Act'), confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, is as follows:

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

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



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

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

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

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

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

In the event that the Board were to grant permission, the Board’s “*reasons and considerations*” would have to reference the matters under *Section 37(2)(b)* of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the *Development Plan*. It is apparent from section 10(1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

“(3) A decision of the Board to grant a permission under section 9(4) shall state-

....

(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be.”

Having regard to the analysis set out below of the compliance of the proposed development with national planning policy and section 28 guidelines, and having considered the strategic nature of the site and the proposed development, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the County Development Plan, by reference to sub-paragraphs (i), (ii) and (iii) of Section 37(2)(b) for the reasons set out below.

Site Context

The subject site is located south of Deansgrange Village, Blackrock, Dublin. It is bound to the north by the playing pitches associated with the adjoining Clonkeen College. The area generally constitutes 2 no. storey, mature residential development. The site is located within a mature residential area and is surrounded by existing residential developments, which generally comprise semi-detached and terrace housing, the back gardens of which back onto the site. The adjoining existing school buildings are confined to the northern end of their own lands, which generally comprise two storey, flat roofed buildings, and a single storey element with a pitched roof. These are separated from the subject site by the school playing fields. Monaloe Park housing estate is to the south east of the site, with Meadow Cale housing estate running along the north and eastern boundary of the site. A number of individual dwellings in Monaloe Crescent and Clonkeen Road adjoin the site to the south-western boundary of the site, with a Texaco filling station and childcare facility adjoining the site to the north of these dwellings on Clonkeen Road.

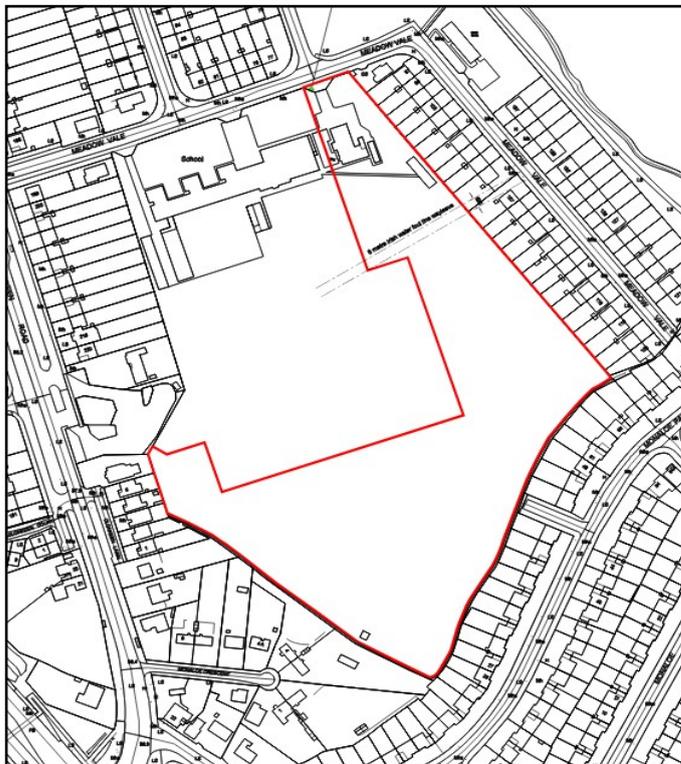


Figure 1.0: Extract of Site Location Map, prepared by Scott Tallon Walker Architects. [Cropped and annotated by TPA, 2021.]

The subject lands, which are zoned for residential development, will accommodate a



significant new public open space, are sufficiently large to accommodate a well-designed high density residential development without giving rise to any adverse impacts on existing residential amenities.

The Public Open Space provision is 21.14% of the overall site area, with 7,012 sq m to be provided. It is considered that given the site's locational characteristics, the proposed residential development will accord with National and Regional sustainable planning principles particularly in relation to the promotion of more compact and efficient forms of urban development in appropriate locations. The considered Material Contravention items are outlined below.

2.0 BUILDING HEIGHT

The proposed development is, at its highest point 6 no. storeys, considered to be in excess of recommendations outlined in Appendix 9 of the *Dún Laoghaire-Rathdown Development Plan (2016-2022)* 'Building Height.' This Appendix states, under Section 4.8, that the maximum height for 'residual suburban areas not already included within the boundaries of the cumulative control area identified in Section 4.7' would be 3 to 4 no. storeys. Section 4.8 states;

*"As demonstrated in the previous sections, the majority of the County's landmass (c.75%) is subject to some form of building height policy and control - either implicit or explicit. This section specifically focuses **on all of those residual suburban areas not already included within the boundaries the cumulative control area identified in Section 4.7.** Areas covered by this policy will include, for example, the overtly suburban areas of Kilmacud, Mount Merrion, Booterstown, Ballinteer, Foxrock and so on. A general recommended height of two storeys will apply. An additional floor of occupied roofspace above this height may also be acceptable but only within the terms laid out in this document.*

Apartment or town-house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. This maximum height (3-4 storeys) for certain developments clearly cannot apply in every circumstance. There will be situations where a minor modification up or down in height could be considered. The factors that may allow for this are known as 'Upward or Downward Modifiers'.

There will be occasions where the criteria for Upward and Downward Modifiers overlap and could be contradictory, for instance: when in close proximity to both a DART station yet within the Coastal Fringe. In this kind of eventuality, a development's height requires to be considered on its own merits on a case-by-case basis. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two." [Our Emphasis]

Ultimately, the question of whether the proposed development is in material contravention of these height parameters under the Plan will be a matter for the Board to determine. On a conservative reading of the Development Plan, it is our opinion that the proposed development is not consistent with its provisions in relation to height and that it would constitute a material contravention of the development plan in this respect.



The *Development Plan* outlines a number of 'Upward Modifiers' in Section 4.8.1, that would allow for buildings in excess of the recommended height outlined for this area under certain conditions. The overall positive benefits of a development proposal would need to be of such a significance as to clearly demonstrate to the satisfaction of the Planning Authority that additional height is justified. It will be necessary, therefore, for a development proposal to meet more than one 'Upward Modifier' criteria.

These criteria include;

"Upward Modifiers may apply where:

- a. The development would create urban design benefits, for example:**
 - *It would enclose main public or green spaces to their benefit,*
 - *It would enclose a main street or mark a major cross-roads and/or transport interchange to the benefit of the legibility, appearance or character of the area,*
 - *It would beneficially frame an important view.*

- b. The development would provide major planning gain, such as:**
 - *Significant improvements to the public realm,*
 - *The provision or significant enhancement of a public transport interchange,*
 - *The provision of new or improved transport infrastructure.*

- c. The development would have civic, social or cultural importance, for example:**
 - *It would provide new facilities or enhance existing facilities in such fields as culture, education, leisure or health,*
 - ***It would provide or enhance public space or social facilities especially in areas where such facilities are deficient,***
 - *It would enable important cultural, historic or archaeological sites landscape and natural features or trees to be retained and enhanced.*

- d. The built environment or topography would permit higher development without damaging the appearance or character of the area, for example:**
 - *In an area where the location or scale of existing buildings would allow the recommended height to be exceeded with little or no demonstrable impact on its surroundings,*
 - *In a dip or hollow, behind a rise, or near a large tree screen, where the impact of a higher building would have little or no additional impact on its surroundings.*

- e. A development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility, whilst retaining and enhancing high quality residential environments.**

(Areas with exceptional public transport accessibility are defined as areas within a 500m walkband on either side of the Luas corridor, a 500m walkband around the DART stations, a 500m walkband on either side of the N11 and 100m walkband on either side of a QBC). Densities should be higher adjacent to these corridors and nodes and grade down towards neighbouring areas so that they are lower in close proximity to residential areas.



- f. The size of a site, e.g. 0.5ha or more, could set its own context for development and may have potential for greater building height away from boundaries with existing residential development. [Our Emphasis]*

We note that the site may be considered under Modifiers A, C, E and F due to the following reasons;

- **Modifier A** – Provision of 7,012 sqm public open space, 3,663 sqm communal open space;
- **Modifier C** – The proposed development will provide and enhance public space and social facilities, in an area where such facilities are deficient. This is evident in this instance due to lack of childcare spaces available in facilities locally. The proposed development will provide 50 no. childcare spaces, which should provide for children within the development and the surrounding community (Please refer to the enclosed Social Infrastructure Audit, prepared by Tom Phillips + Associates.) In addition, as noted above, the development provides ample public open space and associated play facilities.;
- **Modifier E** – We note the proposed development is within the 500 m walking band of the N11, while not within the 100 m Quality Bus Corridor walkband (the site is c. 178m away from the N11.)
- **Modifier F** – The site has an area of c. 3.3 ha, which is almost 7 times the specified site area in Modifier F. The design of the proposed scheme tapers height away from existing residential areas, with proposed duplex units providing a ‘buffer’ from the larger apartment blocks. Further information in relation to the design rationale and approach is enclosed in the enclosed Design Statement, prepared by Scott Tallon Walker Architects.

We note the Development Plan also includes 5 no. ‘*Downward Modifiers*’ which may apply where a proposed development would adversely affect several criteria. These include;

1. *Residential living conditions through overlooking, overshadowing or excessive bulk and scale;*
2. *An Architectural Conservation Area;*
3. *Strategic protected views and prospects;*
4. *A planning or social objective such as the need to provide particular housing, employment or social facilities in an area;*
5. *An area of particular character including coastal fringes and mountain foothills.*



In our opinion, we note that criteria nos. 2 - 5 are not applicable. Particular attention has been paid to the first 'Downward Modifier,' which states that it may apply where a proposed development would adversely affect;

"Residential living conditions through overlooking, overshadowing or excessive bulk and scale."

We believe this *Downward Modifier* is not applicable for the following reasons:

- Provision of sufficient separation distances between the proposed development and adjoining properties to alleviate overlooking concerns, combined with detailed landscape proposals and boundary treatments to further assist with screening the proposed development. The *Landscape and Visual Impact Assessment*, prepared by Doyle O'Troithigh Landscape Architects notes;

"The arrangement of the taller apartment blocks in the centre of the site with their gable facing the playing pitches reduces the potential visual impact on the school and playing pitches..."

The normal operations at construction phase would include the erection of visually sensitive site hoarding including the area around the school playing pitches, site excavation followed by a period of construction activity...

The proposed apartment buildings will be clearly visible from the school but the separation of the proposed buildings from the school by the width of the pitch and the provision of a Palladian fence with planting on the site side and a wall where private areas abut the boundary. Significant semi mature tree planting along the apartment open space area adjoining the playing pitch will mitigate the visual impact when viewed from the school." [Our Emphasis]

- Confirmation that no overshadowing occurs in the enclosed *Daylight and Sunlight Report*, prepared by OCSC Consulting Engineers, which states;

"An effort has been made to safeguard the daylight and sunlight levels within the adjacent properties and playing pitches. A massing reduction has been implemented allowing for an improvement in the daylight and sunlight levels to the adjacent properties and amenity spaces."

The 25° line and VSC analysis have demonstrated that the proposed building has negligible daylight impact on any adjacent property."

The annual probable sunlight hour assessment has shown that all adjacent properties will achieve the minimum recommended BRE values after the proposed development is built. The assessment has shown that the 'worst case' adjacent properties selected for analysis achieve the minimum BRE Guideline recommendations, this demonstrates that excellent levels of APSH will be maintained within all adjacent properties."



The overshadowing assessment has shown that a non-significant impact will be perceived by some of the surrounding open spaces located to the North and North East. However, further analysis has demonstrated that excellent levels of sunlight will continue to be received in all the surrounding gardens and the playing pitches once the proposed development is built, in line with BRE Guidelines recommendations.

An effort has been made to ensure adequate daylight levels within the proposed development and to safeguard the daylight and sunlight levels within the adjacent properties and playing pitches. A massing reduction to the apartment blocks has been implemented from the previously submitted scheme.” [Our Emphasis]

While the scale of the proposed development is larger than that of the surrounding context and existing development, it is our opinion that the height may be regarded as acceptable due to the compliance with several of the *Upward Modifiers* outlined in the *DLRCC Height Strategy*. This is considered in combination with a shift in national guidance on building heights, which has been adopted since the *Development Plan* was originally drafted.

It is a matter for the Board to determine whether the proposed development meets the criteria set out in the upward modifiers with the result that there is no material contravention of the development plan. In the event that the Board concludes that it does not do so, we are of the opinion that a grant of planning permission for the development of the height proposed can be justified by reference to the *Building Height Guidelines*, as further detailed below.

National Guidance on Building Height

The suggested approach in the NPF and the above referenced apartment and building height guidelines regarding the flexible application of planning standards for well-designed proposals is particularly notable in respect of this development. In this regard, it is considered that the subject site is capable of easily accommodating the additional height proposed here without giving rise to any significant adverse planning impacts in terms of daylight, sunlight, overlooking or visual impact. We also refer the Board to the enclosed *Daylight and Sunlight Assessment* carried out by OCSC and the *Landscape and Visual Impact Assessment* prepared by Doyle O’Troithigh Landscape Architects.

On balance, it is our opinion that the proposed development amounts to a material contravention of the *Development Plan*. Ultimately, however, it is a matter for the Board to determine whether the proposed development is in material contravention of the development plan having regard to the application of the Upward and Downward Modifiers. In the event that the Board concludes that it is a material contravention, we are of the opinion that a grant of planning permission for the development of the height proposed can be justified by reference to the *Building Height Guidelines*, as further detailed below.

It is our opinion that in reliance on Section 37(2)(i), (ii) and (iii) of the *Planning and Development Act 2000* (as amended) the Board may decide, to grant a permission even if the proposed development contravenes materially the *Development Plan* relating to the area of the planning authority to whose decision the appeal relates.



This section provides that the Board may only grant permission in accordance with paragraph (a) where it considers that;

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

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

(iii) permission for the proposed development should be granted having regard to regional planning guidelines 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 subject development can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF’s aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links. Details of the applicable objectives of the *National Planning Framework* and other national and regional policies are outlined in this *Statement*.

At present, the lands of the subject site are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is counter the site’s zoning objective, as well as national policy to provide additional housing in existing built-up urban areas. The proposed development will, upon delivery, play an important part of the overall solution to the housing crisis, by providing 299 no. housing units through sustainable, compact growth in a suburban site that is well connected to public transport, existing employment opportunities and supportive social infrastructure.

In addition, three of the ‘*Five Pillars*’ of the *Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)* are explicitly applicable to the proposed development. As the proposed development is located on zoned, serviced lands, within walking distance of a range of amenities and services and will deliver 299 no. units in the coming years. The development is proximate to existing residential areas and employment opportunities, which is in line with the provisions of the *Action Plan*. The *Pillars* support a range of actions to support the increased delivery of housing.

The proposed development will directly respond to Pillar 2 of the Action Plan, which seeks to ‘*accelerate the delivery of social housing.*’ The proposed development is subject to the requirements of the Part V of the *Planning and Development Act 2000 (as amended)*. Social housing provision requirements have been discussed with the Housing Department in DLRCC and 30 no. units are envisaged to be provided. Please refer to the enclosed Part V information pack, which is appended to the SHD Planning Form.

Pillar 3 of the Action Plan seeks to ‘*build more homes*’ in order to meet ongoing demand. The proposed development of 299 no. units will provide a mix of unit types and will be suitable for a range of household types and needs.



Pillar 4 of the Action Plan has the objective to improve the rental sector and Pillar 5 relates to utilisation of existing housing stock. Neither of these Pillars are applicable to the proposed development as it is not a build to rent scheme and is a vacant site.

Urban Development and Building Height Guidelines 2018

The Urban Development and Building Height Guidelines (2018) (‘the Building Height Guidelines’) set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the *National Planning Framework, Project Ireland 2040* and the *Regional Spatial and Economic Strategy*. The *Building Height Guidelines* provide that it is Government policy to promote increased building height in locations with good public transport services. The *Building Height Guidelines* emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the opportunities for 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.

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 Building Height Guidelines and to comply with any applicable specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.

Section 9(3) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016* provides as follows:

“(3)(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”

SPPRs (as stated in the *Building Heights Guidelines*) take precedence over any conflicting policies and objectives of development plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan, the provisions of SPPRs must be applied instead.

In addition, the enclosed *Statement of Consistency* notes compliance with *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)*.



These *Guidelines* seek to promote high density apartment development on appropriately zoned land in appropriate locations in line with the above referenced NPF overarching policies in relation to encouraging residential development within existing urban settlements.

The *Guidelines* also provide new apartment design standards that supersede Development Plan provisions in relation to:

- Apartment mix;
- Apartment sizes;
- Dual aspect ratios;
- Floor to ceiling heights; and
- Apartment to stair/lift ratios.

The *Guidelines* also provide standards in respect of:

- Internal space standards, including storage spaces;
- Amenity spaces including balconies and patios; and
- Room dimensions.

Compliance with the above noted design provisions has been achieved in this development, full details in this regard are provided on the enclosed *Housing Quality Assessment* completed by Scott Tallon Walker Architects.

The *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)* identifies three broad types of locations suitable for apartment development, and advises that Planning Authorities should have regard to these proximity and accessibility considerations. The site is within short walking distance of the Stillorgan Road/N11 high frequency QBC, which is due to be upgraded further under Bus Connects. In our opinion, the site is most appropriately defined as an '*intermediate urban location*.' Due to the site's location in proximity to Deansgrange village, Blackrock village, Dún Laoghaire and Dublin City Centre employment locations, the proposed density of 90 No. units per hectare is considered acceptable at this location. This is considered further below.



We have had particular regard to Section 3.1 of the *Building Height Guidelines*, which set ‘*broad principles*’. A brief response to each of these items is outlined below and further detail is provided in the enclosed documentation:

Development Management Principle	Response
<p>Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?</p>	<p>Yes. The subject development inherently complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF’s aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links.</p>
<p>Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?</p>	<p>The <i>Development Plan</i> in force predates the adoption of the <i>Guidelines</i> and, therefore, has not taken account of the <i>Guidelines</i>. We note SPPR 1 outlined in Chapter 2 of the <i>Guidelines</i>, which states:</p> <p><i>“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.”</i></p> <p>And SPPR 2 which states;</p> <p><i>“In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans² could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities.”</i></p>



	<p>We note that SPPR 1 and SPPR 2 relate to development planning rather than development management. The Development Plan does not implement these requirements of Chapter 2 of <i>Building Height Guidelines</i>. Therefore, it is necessary to focus on the criteria under Section 3.2 of the Guidelines.</p>
<p>Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?</p>	<p>As noted above, the <i>Development Plan</i> predates the implementation of the <i>National Planning Framework</i> and the <i>Guidelines</i>. In our opinion, the pre-existing policies and objectives of the relevant plan or planning scheme do not fully align with and support the objectives and policies of the <i>National Planning Framework</i>. We note the <i>National Planning Framework</i> seeks to promote compact, well-designed sustainable forms of residential development on an underutilised suburban site, as a part of broader <i>Compact Growth</i> goals for our cities and suburbs.</p> <p>Under the heading of ‘<i>Compact Growth</i>’, the NPF is:</p> <p><i>‘Targeting a greater proportion (40%) of future housing development to happen within and close to existing built-up areas. Making better use of under-utilised land, including ‘infill’ and ‘brownfield’ and publicly owned sites together with higher housing and jobs densities, better serviced by existing facilities and public transport’.</i> [Our emphasis]</p> <p>There is a much greater emphasis on higher densities (which can, in part can be achieved by greater height) under the NPF than under the current plan, which does not fully align with the objectives of the NPF. In our opinion, the proposed development, with a density of 90 units per hectare, is a more sustainable use of the site than if the 3-4 no. storey cap, as outlined in the <i>Development Plan Height Strategy</i> was applied.</p>

SPPR3 of the *Urban Development and Building Heights Guidelines 2018* requires applicants for planning permission to set out how the proposal complies with the “*criteria above*”. This refers to the Development Management Criteria in Section 3.2 of the *Guidelines*, which are discussed in turn below. If the Board is satisfied that the criteria under Section 3.2 have been met, it

“may approve such a development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise”.



The paragraph introducing SPPR 3 and SPPR 3 itself are set out below for ease of reference and each of the criteria (denoted by italics) are considered in turn:

“Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28 (1C) of the Planning and Development Act 2000 (as amended).”

SPPR 3
<p><i>It is a specific planning policy requirement that where;</i></p> <p><i>(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and</i></p> <p><i>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;</i></p> <p><i>then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.</i></p> <p><i>(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</i></p> <p><i>(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.</i></p>

Figure 2.0 – Extract of SPPR 3, *Urban Development and Building Heights Guidelines 2018*.

The applicant shall must first demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála, for the purposes of Section 3.2 of the *Guidelines*, that the proposed development satisfies the following criteria at the scale of the relevant city/town. These are now considered below:

Development Management Criteria	Response
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	As noted above, the site is within the 500 m walkband of the N11 QBC, which currently offers a high frequency and high-capacity bus service. We note that the Stillorgan Dual Carriageway also provides for segregated cycle lanes into Dublin City. DART services are also provided in relative proximity to the site, as outlined in the enclosed <i>Traffic and Transport Assessment</i> , prepared by CS Consulting.



<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>We note the proposed development is not in an architecturally sensitive area and no designated key landmarks or landmarks that are considered to be of cultural significance exist on site or within the surrounding context of the site. As noted above, the surrounding context is substantially 2 no. storey residential developments. The proposed development is on private lands, which are not accessible to the public at present.</p> <p>We note that the <i>Development Plan</i> does not designate any key views on or in the surrounding context of the site. The proposed development was, however, assessed in terms of Landscape and Visual Impact. Following this, 8 no. viewpoints were selected following agreement with DLRCC during the S247 process and verified photomontages of the proposed scheme were produced accordingly. This includes assessment of the proposed development when viewed from the adjoining school site. The enclosed <i>Landscape and Visual Impact Assessment</i>, prepared by Doyle O' Troithigh Landscape Architects concludes the following in relation to the residual impacts of the proposed scheme;</p> <p><i>"The residual impacts of this development will be associated with the replacement of a grassed site with 3 storey / 6 storey residential blocks and the visual impacts of the development on the adjoining housing.</i></p>
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	<p><i>The Guidelines for Planning Authorities, The Dept. of Housing, Planning and Local Government, 2018</i> policy objectives to provide more compact forms of urban development influence the extent of the accommodation and height of the buildings. Restricting the taller apartment blocks to the centre of the site, overlooking the school grounds allows for the lower 3-storey units to be arranged around the perimeter where existing screening is present reducing the visual impacts.</p> <p>The proposed apartment buildings will be clearly visible from the school but the separation of the proposed buildings from the school by the width of the pitch and the provision of a Palladin fence with planting on the site side and a wall where private areas abut the boundary. Significant semi mature tree planting along the apartment open space area adjoining the playing pitch will mitigate the visual impact when viewed from the school.</p> <p>The site clearance and construction works will provide the greatest visual impact. Once completed, the design of the building and the brickwork finish will provide a contemporary finish to the development. The proposed landscape design includes a range of planting material on the boundaries including semi mature native species trees.</p> <p>The development on completion will have a level of screening in place to mitigate against the loss of the site vegetation but it will take time for the trees to provide full screening of the buildings. There will be some residual views of the upper levels of the building from the surrounding houses with the houses on the north-eastern boundary with little existing screening having a level of negative visual impact arising from the development proposals.”</p> <p>In addition, we believe that the proposed development will enhance the character and public realm of the area. As the site is currently a vacant, former school playing pitch, the provision of new public open spaces and play facilities on lands previously inaccessible to members of the public constitutes an enhancement in this regard. The <i>Design Statement</i> notes;</p>
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	<p><i>“A central village green is to be developed at the heart of the scheme providing a generous green space amenity, which is easily accessible to all residents. This core amenity is further reinforced by the location of the apartment entrance plaza to the north and network of interlinked green spaces which permeate the site.”</i></p> <p>In relation to topography, we note that the site is generally flat with an approximately 2 metre fall across the site. A key consideration of the design rationale was to ensure the ground levels of the blocks were as low as possible (as advised by CS Consulting Engineers). This assists with reduction of visual impact of the proposed scheme.</p> <p>In relation to the cultural context of the site, we note that as part of the design process, STW studied the homes surrounding the site. The 1960’s terrace blocks on Meadow Vale are approximately 33 metres and 51 metres long. These lengths were used as the basis for the design of Blocks B1 to B4, as a way of reflecting the existing block pattern of the area.</p>
<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing 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>	<p>While in a suburban context rather than urban, we believe the proposed development makes a positive contribution to place-making through the provision of high quality public open space and play facilities. It also provides a sufficient variety and scale in form to respond to the scale of adjoining developments.</p> <p>The enclosed <i>Design Statement</i>, prepared by Scott Tallon Walker Architects outlines the place-making contribution in greater detail;</p> <p><i>“The layout has been considered in detail as part of the design development stage with a view to ensuring the highest quality private and open space amenity. The proposed design generates a series of open spaces in close proximity to end users with buildings positioned so as to provide passive surveillance. This approach unites the built form and landscape design to deliver a new neighbourhood with a clear identity which will benefit the health and lifestyle of all residents.</i></p> <p><i>The open space arrangements are varied in size and form, aspect and function and will provide a range of opportunities for the future users of the scheme.</i></p> <p><i>These spaces have the ability with the</i></p>



	<p><i>surrounding built elements to create a localised character offering an opportunity for living and play.”</i></p> <p>The following is relevant in relation to the use of height and massing to achieve the required densities, where buildings ranging in height from 3 – 6 no. storeys are introduced to the site;</p> <p><i>“The massing of buildings has been stepped towards the six storey apartment blocks at the centre of the site so as to minimise visual impact and potential for overshadowing whilst simultaneously generating a clear hierarchy of form which gives the development as a whole a coherent character and identity.”</i></p> <p>Further information on the place-making considerations are outlined in greater detail in the enclosed <i>Design Statement</i>.</p>
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Second, the applicant must demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, for the purposes of section 3.2 of the *Guidelines*, that the proposed development satisfies the following criteria at the scale of the district/neighbourhood/street:

Development Management Criteria	Response
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</p>	<p>The proposed development meets these criteria. The <i>Design Statement</i> notes;</p> <p><i>“The layout and design of the streetscape, provision of quality amenity areas, landscape mitigation and the protection and enhancement of the peripheral vegetation is central to the long-term successful establishment of this Strategic Housing Development (SHD) at Clonkeen Residential scheme.</i></p> <p><i>As part of the master planning exercise as developed at initial concept stage, the open spaces were established and sited at appropriate locations throughout the scheme. The open spaces, as now developed, are woven into the scheme to provide regular breaks to the built form providing a complimentary aspect and a strong sense of cohesion to the ‘landscape’.</i></p> <p><i>The landscape design development has been guided and influenced by both the Ecological and Arboricultural appraisal of the site.</i></p>



	<p><i>Second to the core principle of amenity was the development of a palette of materials for both hard and soft landscaping to both the amenity lands and the streetscape. To aid us during the process to select materials we have developed a simple check list of both hard and soft landscape materials...</i></p> <p><i>The streetscape draws upon several successful and familiar Dublin streets in the area, using strong street rhythms which are carefully and subtly interrupted, providing interest and distinction.</i> [Our Emphasis]</p> <p>In addition, we note the following in relation to the positive contribution to the neighbourhood and streetscape;</p> <p><i>“We have located the apartments to the more central areas of the site, with the lower scale duplex units arranged around the perimeter to respond directly to the established surrounding housing. These 3 storey blocks with low pitch roofs are of an appropriate domestic scale so as to be in sympathy with the existing 1960’s houses adjacent to site boundary.”</i></p> <p>Further information on the assessment of the surrounding context and how this has informed the proposed scheme is outlined in greater detail in the enclosed Design Statement, prepared by Scott Tallon Walker Architects.</p> <p>In addition, we note the following is relevant where considering the response to the natural environment;</p> <p><i>“Existing boundary conditions have been studied in detail, with a key strategy underpinning the proposed design being the retention of all existing trees and the water ditch to the southern and eastern boundary. These features will be reinforced through carefully selected new planting and boundary treatments to ensure that the scheme provides a sensitive response to all local conditions at the site perimeter.”</i></p>
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	<p>An assessment of existing flora and fauna on site, and the adjoining drainage ditch to the south of the site and are outlined in greater detail in the Ecological Impact Assessment prepared by Altemar Ltd. DLRCC have previously flagged, during S247 discussions, that the drainage ditch can be considered as a Riparian Corridor, and the site is assessed on this basis accordingly.</p>
<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</p>	<p>In our opinion, the proposed development is not monolithic in nature and avoids long, uninterrupted walls of building in its form and the existing context has been well considered.</p> <p>The <i>Design Statement</i> notes;</p> <p><i>“Conditions in the immediate vicinity of the site comprise Clonkeen College Secondary School playing fields to the north and existing residential developments to the south, east and west.</i></p> <p><i>...The massing of buildings has been stepped towards the six storey apartment blocks at the centre of the site so as to minimise visual impact and potential for overshadowing whilst simultaneously generating a clear hierarchy of form which gives the development as a whole a coherent character and identity.</i></p> <p><i>The apartment buildings have been organised on a north / south axis so as to maximise daylight to the school playing pitches to the North. This arrangement also allows the majority of apartments to be east / west aspect, maximising their amenity value whilst minimizing overlooking of adjacent lands...</i></p> <p><i>Existing boundary conditions have been studied in detail, with a key strategy underpinning the proposed design being the retention of all existing trees and the water ditch to the southern and eastern boundary. These features will be reinforced through carefully selected new planting and boundary treatments to ensure that the scheme provides a sensitive response to all local conditions at the site perimeter...</i></p>



By approaching the design at both macro and micro levels, the proposed scheme will provide a high level of amenity; delivering a workable, aesthetically appealing, and robust solution which will work within the local landscape. It is proposed that both the streetscapes and landscape amenity areas will receive treatments of a high standard in terms of materials and specification; both for hard and soft landscape elements..."

In addition, the Design Statement outlines the process for selection of materials and finishes and building fabric –

“The highest design standards have been maintained throughout the development of the proposed scheme; underpinned by attention to local site conditions, sensitivity to the requirements of the surrounding community and a focus on the selection of sympathetic and robust materials.”

Details of material selection, elevational treatment, expression of façades in addition to providing rationale on the detailed design and coordination process is outlined further in the enclosed Design Statement. We note the following materials have been selected accordingly:

- Extensive areas of the facade are to be brick so as to provide visual continuity between the apartments and duplex units.
- High quality powder coated aluminium framed systems selected for window and infill facade components so as to highlight the quality of the adjacent brick and ensure high-quality installation.
- Aluminium frame brise soleil at penthouse setback level (colour to match window framing system).
- Vertical steel balustrades to balconies (colour to match window framing system)
- Black render to penthouse setback level
- All projecting windows to be aluminium



	<p>clad (colour to match window framing system) Hit and miss glazing and aluminium solid panels to facade of residential amenity areas. Extensive areas of green / sedum roofs. Refer to DOT landscaping package for specific areas.”</p> <p>By responding to the site’s context, a sense of place is created through a range of building forms, carefully designed outdoor spaces and distinct character areas. Boundary conditions were a major factor in the design process and for that reason we have situated the lower scale duplex blocks to the perimeter which relate to the 1960’s terraced and semi-detached homes. The 6 storey apartment blocks are located within the centre of the site. These four carefully arranged linear blocks run in an north – south orientation so as to maximise natural light to the apartments, create south facing landscaped courtyards and minimise shadow being cast on Clonkeen College playing fields. The quality of residential amenity spaces along with a variety of strategically located landscaped areas and pocket parks will further encourage a sense of community. The ordered brick façade with infilled aluminium windows in the apartment blocks create a sense of scale and depth to the façade. All communal outdoor spaces are overlooked by a number of apartments, for passive surveillance and to create a sense of ownership amongst residents. The single storey creche is a more playful design with coloured glass portholes and angled roofline.</p> <p>As noted above, further information on the assessment of the surrounding context, the iterative approach to design and how this has informed our scheme is outlined in greater detail in the enclosed Design Statement, prepared by Scott Tallon Walker Architects.</p>
<p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</p>	<p>The site has been fully assessed by CS Consulting in relation to flood risk in the enclosed Flood Risk Assessment, which states;</p> <p><i>“Historically, the site has not been subject to flooding events, as noted by the OPW’s historical flood maps.</i></p>



Dún Laoghaire-Rathdown County Council's Development Plan locates the site in Flood Zone C. Due to the proposed nature of the development, a Justification Test is not required.

Pluvial flooding has been assessed and the proposed use of an attenuation tank to limit the storm water discharge rate from the site to 2l/s/Ha will aid in increasing the capacity of the public combined sewer adjacent to the site. The increased capacity will allow the public drainage system to deal with pluvial flows during extreme storm events.

Tidal mapping for the current 1-in -200-year flood & the predicted 1-in -200-year flood (based on the predicted effect of climate change) indicates that no dwelling will have a finished floor level in the tidal zone.

The risk of the site contributing to offsite flooding, or the site's vulnerability to flooding from the public drainage network, is mitigated by the installation of an attenuation tank to retain the storm volumes experienced on site during high intensity storm events & the existing topography of the site.

The sites local geology & hydrogeological conditions do not indicate that flooding from groundwater is an issue at the site."

We also note the site is not located on an inland waterway or marine frontage. A drainage ditch on site has been assessed in the enclosed documentation.

As noted above, the apartments have been located to the more central areas of the site, with the lower scale duplex units arranged around the perimeter to respond directly to the established surrounding housing, giving a sense of scale and enclosure to the proposal.

These 3 storey blocks with low pitch roofs are of an appropriate domestic scale to be in sympathy with the existing 1960's houses adjacent to site boundary (Monaloe Park and Meadow Vale).



	<p>A central village green is to be developed at the heart of the scheme providing a generous green space amenity which is easily accessible to all residents. This core amenity is further reinforced by the location of the apartment entrance plaza to the north and network of interlinked green spaces which permeate the site and enhances the urban design context for public spaces and key thoroughfares of the proposal.</p>
<p>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.</p>	<p>The proposed development provides access through previously inaccessible, private lands and in this way integrates the proposed development with the wider area. This proposal includes the provision of significant, high quality public open space and play spaces to the benefit of the community of the wider area.</p> <p>The enclosed Design Statement, prepared by Scott Tallon Walker Architects notes;</p> <p><i>“By approaching the design at both macro and micro levels, the proposed scheme will provide a high level of amenity; delivering a workable, aesthetically appealing, and robust solution which will work within the local landscape. It is proposed that both the streetscapes and landscape amenity areas will receive treatments of a high standard in terms of materials and specification; both for hard and soft landscape elements.</i></p> <p><i>As outlined above, our design is intended to reinforce the legibility of differing character areas across the site whilst also providing a wide range of dwelling types and tenures for future residents. This variety will bring a high visual and social amenity to the local area and is conceived to play its role in the success of the new neighbourhood.”</i> [Our Emphasis]</p> <p>The scheme also includes future provision for an additional pedestrian access point into an adjoining housing estate, should DLRCC wish for this to be opened in the future, which will assist with the integration of the site into its context.</p>



	<p>The proposed legibility through the site has been considered throughout the design process. The key character areas will be apparent for those visiting the site for the first time while progressing through the development from the main vehicular access point. The project architect has noted this transition from;</p> <p><i>“the single storey and playful creche to the three-storey domestic scale duplex blocks to the formal colonnade marking the entrance to the concierge / residential amenity facilities.”¹</i></p>
<p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p>	<p>The proposed development will provide a mix of apartment and duplex apartments in a mix of unit sizes, in an area that is predominantly characterised by 2 no. storey detached and semi-detached properties.</p> <p>The proposed residential element of the development comprises the following:</p> <ul style="list-style-type: none"> •111 no. 1-bedroom apartments; •120 no. 2-bedroom apartments; •8 no. 3-bedroom apartments; •30 no. 2-bedroom duplex units; •30 no. 3-bedroom duplex units.

¹ Description provided by the project architect for this document.
Material Contravention Statement – Clonkeen SHD



Third, the applicant must demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, for the purposes of section 3.2 of the Guidelines, that the proposed development satisfies the following criteria at the scale of the site/building:

Development Management Criteria	Response
<p>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p>	<p>The enclosed <i>Daylight and Sunlight Report</i>, prepared by OCSC Consulting notes that the proposed development has negligible daylight, sunlight and overshadowing impact on any of the surrounding properties. The sunlight and overshadowing analysis demonstrate that the adjacent playing pitches to the North of the proposed development will continue to receive excellent levels of sunlight once the proposed development is built. The analysis confirms that across the entire development excellent levels of internal daylight are achieved, with a 93.2% compliance rate achieved across the proposed development. The majority of units not only meet but exceed the Average Daylight Factor target set out.</p> <p>The proposed design ensures adequate daylight levels within the proposed development and to safeguard the daylight and sunlight levels within the adjacent properties and playing pitches. A setback to the apartment blocks, reduction in massing and reorganisation of the duplex units and public open space provision has been implemented following feedback received from both An Bord Pleanála and DL RCC. This is to modulate the impact on adjoining properties while assisting the achievement of the highest rate of compliance possible. Further, detailed information on the redesigned elements of the scheme following the Section 5 Tripartite Meeting is outlined in the enclosed <i>Design Statement</i>.</p> <p>Compensatory design has also been included throughout the full development.</p> <p>Comfortable and desirable spaces have been designed with floor to ceiling heights that enhance the opportunity for improved daylight levels and extensive glazing to every room enabling deep daylight penetration and providing enhanced views to a beautiful landscaped area.</p>



	<p>The following details of compliance in this regard are provided by Scott Tallon Walker Architects:</p> <p><u>Form and Massing of the Development:</u> The immediate surroundings of the site comprising Clonkeen College Secondary School playing fields to the north and established residential developments have been a key element in the layout and massing of the proposed development.</p> <p>We have located the apartments to the more central areas of the site, with the lower scale duplex units arranged around the perimeter to respond directly to the established surrounding housing.</p> <p><u>Daylighting / overshadowing:</u> The apartment buildings have been organised on a north / south axis to maximise daylight (and minimise overshadowing) to the school playing pitches to the North.</p> <p><u>Overlooking / views:</u> This arrangement also allows the majority of apartments to be east / west aspect, maximising their amenity value whilst minimising overlooking of adjacent lands.</p> <p>In addition, the ventilation of the units is to be agreed during detailed design compliance stage with the local authority.</p>
<p>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.</p>	<p>The enclosed <i>Daylight and Sunlight Report</i> notes that the analysis confirms that across the entire development excellent levels of internal daylight are achieved. The majority of apartments not only meet but greatly exceed the recommendations outlined within the BRE Guidelines and British Standard BS8206, achieving a 93.2% compliance rate across the proposed apartments.</p> <p>Balconies have been provided throughout the scheme which provides private open space for residents with good light access. These are provided in order to meet private open space requirements, however the resulting shadow cast by balconies can make full compliance with BRE and BS more difficult to achieve.</p> <p>As noted above, compensatory design has also been included throughout the full development. Deeper balconies have been included on the ground floor as a compensatory measure, as</p>



	<p>these units account for the majority of the compliance failures. As noted in the <i>Design Standards for New Apartments</i>, the minimum floor to ceiling height (above ground floor level) is 2.4 metres. The proposed development exceeds this and provides floor to ceiling heights of 2.5 metres on typical floors and over 2.6 metres on top floor set back. The ground floor apartments have an increased private amenity space (external terrace) which will greatly increase the amenity value of this external space.</p> <p>All apartments have been designed with floor to ceiling glazing, which will greatly increase daylighting and encourage visual links to external landscaping.</p> <p>In terms of sunlight access, excellent levels of sunlight are experienced across the development. The communal amenity spaces provided to the apartment areas greatly exceeds the BRE guidelines for sunlight on the test day of 21st of March.</p> <p>The annual probable sunlight hours assessment has shown that even though some windows are slightly under the BRE recommendations, acceptable levels of sunlight will still be achieved within the proposed development.</p>
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<p>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</p>	<p>As noted above the proposed scheme is substantially compliant in relation to the daylight provisions above. The proposed scheme safeguards the daylight and sunlight levels within the adjacent properties and playing pitches, which has been a specific site constraint considered during the design of the proposed scheme. A massing reduction has been implemented following feedback received from both An Bord Pleanála and DLRCC. Further, detailed information on the redesigned elements of the scheme following the Section 5 Tripartite Meeting is outlined in the enclosed Design Statement. This reduction has allowed for an improvement in the daylight and sunlight levels to the adjacent properties and amenity spaces. The 25° line and VSC analysis have demonstrated that the proposed building has negligible daylight impact on any adjacent property. The enclosed assessment states the following;</p> <p><i>“The annual probable sunlight hour assessment has shown that all adjacent properties will achieve the minimum recommended BRE values after the proposed development is built. The assessment has shown that the ‘worst case’ adjacent properties selected for analysis achieve the minimum BRE Guideline recommendations, this demonstrates that excellent levels of APSH will be maintained within all adjacent properties. The overshadowing assessment has shown that a non-significant impact will be perceived by some of the surrounding open spaces located to the North and North East. However, further analysis has demonstrated that excellent levels of sunlight will continue to be received in all the surrounding gardens and the playing pitches once the proposed development is built, in line with BRE Guidelines recommendations.</i></p> <p><i>The proposed scheme ensures adequate daylight levels within the proposed development and to safeguard the daylight and sunlight levels within the adjacent properties and playing pitches. A massing reduction to the apartment blocks has been implemented from the previously submitted scheme.”</i></p>
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	<p><u>Compensatory Measures:</u></p> <p>As noted in the <i>Design Standards for New Apartments</i>, the minimum floor to ceiling height (above ground floor level) is 2.4 metres. We have exceeded this and provided floor to ceiling heights of 2.5 metres on typical floors and over 2.6 metres on top floor set back.</p> <p>The ground floor apartments have an increased private amenity space (external terrace) which will greatly increase the amenity value of this external space.</p> <p>All apartments have been designed with floor to ceiling glazing which will greatly increase daylighting and encourage visual links to external landscaping.</p>
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The *Guidelines* then note that to support proposals at some or all of these scales, specific assessments may be required and that these may include the following:

Specific Assessments	Response
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.	Due to the nature of the proposed development, including the provision of external balconies on apartment blocks, in combination with a maximum height of 6 no. storeys and significant separation distances, the proposed development should not cause any negative micro-climatic effects, such as downdraft. We also note that a wind assessment was not requested by An Bord Pleanála in their Opinion, following the Tripartite Meeting.
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.	Two seasons of Wintering Bird Surveys have been undertaken on site, in combination with an <i>Ecological Impact Assessment</i> . The MKO Wintering Bird Survey concludes; "Of the wintering waterbirds recorded during surveys, the potential for direct/indirect habitat loss effects was identified for black-headed gull, brent geese, curlew and oystercatcher..."



	<p><i>Following consideration of the effects, it is concluded that the proposed development is not predicted to result in any significant effects on any of these species. No significant effects on receptors of International, National or County Importance were identified. In addition, no adverse effects are predicted for any SPA populations of black-headed gull, brent geese, curlew or oystercatcher."</i></p> <p>As noted in the Wintering Bird Survey, prepared by MKO Environmental Consultants (contained within the <i>Natura Impact Statement</i> document), the collision risk of birds is considered to be low;</p> <p><i>"The presence of the proposed development is not predicted to result in a significant collision risk for this species. When presented with an obstacle in the landscape birds take evasive action to avoid a collision. For example, geese are predicted to avoid colliding with a moving object like an operating turbine 99.8% of the time (SNH, 2013). A prominent, large, stationary object like the proposed development is predicted to pose a negligible risk of collision. Significant effects are not predicted."</i></p>
<p>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwavelinks.</p>	<p>No telecommunication channels will be interrupted by the proposed development. This is confirmed in the <i>Energy and Sustainability Report</i>, prepared by O'Connor Sutton Cronin Consulting Engineers, which states;</p> <p><i>"We note that the application site is currently surrounded by EIR network supplies. A high-speed fibre supply will be brought in from the existing EIR infrastructure network at the main entrance to the site. This planning application has regard to the impact of the proposed development upon the existing telecommunication network. It notes that whilst the construction works have the potential to temporarily impact the underground telecommunication network, measures are proposed to prevent compression/ damage to underground ducts."</i></p>
<p>An assessment that the proposal maintains safe air navigation.</p>	<p>Due to the proposed development being 6 no. storeys in height at its tallest, it is not envisaged that this would interrupt air navigation equipment.</p>
<p>An urban design statement including, as appropriate, impact on the historic built environment</p>	<p>There is no historic built environment designation in or within close proximity of the site, but a <i>Design Statement</i> is provided by Scott Tallon Walker Architects.</p>
<p>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</p>	<p>As noted in the <i>EIAR Screening Statement</i>, prepared by Tom Phillips + Associates, an EIAR is not considered necessary. An <i>Ecological Impact Assessment</i>, prepared by Altamar is enclosed. A <i>Natura Impact Assessment</i> has also been prepared in addition to 2 no. season of <i>Wintering Bird Surveys</i>, prepared by MKO Environmental Consultants and Scott Cawley Ecologists.</p>



The proposed development has also been informed by a suitably qualified Fire Engineer, has advised the project architect in relation to compliance with fire safety requirements. This is reflected in the design approach proposed.

From the above analysis, it is considered that the proposal meets the criteria for higher buildings as set out within the *Building Height Guidelines*. The site is well placed to absorb a high-density development which is appropriately scaled and designed in the context of its urban surroundings, whilst introducing an element of increased building height.

In addition, we note the following policy is relevant when considering the strategic nature of the scheme.

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031

The separately enclosed *Planning Statement of Consistency* outlines how the proposed scheme is compliant with the objectives outlined in *The Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)*, which is a strategic plan and investment framework to shape future development and to better manage regional planning and economic development throughout the Eastern & Midland Region.

The RSES includes a strategic plan for Dublin, the Metropolitan Area Strategic Plan (MASP). To achieve the Vision the MASP identifies a number of Guiding Principles for the sustainable development of the Dublin Metropolitan Area including Compact sustainable growth, which aims to:

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

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

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

The subject development is fully in accordance with the objectives of the RSES realising the potential of infill lands in the consolidation of Dublin and its suburbs.

As noted above, the *Planning Statement of Consistency* also outlines compliance with the *Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009)*. These Guidelines provide national guidance in relation to the appropriate locations for the siting of higher density residential development, having regard to the locational characteristics of the lands in question.



We contend that the subject site is best described under the Guidelines as ‘Infill Residential Development’, which is defined in the Guidelines as:

“Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.” [Our emphasis.]

As noted in the enclosed *Statement of Consistency*, we contend that the proposed scheme strikes an appropriate balance between the protection of the amenities and privacy of adjoining dwellings; the protection of established character of the area; and the need to provide residential infill development at an adequate density, particularly in serviced urban areas. The scheme provides a layout and housing typology that responds appropriately to the site and surrounding area.

3.0 CAR PARKING PROVISION

This report also seeks to address the issue of a possible material contravention in relation to Car Parking, as required under SHD legislation, and outlines the justification to permit the proposed car parking ratio.

Section 8.2.4.5 of the *Dún Laoghaire-Rathdown County Development Plan, 2016-2022* prescribes minimum standards for the quantum of car-parking spaces that are to be provided in new developments. The defined quantum depends on the land-use associated with a given development.

Table 8.2.3 of the Plan sets out the standards for residential land-use and takes account of both resident and visitor requirements (extract provided below.)

The minimum standard number of car parking spaces that would be required for the proposed development, depending on design and location, is 412 no. car parking spaces as per the *Development Plan Standards*, when the apartment metric is applied to all units.

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

Table 3.0: Residential Land Use – Car Parking Standards (Table 8.2.3) (Source: Pg. 189, *Dún Laoghaire Rathdown County Development Plan, 2016-2022*. Annotated by TPA, 2021.)



The development's proposed parking provision shall comprise 248 no. car parking spaces, 388 no. bicycle parking spaces and 10 no. motorcycle parking spaces. These include:

- 167 no. internal (basement level) car parking spaces for residents (of which 7 no. shall be disabled-accessible and 20 no. shall be equipped with EV charging facilities);
- 69 no. external (surface level) car parking spaces for residents (of which 5no. shall be disabled-accessible,10 no. shall be equipped with EV charging facilities, and 2 no. shall be reserved for shared vehicles);
- 8 no. external (surface level) car parking spaces for visitors (of which 2no. shall be disabled-accessible and 2no. shall be equipped with EV charging facilities);
- 4 no. external (surface level) car parking spaces to serve the crèche;
- 314 no. long-term bicycle parking spaces for residents;
- 64 no. short-stay bicycle parking spaces for visitors;
- 10 no. bicycle parking spaces to serve the crèche; and
- 10 no. motorcycle parking spaces for residents.

The residential car parking provision of the proposed development has been assessed with respect to the *Design Standards for New Apartments (Guidelines for Planning Authorities)*, published in December 2020 by the Department of Housing, Planning and Local Government, which give the following recommendation for minimum standard car parking provision in locations similar to the subject site:

“As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.”

Including residents' spaces, visitor spaces, and shared vehicle spaces, the development's total residential car parking provision equates to 0.82 spaces per residential unit overall. This is considered to be appropriate with regard to the location of the site and its proximity to public transport and local amenities. This is in line with Government Guidance regarding reducing dependence on the private motor car and increasing use of public transport/cycling.



With regard to the *Apartment Guidelines*, the subject site location is classified as an *'Intermediate Urban Location.'* This is defined below, with the items applicable to this scheme underlined:

"[Locations] generally suitable for smaller large-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) including:

- **Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;**
- **Sites within walking distance (i.e. between 10-15 minutes or 1,000- 1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;**
- **Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services."**

[Our emphasis.]

We note the proposed development is within the 500 m walking band of the N11, while not within the 100 m Quality Bus Corridor walkband (the site is c. 178 m away from the N11.) Section 4.21 of the *Apartment Guidelines* addresses car parking in the context of *'Intermediate Urban Locations'*. That section states:

"In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard."

Due to the site's location in proximity to Deansgrange village, Blackrock village, Dún Laoghaire and Dublin City Centre employment locations, the proposed density of 90 No. units per hectare is considered acceptable at this location. This is considered further below.

Taking those locational factors into account, the subject site may be defined as an *'Intermediate Urban Location'* and therefore, the proposed development may benefit from reduced provision of car parking spaces.

There appear to be conflicting objectives in the development plan, the objectives of which are not clearly applied in relation to this development. Section 8.2.4.5 of the *Development Plan* provides the context for the Car Parking Standards for Dún Laoghaire-Rathdown County Council Area. Table 8.2.3 provides the *Residential Land Use – Car Parking Standards*. It is highlighted that the requirements set out in this table are considered *"standard"* parking provision as opposed to a *"maximum"*.



However, this table of “standard” provision is in conflict with the supporting text set out in Section 8.2.4.5 of the DL RCC County Development Plan 2016-2022, it is recognised that;

“the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport.”

This section of the Development Plan also highlights that;

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

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

In very limited circumstances, the Council may also consider the development of car-free housing on suitable small-scale sites which have with high levels of public transport accessibility, have convenient and safe access to local shops and community facilities and/or are located very close to Town Centres.”

Finally, Policy ST3 - *Development of Sustainable Travel and Transportation Policies* states that;

*“it is Council policy to promote, facilitate and co-operate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009-2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. **Effecting a modal shift from the private car to more sustainable modes of transport will be paramount objective to be realised in the implementation of this policy.**” [Our Emphasis]*



The objective for having a “standard” requirement for residential parking as set out in Table 8.2.3, requiring this development to provide 412 car parking spaces, is in conflict with the Policy ST3 which is aiming for a modal shift away from private cars as well as the text within Section 8.2.4.5, which requires a reduced car parking standards for any development that is in proximity of public transport, the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a *Travel Plan*. All of these items are applicable to the site and can be achievable. It appears that the rigid application of Table 8.2.3 does not take into account the circumstances of the site and the circumstances where reduced car parking may be appropriate.

In addition, Section 37(2)(b)(iii) of the 2000 Act may be considered, where the Board is referred to the Section 28 Ministerial Guidelines – *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*. Under Section 28 (1C) of the *Planning and Development Act 2000 (as amended)*, Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPR’s) of the guidelines in carrying out their function. SPPRs, as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.

The Apartment Guidelines emphasise the policies of the NPF to the promotion of more compact forms of growth, enabling people to be closer to employment and recreational opportunities, as well as to walk or cycle more and reduce the use of the private car. The NPF advises;

“General restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village, etc.”

Specific *National Planning Framework* policies of relevance are as follows:

<p>National Policy Objective 13 In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.</p>	<p>This is within 10 minutes’ walk of multiple, high frequency bus routes on the N11 QBC. It is also in close proximity to Deansgrange village, Blackrock village, Dún Laoghaire and Dublin City Centre employment locations and has a wide range of existing community, retail, education and supports facilities nearby.</p> <p>The proposed development and landscape design which includes the provision of a basement car park, seeks to minimise parking at surface level where possible and ensures the creation of an attractive environment and will result in a well-designed contemporary development that respects the surrounding context of the site. The development will also provide for new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale and provision for future pedestrian access to Monaloe Park to the east of the development. This will ensure that the proposed scheme is well integrated into the surrounding area and its network of existing facilities and transport options.</p>
<p>National Policy Objective 27 Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.</p>	<p>The proposed development and landscape design which includes the provision of a basement car park, seeks to minimise parking at surface level where possible and ensures the creation of an attractive environment and will result in a well-designed contemporary development that respects the surrounding context of the site. The development will also provide for new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale and provision for future pedestrian access to Monaloe Park to the east of the development. This will ensure that the proposed scheme is well integrated into the surrounding area and its network of existing facilities and transport options.</p>



	Census data indicates that despite car ownership in this area being relatively high the level of car usage in this area for commuting is low resulting in high levels of car storage. The provision of alternative transport options, including shared car services and cycle facilities, in conjunction with the removal of the provision of car storage areas, will result in a modal shift in line with these policies. Further information on this is outlined in the enclosed Traffic and Transport Impact Assessment, prepared by CSC Consulting Engineers.
<p>National Policy Objective 64 Improve air quality and help prevent people being exposed to unacceptable levels of pollution in our urban and rural areas through integrated land use and spatial planning that supports public transport, walking and cycling as more favourable modes of transport to the private car, the promotion of energy efficient buildings and homes, heating systems with zero local emissions, green infrastructure planning and innovative design solutions.</p>	

We also note that the following is to be provided within the scheme:

- 314 no. long-term bicycle parking spaces for residents;
- 64 no. short-stay bicycle parking spaces for visitors;
- 10 no. bicycle parking spaces to serve the crèche.

In addition to the above, it should also be noted that planning precedent exists for reduced car parking, which may be considered under Section 37(2)(iii) of the *Planning and Development Act 2000 (as amended)*, under subsection (iv), which states;

“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 note the pattern of development throughout the DLRCC administrative area, in particular provision on a site at Walled Garden, Gort Muire, Dundrum, Dublin 14 is of particular relevance. As with the subject site, the ‘Walled Garden’ site is similarly classified as an ‘*intermediate urban location*’. An SHD development was permitted by the Board in September 2019 at this site which comprised a car parking ratio of 0.31 spaces per residential unit (ABP Ref. 304590-19). A subsequent amendment application for development on the ‘Walled Garden’ site was approved in October 2020 comprised a reduced car parking ratio of 0.18 (ABP Ref. 307545).

The Inspector’s Report prepared in relation to the latter amendment application (ABP Ref. 307545) noted that whilst there was a significant shortfall in car parking provision, the reduced car parking numbers are in line with national guidance, which emphasises a need to move away from universal parking standards to a more tailored performance-based approach.



The inspector further noted that the proposed car parking provision was in line with County Development Plan objectives and was also;

“in compliance with Policy ST3 by effecting a modal shift from the private car to more sustainable modes of transport”.

In addition, we note a reduced car parking ratio was provided in the nearby Marmalade Lane SHD (ABP Ref. 308157), where 0.44 spaces per unit were proposed. In assessing this, the Inspector’s Report states;

*“It is clear from the above that a shortfall in car parking provision is proposed and that the proposal does contravene Table 8.2.3 of the operative County Development Plan, cited above. **There appears to be conflicting objectives in the operative County Development Plan in relation to this matter.** I note from an examination of the operative County Development Plan that the written text of section 8.2.4.5 states that ‘Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments...’ Based on this, **I consider that the standards set out in Table 8.2.3 could be regarded as a guide only** and note that this section seeks that ‘appropriate consideration’ be given by the planning authority to ‘promoting modal shift to more sustainable forms of transport’...*

It could be argued that the proposed development is promoting modal shift to more sustainable forms of transport, in line with both this policy of the operative County Development and national guidance in this regard...

*I am cognisant of the need for car storage as a component of residential developments. While I acknowledge that the issue of car storage is very relevant, **it is noted that residents of the scheme will be aware of the limited quantum of spaces when deciding whether or not to live in the proposed scheme and this matter may ultimately influence their decision.** I am also of the opinion of that future residents should be advised in advance that there are only limited car parking spaces in this development.*

I consider the parking strategy, as proposed, to be acceptable in this instance...

I am of the opinion that the proposed site is such that it largely satisfies the criteria set out in section 8.2.4.5 of the operative County Development Plan in relation to reduced car parking standards for appropriate development. I am also satisfied that the proposal is in compliance with Policy ST3 of the operative County Development Plan by effecting a modal shift from the private car to more sustainable modes of transport...

***Importantly, potential residents will be aware of the parking situation when deciding to move into the complex.”** [Our Emphasis]*

The car parking ratio of 0.82 spaces per unit proposed within the subject application represents an increased car parking provision when compared against the 2 no. above referenced permissions at the ‘Walled Garden’ site.

The subject proposal will also clearly contribute to affecting a modal shift to more sustainable modes of transport in accordance with both the *Dún Laoghaire-Rathdown Development Plan 2016-2022* and with wider strategic planning policy.

4.0 INSTITUTIONAL LANDS

According to Map 7 of the *Dún Laoghaire-Rathdown Development Plan 2016-2022*, the site is zoned Objective A – ‘to protect and-or improve residential amenity’, where residential use is ‘Permitted in Principle’. (See Figure 4.0.)



Figure 4.0: Extract of Map 7 of the *Dún Laoghaire Rathdown County Development Plan 2016-2022*, with indicative site location denoted with a red star [Cropped and annotated by TPA, 2021.]

We note that the previous *Development Plan (2010-2016)* included a formal ‘INST’ objective at the subject lands. This formal ‘INST’ designation was removed under the current *Development Plan*. However, the previous active use of the lands was institutional in nature and the policies and objectives in relation to institutional lands are considered here on that basis. We note that the site, which is currently vacant, is not accessible to the general public and was similarly inaccessible prior to acquisition by our client.



The relevant policy in the Development Plan in relation to Institutional Lands is as follows:

“2.1.3.5 Policy RES5: Institutional Lands

Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.

*It is recognised that many institutions in Dún Laoghaire-Rathdown are undergoing change for various reasons. Protecting and facilitating the open and landscaped ‘parkland’ settings and the activities of these institutions is encouraged. Where a well-established institution plans to close, rationalise or relocate, the Council will endeavour to reserve the use of the lands for other institutional uses, especially if the site has an open and landscaped setting and recreational amenities are provided. **Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained.***

*A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8). **In the development of such lands, average net densities should be in the region of 35 - 50 units p/ha.** In certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands.*

In cases of rationalisation of an existing institutional use, as opposed to the complete cessation of that use, the possible need for the future provision of additional facilities related to the residual retained institutional use retained on site may require to be taken into account. (This particularly applies to schools where a portion of the site has been disposed of but a school use remains on the residual part of the site.) [Our Emphasis]

In addition, Section 8.2.3.4 (xi) ‘Institutional Lands’ states;

“Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area’s zoning objectives and the open character of the lands being retained. There are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required.



Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority. A minimum open space provision of 25% of the total site area (or a population-based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council.

In addition to the provision of adequate open space, on Institutional Lands where existing school uses will be retained, any proposed residential development shall have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion/ redevelopment.” [Our Emphasis]

These policies are considered further below.

Open Space Provision

Under the 25% minimum standard, the requirement would be c. 8,250 sqm, which would be the ‘greater’ in this instance. We also note that the *Plan* states the following under Section 8.2.8.2:

“For the purposes of this section, ‘Public’ open space refers to all areas of open space within a new development (be that public (taken in charge), communal, semi private or otherwise) that is accessible by all residents/ employees of the development and in certain cases may be accessible by the wider general public. ‘Public’ open space within new developments may not necessarily be taken in charge or be publicly owned/controlled by the Council.” [Our Emphasis]

Should the 25% minimum standard be applied, while noting that the Public Open Space provision is 21.14% of the overall site area, as outlined in the supporting documentation prepared by Doyle O’ Troithigh and Scott Tallon Walker Architects, the proposed development would materially contravene the *Development Plan* in this instance.

It is envisaged that 7,012 sqm public open space and 3,663 sqm communal open space will be provided as part of this application. When combining the public open space with the communal open space, as outlined above, 10,675 sqm of open space is to be provided within the scheme, which constitutes 32% of the overall site area.

Section 8.2.8.2 of the *Dún Laoghaire-Rathdown Development Plan 2016-2022* states the following with regard to a population based equivalent open space standard:

“For all developments with a residential component – 5+ units - the requirement of 15 sq m- 20 sq m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.”



The presumed population of the scheme, when using the above metric, is noted as being 524.5 persons. Applying the population to the 15-20 sq m standard would result in an open space standard of 7,867.5 sq m – 10,490 sq m. We strongly submit that requiring such a substantive tract of residentially zoned urban land to be dedicated to open space would not be in the interests of sustainable development and planning on scarce urban land. We note that 7,012 sqm public open space is to be provided within the scheme, which constitutes 21.14% of the overall site area.

Density

We note that the *Development Plan* requires that lands such as the subject lands which include the 'INST' designation are required to respect density parameters. Again, we note that no formal INST designation pertains to the site, however INST policies were assessed. The *Plan* states that average net densities should be in the region of 35 - 50 units per hectare. However, the *Plan* also acknowledges that in certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands.

We submit that the density provided at the subject scheme, which is 90 no. units per hectare is appropriate for the lands, while delivering a compact, well-designed suburban development while maximising the provision of open space.

Open Character of Lands

As noted above, the open character of the lands is being retained here by way of the provision of 7,012 sq m of public open space, which was previously inaccessible to members of the public, which will comprise a significant new element of planning gain serving the area.

While the land is not currently accessible to members of the public, the public open space proposed will be accessible to the public, therefore maintaining the character of the lands and constitutes a planning gain for the area. In our opinion, the scheme as proposed accords with National Policy which seeks to increase density and consolidate development in urban areas, such as the *National Planning Framework* objectives outlined in Section 6.0 of this *Statement*.

As noted above, the subject site is within 10 minutes' walk of multiple, high frequency bus routes on the N11 QBC. It is also in close proximity to Deansgrange village, Blackrock village, Dún Laoghaire and Dublin City Centre employment locations and has a wide range of existing community, retail, education and supports facilities nearby. The proposed development and landscape design which includes the provision of a basement car park, seeks to minimise parking at surface level where possible and ensures the creation of an attractive environment and will result in a well-designed contemporary development that respects the surrounding context of the site.

The development will also provide for new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale and provision for future pedestrian access to Monaloe Park to the east of the development. This will ensure that the proposed scheme is well integrated into the surrounding area and its network of existing facilities and transport options.



In addition, the scheme has sought to maximise green roof provision. The proposed green roofs will consist of sedum roofing and will cover 60% of new roof areas. The green roof will provide interception of rainfall, filtration through the medium, and storage within the voids whilst facilitating evapotranspiration

Masterplan Provision

We also note that under the Institutional Lands Objectives outlined in the *Plan*;

“In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority.”

A comprehensive masterplan of the wider site, including the adjoining school site, has not been prepared in this instance and a Material Contravention of the *Plan* is evident in this regard.

A masterplan has not been provided in this instance, due to the separate nature of the lands of the subject site to the adjoining school and again note that these lands are not accessible to the public or students of the school. The configuration of the land holding does not naturally lend itself to the level of ‘*open character*’ that is usually expected from institutional site, as outlined in the *Plan*.

In planning terms, the particular nature and configuration of the landholding, which will be accessible separately via Meadow Vale, has no associated wayleaves, permeability or access requirements pertaining to the adjoining school and the absence of a masterplan may be considered acceptable on this basis. In addition, we note that a *Letter of Consent* has been provided by the owner of the wider landholding, The Congregation of Christian Brothers.

We consider that there will be no demand for an alternative institutional use on the proposed development site as importantly the planning application contains a Letter of Support, provided by Clonkeen College and is enclosed accordingly.

The proposed development will not impact on the day-to-day operations of the adjoining school and it would not preclude the capability of future expansion of the school as it already has ample capacity for expansion within their own site. The subject site, which is not currently accessible to members of the public or students of the adjoining school, will provide a significant new public open space facility, enhancing the open character of the lands, while providing a compact, well-designed scheme in a suburban location and the *Material Contravention* of the *Plan* is considered to be acceptable in this instance.



Future Needs of the School

We note that the *Plan* also states;

“In addition to the provision of adequate open space, on Institutional Lands where existing school uses will be retained, any proposed residential development shall have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion/ redevelopment.”

An assessment of the adjoining school campus, including its ability to expand was completed by GVA Planning and is enclosed with the application. The *Report* concludes;

- *“The population comprises a lower portion of young people aged 10-19 than the national average – therefore, the potential school going population is lower than average;*
- *The portion of older people aged 40+ is higher than the national average;*
- *The age cohort 30-39 has increased significantly more than the 10-19 age cohort in the period 2006-2016;*
- *The portion of families identified as “early school”, “pre-adolescent” and “adolescent” are each below the national average while the portion of “retired” families is considerably higher;*
- *The selected catchment is characterised by an ageing population;*
- *The area is a low priority for the provision of further post-primary facilities;*
- ***Considerable capacity remains at the site due to its low plot ratio;***
- ***The proposed residential development will not restrict future development needs at Clonkeen College due to the unused available capacity.”*** [Our Emphasis]

In addition, we note a shift in the technical guidance issued by the Department of Education and Skills since 2018, which recognises that not all schools can provide substantial open play space and sports facilities in an urban context. As the school site currently has., what may be considered, ample playing pitch facilities and ancillary grassed areas, as well as a relatively low-density pattern of development, the completion of the proposed development would not preclude the school from future expansion of facilities on their own lands, should they so wish.

The *Daylight and Sunlight Analysis Report* enclosed with the application, prepared by O’ Connor Sutton Cronin Consulting Engineers, confirms that sufficient sunlight levels are provided to the adjacent playing pitches.



A *School Demand Analysis Report* has been prepared by Tom Phillips + Associates and is enclosed with the Application. This Report concludes;

“There are 14 No. existing primary schools and 7 No. post-primary schools currently operating in the Sallynoggin Killiney DLR School Planning Area to which the subject site belongs. These facilities cater to a student population of c. 3,900 No. primary school students and c. 2,600 No. post-primary students. The area has also demonstrated moderate levels of growth (c. 4%) at the primary level and decline (c. 7%) at the post-primary level in the recent 5-year period.

With respect to future enrolments, we note that a c. 9% decrease in enrolments at the primary school level and a c. 7.5% increase in enrolments at the post-primary school level is anticipated nationally from 2020 to 2025, with respect to the most recent projections published by the Department of Education.

The need for additional educational facilities within the county is established in the Dun Laoghaire-Rathdown Development Plan 2016-2022, but does not specifically identify sites for new schools within the Cabinteely/Killiney/Sallynoggin area, to which the proposed development site belongs. At a national level, 3 No. new schools are proposed to be delivered within the Sallynoggin Killiney DLR School Planning Area in the short term under the 2019-2022 DoE School Building Programme, including 2 No. new primary schools by 2021 and 1 No. new post-primary school by 2022.

We note that patronage for both of the proposed primary schools was awarded to Educate Together in 2020-21 and the site acquisition process was underway for each development as of January 2021. The development of the post-primary school has been delayed to 2022; however, design works for this facility were also ongoing as of January 2021. A number of other educational facilities are also planned within the neighboring feeder areas of Goatstown Stillorgan DLR and Dun Laoghaire to the north and Kiltiernan to the west, to be delivered by 2022.

As the completion of the 2 No. new primary schools and 1 No. post-primary school proposed for Sallynoggin Killiney DLR School Planning Area will increase the availability of places for future students in the short- to medium-term by providing 24 No. new primary classrooms and 600 No. new post-primary school places within the school planning area by 2022, it is considered that the future demand generated by the proposed development (i.e., 189 No. places - including 109 No. primary and 80 No. post-primary school children) is likely be absorbed by the existing schools network and other planned schools currently under development within the area.”

Section 8.2.3.4 (xi) of the *Development Plan* states;

“Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area’s zoning objectives and the open character of the lands being retained.”

As noted above, we note that a *Letter of Consent* has been provided by the owner of the wider landholding, The Congregation of Christian Brothers. We consider that there will be no demand for an alternative institutional use on the proposed development site as importantly the planning application contains a *Letter of Support*, provided by Clonkeen College and is enclosed accordingly.



The proposed development will not impact on the day-to-day operations of the adjoining school and it would not preclude the capability of future expansion of the school as it already has ample capacity for expansion. The subject site, which is not currently accessible to members of the public or students of the adjoining school, will provide a significant new public open space facility, enhancing the open character of the lands, while providing a compact, well-designed scheme in a suburban location and the *Material Contravention* of the Plan is considered to be acceptable in this instance.

5.0 DUAL ASPECT

This report also seeks to address the issue of a possible material contravention in relation to Dual Aspect policy, as required under SHD legislation, and outlines the justification to permit the proposed configuration of the site.

Section 16.3.3 of the *Dún Laoghaire-Rathdown County Development Plan, 2016-2022* prescribes minimum standards for the quantum of dual aspect apartments that are to be provided in new developments. Section 16.3.3 states;

“(ii) Dual Aspect

Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments, and no single aspect units should be north facing.”

We note that the proposed development provides 50.8% dual aspect units, when including the duplex apartment units. No single aspect units are north facing. In this respect, a *Material Contravention* of the Development Plan is noted.

We are of the opinion, as outlined above, that the configuration and shape of the land holding limits the number of layout options available to the site, when taking into consideration the other development management requirements, as outlined in this Statement and the Statement of Consistency. Daylight, sunlight and shadow considerations, open space and car parking requirements, the requirement to taper buildings from adjoining properties and consideration of the sites context have led the scheme to the layout, as currently outlined in the enclosed documentation prepared by Scott Tallon Walker Architects.

By responding to the site’s context, a sense of place is created through a range of building forms, carefully designed outdoor spaces and distinct character areas. Boundary conditions were a major factor in the design process and for that reason, we have situated the lower scale duplex blocks to the perimeter which relate to the 1960’s terraced and semi-detached homes. The 6 storey apartment blocks are located within the centre of the site. These four carefully arranged linear blocks run in a north – south orientation so as to maximise natural light to the apartments, create south facing landscaped courtyards and minimise shadow being cast on Clonkeen College playing fields.

The quality of residential amenity spaces along with a variety of strategically located landscaped areas and pocket parks will further encourage a sense of community. The ordered brick façade with infilled aluminium windows in the apartment blocks create a sense of scale and depth to the façade.



All communal outdoor spaces are overlooked by a number of apartments, for passive surveillance and to create a sense of ownership amongst residents. The single storey creche is a more playful design with coloured glass portholes and angled roofline.

The layout of the scheme, while responding to the surrounding context has been well considered in the iterative design approach taken to the site, as outlined in the enclosed Design Statement, prepared by Scott Tallon Walker. This was assessed while noting that at present, the lands of the subject site are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is counter the site's zoning objective, as well as national policy to provide additional housing in existing built-up urban areas. The proposed development will, upon delivery, play an important part of the overall solution to the housing crisis, by providing 299 no. housing units through sustainable, compact growth in a suburban site that is well connected to public transport, existing employment opportunities and supportive social infrastructure.

We note that Dual Aspect Ratios are included in the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)*. The Guidelines state;

"The amount of sunlight reaching an apartment significantly affects the amenity of the occupants. Dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible. In duplex type or smaller apartment blocks that form part of mixed housing schemes in suburban areas, dual aspect provision is generally achievable. In more urban schemes, where there may be a terraced or perimeter block pattern wholly or partly fronting a street, this may not be the case..."

Accordingly, it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments..." [Our Emphasis]

In addition, we note Specific Planning Policy Requirement 4 (SPPR4) part (ii) which states;

"In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

(ii) 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." [Our Emphasis]



As the proposed development exceeds this minimum requirement, the scheme is in compliance with the above requirement of the Guidelines. It is our opinion that in reliance on Section 37(2)(i), (ii) and (iii) of the *Planning and Development Act 2000* (as amended) the Board may decide, to grant a permission even if the proposed development contravenes materially the *Development Plan* relating to the area of the planning authority to whose decision the appeal relates.

This section provides that the Board may only grant permission in accordance with paragraph (a) where it considers that;

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

and

“(iii) permission for the proposed development should be granted having regard to regional planning guidelines 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.”

As noted above, the subject development can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF’s aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links. Details of the applicable objectives of the *National Planning Framework* and other national and regional policies are outlined in this *Statement*.

We note that SPPRs (as stated in the *Apartment Guidelines*) take precedence over any conflicting policies and objectives of development plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan, the provisions of SPPRs must be applied instead. Compliance has been demonstrated in relation to of Section 3.2 of the *Guidelines*, that the proposed development satisfies the criteria at the scale of the relevant city/town, as outlined in Section 2.0 of this Statement above.

As noted in the enclosed *Statement of Consistency*, we contend that the proposed scheme strikes an appropriate balance between the protection of the amenities and privacy of adjoining dwellings; the protection of established character of the area; and the need to provide residential infill development at an adequate density, particularly in serviced urban areas. The scheme provides a layout and housing typology that responds appropriately to the site and surrounding area.

While we note material contravention items pertaining to the site above, we note that the Board can have regard to *Section 37(2)(b) of the 2016 Act*, where the Board can materially contravene a Development Plan, where national planning policy objectives take precedence including *Section 28 Guidelines*.



It is considered that this report represents an appropriate justification for why the proposed development can and should be considered suitable for dual aspect ratio provision, which is in line with the requirements outlined in SPPR4 of the Apartment Guidelines, but in contravention of the development management criteria of the Development Plan. The report outlines how this can be justified in the context of prevailing national planning policies which actively promote increased heights and densities, with reduced dual aspect ratio requirements, on accessible sites in urban areas close to high quality public transport.

6.0 RESIDENTIAL DENSITY

The proposed SHD development has a density of 90 no. residential units. Arising from the consideration of the site as 'Institutional', as outlined above, there is a specific policy requirement to provide 25% of the lands as open space and to maintain the open character of the lands.

Regarding residential density, Sections 2.1.3.3 (Policy RES3) and 8.2.3.2 of the current *Development Plan* states that, in general, the number of dwellings to be provided on a site should be determined with reference to the '*Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities*' (2009), which is further discussed below and in the enclosed *Statement of Consistency*. It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. The Plan further states that:

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

The *Plan* states that minimum residential densities should be 35 units per ha and notes that:

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

The subject lands, whilst zoned for residential purposes are also considered as 'Institutional' and are subject to particular *Development Plan* policy provisions pertaining to Institutional sites (see Section 2.1.3.5, Policy RES5). This policy notes that where such lands are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs. The overriding policies in relation to development on Institutional lands include the preservation of the open character of the lands and the achievement of a sustainable amount of development, while ensuring the essential setting of the lands and the integrity of the main buildings are retained.



Regarding residential density on Institutional designated lands, the Development Plan states:

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

Again, we note that the site does not have an explicit institutional designation. In this case, it is contended that the residential density proposed in this development contributes towards the objective of retaining the open character and recreational amenities of the lands by providing c. 21% of the site area as public open space that will be available to the general public.

This will deliver very significant new planning gain to the area but in order to facilitate this extent of new public open space, the proposed residential development must be concentrated in certain parts of the site to ensure that an appropriate and sustainable density of development can be proposed on the lands.

Policy RES5 regarding Institutional Lands notes that an average of 35-50 units per ha should be provided but explicitly allows for higher densities where these contribute to the objective of retaining the lands' open character. Thus, it is clear that the *Development Plan* does restrict or cap residential densities and there is no upper limitation identified. On this basis, it could be argued that the proposed residential density in this case of 90 units per ha accords with the *Development Plan* in density terms. However, for the avoidance of doubt and given that the issue of density on Institutional designated lands may be open to some interpretation within the *Development Plan*, it is proposed that the residential density of this proposal is being treated as a Material Contravention of the *Development Plan*.

It is submitted that all national planning policy guidance explicitly supports the efficient use of lands and the promotion of higher residential densities on sites located in close proximity to high quality public transport services, employment centres and established social infrastructure. The subject site meets these criteria being within easy walking distance of the N11 QBC. It is also in close proximity to Deansgrange Village, Blackrock Village, Dún Laoghaire, UCD Campus and Dublin City Centre employment locations and has a wide range of existing community, retail, medical, recreational and education and supports facilities nearby. It is noted that none of the national guidance documents specify a maximum residential density.

National Planning Framework (NPF) - Ireland 2040 (2018)

The NPF was adopted in 2018 and essentially sets out a vision for Ireland based on a set of values that will ensure Ireland's long term economic, environmental and social progress for all parts of the country. The ultimate objectives of the NPF are to:

- Guide the future development of Ireland, taking into account a projected 1 million increase in population, the need to create 660,000 additional jobs to achieve full employment and a need for 550,000 more homes by 2040;
- Of the estimated 1 million extra people, 25% is planned for Dublin, recognised as the key international and global city of scale and principal economic driver in Ireland;



- 25% across the other four cities combined (Cork, Limerick, Galway and Waterford), enabling all four to grow their population and jobs by 50-60%, and become cities of greater scale, i.e. growing by twice as much as they did over the previous 25 years to 2016, and
- Enable people to live closer to where they work, moving away from the current unsustainable trends of increased commuting;
- Transform settlements of all sizes through imaginative urban regeneration and bring life / jobs back into cities, towns and villages;
- Co-ordinate delivery of infrastructure and services in tandem with growth, through joined-up NPF/National Investment Plan and consistent sectoral plans, which will help to manage this growth and tackle congestion and quality of life issues in Dublin and elsewhere.

In order to achieve these objectives, the NPF identifies a series of National Planning Objectives (NPOs), which essentially seek to deliver on the principles of compact urban growth and sustainable development. In particular, the NPF notes that the consolidation of the Dublin Metropolitan Area, which includes all of the Dún Laoghaire-Rathdown administrative area will be critical to achieving these national strategic outcomes. The NPF also proposes that 50% of all new homes within the five designated cities and their suburbs are to be delivered within the existing built-up footprint of these settlements. On that basis, the proposed development on a 3.3 ha vacant site will contribute significantly to the realisation of the above objectives and must be developed to ensure that the efficient use of lands with these locational characteristics is achieved.

The proposed redevelopment of the lands also accords with many of the NPOs including:

- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 3b:** Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- **National Policy Objective 3c:** Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- **National Policy Objective 32:** To target the delivery of 550,000 additional households to 2040.



- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

The provision of 299 no. new dwelling units on this c. 3.3 ha SHD site, having regard to the above referenced locational characteristics to the density proposed, will accord with the NPOs noted above.

Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities 2009

The above Guidelines provide wide ranging guidance in respect of the relevant considerations and appropriate locations for the siting of higher density residential development. Section 5.8 of the Guidelines reference ‘Transport Corridors’ and states:

*“The State has committed very substantial investment in public transport under the Transport 21 capital programme. To maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services **by sustainable settlement patterns – including higher densities – on lands within existing or planned transport corridors.**” [Our Emphasis]*

In general, the Guidelines seek that minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes.

Regarding ‘Institutional’ lands, Section 4.20 of the Guidelines state:

“In institutional lands and ‘windfall’ sites which are often characterised by a large private or institutional building set in substantial open lands and which in some cases may be accessible as an amenity to the wider community, any proposals for higher density residential development must take into account the objective of retaining the “open character” of these lands, while at the same time ensuring that an efficient use is made of the land.

*In these cases, a minimum requirement of 20% of site area should be specified; however, this should be assessed in the context of the quality and provision of existing or proposed open space in the wider area. **Whilst the quantum of open space may be increased vis-à-vis other sites, the amount of residential yield should be no less than would be achieved on any comparable residential site.** Increasing densities in selected parts of the site subject to the safeguards expressed elsewhere may be necessary to achieve this.” [Our Emphasis]*

The proposal will deliver c. 21% of the site as public open space and is designed to ensure that the open character of the lands is enhanced. The reference to the residential yield that would be achieved on any comparable residential site is noted and, in our opinion, is reflected in the



current proposal. It is close to an existing public transport corridor and is an appropriate location for promoting higher densities.

Section 5.10 further discusses 'Institutional Lands' and states:

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

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

As noted above, the open character of the lands is being retained here by way of the provision of 7,012 sq m of public open space, which will comprise a significant new element of planning gain serving the area. In order to deliver this quantum of public open space and amenity, and having regard to the surrounding context of two storey 1960's residential developments on certain boundaries of the site, this necessitates increasing residential densities in selected parts of the site that are capable of accommodating new residential development without giving rise to significant impacts on the existing residential amenities of adjoining properties.

In summary, it is submitted that the proposed development accords with the provisions of the 2009 Guidelines, which specify minimum net densities of 50 units per ha, but do not specify any absolute maximum density limitations in respect of residential development, or lands deemed to be institutional.

Design Standards for New Apartments - Guidelines for Planning Authorities 2018

The *Apartment Design Guidelines* were adopted in 2018 and provide guidance in relation to a range of design matters including unit size, aspect, floor to ceiling height, lift and stair cores, storage, amenity space, play areas, etc. They also address locational considerations and the characteristics of sites deemed suitable for higher density apartment development.



Section 2.4 of the Guidelines refer to *'Intermediate Urban Location.'* This is defined below, with the items applicable to this scheme underlined:

"[Locations] generally suitable for smaller large-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) including:

- **Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;**
- **Sites within walking distance (i.e. between 10-15 minutes or 1,000- 1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;**
- **Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services."**

[Our emphasis.]

The subject site meets the above criteria being located with reasonable walking distance of the N11 QBC, with walking distance of significant employment locations. For residential development in these locations, there are no upper or maximum density parameters specified within this guidance. As such, it is considered that the proposed density in this case accords with this provision.

In addition to the above, it should also be noted that planning precedent exists for higher density developments on lands that may be considered to be institutional by virtue of formal designation or former use, which may be considered under Section 37(2)(iii) of the *Planning and Development Act 2000 (as amended)*, under subsection (iv), which states;

"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 note the pattern of development throughout the DLRCC administrative area, in particular provision on a site at Walled Garden, Gort Muire, Dundrum, Dublin 14 is of particular relevance. As noted previously, as with the subject site, the 'Walled Garden' site is similarly classified as an *'intermediate urban location'*.

An SHD development was permitted by the Board in September 2019 at this site with a density higher than that normally allowed under the Development Plan (ABP Ref. 304590-19). A subsequent amendment application for development on the 'Walled Garden' site was approved in October 2020 (ABP Ref. 307545).



While we note material contravention items pertaining to the site above, we note that the Board can have regard to *Section 37(2)(b) of the 2016 Act*, where the Board can materially contravene a Development Plan, where national planning policy objectives take precedence including *Section 28 Guidelines*. In particular, Section 9(3)(b) of the 2016 Act states the following:

“Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.”

It is considered that this report represents an appropriate justification for why the proposed development can and should be considered suitable for reduced car parking, increased density and building heights and material contravention of institutional lands policies. The report outlines how this can be justified in the context of prevailing national planning policies which actively promote increased heights and densities, with reduced car parking, on accessible sites in urban areas close to high quality public transport.

7.0 CONCLUSION

The *Urban Development and Building Height Guidelines 2018* state in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the criteria outlined in the above table;

“Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28 (1C) of the Planning and Development Act 2000 (as amended).

SPPR 3 It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme.



In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

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

It is submitted that the criteria noted above in this *Statement* are fully complied with in this planning application in line with National planning policy and the parameters of the *National Planning Framework* such that SPPR 3 can be invoked in relation to building height.

The Applicant has retained a multi-disciplinary Design Team, which have designed the development to take account of the residential amenities of the area, as well as those of the proposed development. The various assessments enclosed demonstrate that the proposal will complement the surrounding land uses and contribute to the development of a vibrant residential community and neighbourhood centre in this established suburban area.

At present, the lands of the subject site are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is counter the site’s zoning objective, as well as national policy to provide additional housing in existing built-up urban areas.

The proposed development also incorporates generous communal and private open space for future residents and the existing local community. The proposed development provides adequate separation distances to the boundaries and will not result in overlooking or overbearing impacts on the adjoining residential properties or within the development.

As required in legislation, it is submitted that the above material contraventions can be justified under Section 37(2)(iii) of the *Planning and Development Act 2000* (as amended) where the Board may determine under this section, to grant a permission even if the proposed development contravenes materially the *Development Plan* relating to the area of the planning authority to whose decision the appeal relates. This section states that the Board may only grant permission in accordance with paragraph (a), where it considers that:

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

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

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

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



The subject development can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF's aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links.

It is considered that the proposed development will inherently accord with National and Regional sustainable planning principles in respect of density, dual aspect and building height particularly in relation to the promotion of more compact and efficient forms of urban development on brownfield sites and increased residential densities in appropriate locations, specifically in close proximity to high quality public transport services and centres of employment.

This is in line with the:

- *National Planning Framework;*
- *Regional Spatial and Economic Strategy for the Eastern and Midland Region,*
- *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities 2009;*
- *Design Standards for New Apartments - Guidelines for Planning Authorities 2018, and*
- *Urban Development and Building Height Guidelines 2018, being guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000, as amended.*

On that basis, it is submitted that the Board can grant permission for the proposed development in respect of residential density, dual aspect, car parking, institutional lands considerations and height, having regard to subsection (iii):

“permission for the proposed development should be granted having regard to regional planning guidelines 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 considered that this statement provides appropriate justification for the Board to grant permission for the development in accordance with national policy and guidelines.