

# **Material Contravention Statement**

## **Proposed SHD Application**

**Blackglen Road  
Sandyford  
Dublin 18**

**On behalf of  
Zolbury Ltd.**

August 2022



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## 1 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, have prepared this Material Contravention Statement on behalf of **Zolbury Ltd. Unit 9, Ardavan Business Park, Ardavan, Wexford, Ireland Y35 XT53**, for a proposed development on lands at Blackglen Road, Sandyford, Dublin 18. For clarity, the site is located within the administrative boundary of Dún Laoghaire-Rathdown County Council.

A full description of the development is contained within the accompanying application documentation.

The proposed development consists of 9 no. blocks of apartments with a Creche and Resident Amenity building. The blocks are in a series of pavilions ranging in height from 2 to 6 storeys high. A total of 360 no. residential units and 419 no. car parking spaces and 970 bicycle parking spaces are proposed.

This statement has been prepared to set out the basis for consideration of a material contravention of the Dún Laoghaire Rathdown County Development Plan 2022-2028 in relation to the following matters:

1. **Building Height**
2. **Residential Mix**
3. **Residential Density**
4. **Transitional Zone**

For the purposes of this statement, the proposed development provides for:

1. **Building Heights from 2 to 6 storeys**
2. **Residential Unit Mix of 123 no. 1 bed units (32.4%); 224 no. 2. bed units (62.2%); and 13 no. 3 bed units (3.6%)**
3. **Residential Density of 97.3 units per ha (360 units based on a net development site area of 3.7ha).**
4. **The site is located in a Transitional Zone as per the Dun Laoghaire Rathdown County Development Plan 2022 - 2028 - The site is zoned 'Objective A' and located adjacent to a large area of lands zoned 'Objective F'.**

It is acknowledged that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the County Development Plan with the onus on the applicant to advertise the potential for a material contravention and reference same in a statement to be included with the application.

If it so concludes, the Board has power to grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).

### 1.1 Legislative Context

This Statement has been prepared in compliance with **section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016** and **section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)**. The relevant provisions from each of these documents is set out below:

#### **Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:**

*“Section (8)(1) Before an applicant makes an application under Section 4(1) for permission, he or she shall –*

*(a) Have caused to be published, in one or more newspapers circulating in the area or areas in which it is proposed to carry out the strategy housing development, a notice – ...*

*(iv) stating that the application contains a statement – ...*

*(II) Where the proposed development materially contravenes the said plan, other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”*

**Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016**

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

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

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

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

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

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

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

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

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

This material contravention statement is submitted on the basis that (i) the proposal currently before An Bord Pleanála is of strategic importance; and (ii) the proposal can be positively considered on the basis of Section 28 guidelines.

In the first instance, the proposed development is considered to be of strategic importance, that being, the proposal qualifies as a Strategic Housing Development by virtue of the nature of the definition identified under the Planning and Development (Housing) and Residential Tenancies Act, 2016.

In the second instance, is submitted that the overall proposed development aligns with the national policy mandate and Section 28 ministerial guidelines.

Lastly, the proposed development aligns with the current national policy mandate to expedite the delivery of residential development of appropriate height and density and Section 28 Ministerial Guidelines.

We can confirm that the published notices have been prepared in compliance with section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

The proposed material contraventions relate only to building height, residential mix, density and Transitional Zones. For completeness, it is noted that the Zoning Objective A of the site has the stated aim “to protect and/or improve residential amenity” and as such the residential use as proposed is permitted under the said Zoning Objective A of the site.

In considering whether to grant permission, notwithstanding the material contravention of the CDP, it is also necessary for the Board to carefully consider the requirements of Specific Planning Policy Requirements (SPPRs) under relevant Ministerial Guidelines issued pursuant to section 28 of the Act of 2000. Such guidelines include:

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

In this regard, please also refer to the Planning Report and Statement of Consistency, which address compliance with the aforesaid Guidelines and SPPRs.

In this context, section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 refers to SPPRs and provides:

(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.

This material contravention statement is submitted on the basis that:

- i. The proposal is of national importance;
- ii. There are conflicting objectives in the Development Plan; and
- iii. The proposal can be positively considered having regard to Section 28 Ministerial Guidelines; and

We now invite An Bord Pleanála to consider the justification set out in this report, which supports this position.

## 2 Statutory Planning Policy

The relevant provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 as they relate to the matters of building height, mix of units, residential density, and Transitional Zones outlined below. This is a key document in the statutory policy guidance framing the development of the site.

### 2.1 Building Height

Appendix 5 of the Development Plan 2022-2028 contains the Building Height Strategy for the County, which has been prepared in accordance with the principles espoused in Urban Development and Building Height Guidelines for Planning Authorities, 2018 (Building Height Guidelines). Section 1.4.2 of the strategy sets out the requirements of the planning authorities to consider the policies and objectives contained in the Building Height Guidelines when making their development plans and development plans.

The Building Height Guidelines put forward both an area based and a performance criteria-driven approach as opposed to generic maximum height limits. The achievement of height is linked in the guidelines to increasing densities, although it is recognised that height does not necessarily mean higher densities.

Section 2.7 of the Building Height Guidelines calls for County Development Plans to be more “proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building Heights, while also being mindful of the quality of development and balancing amenity and environmental considerations”.

Other Guidance of Relevance to Building Heights include the following –

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2020. These guidelines recognise the suitability of apartments in accessible locations and promote performance-based standards to ensure well-design, high quality outcomes. They also reference issues relating to building height and separation distances, and the need for more flexible approaches and, therefore, should be considered when assessing building heights.
- Design Manual for Urban Roads and Streets (DMURS), 2019 - These provide guidance for the assessment of streets, roads, design of networks, classification, and detailed design. It combines technical street guidance with more general elements of Urban Design. Building height and urban scale are an important part of street and space design. More specifically, DMURS describes the important relationship between building height and street width, and has a crucial role in providing enclosure of streets and spaces and thus relates to urban design/form etc.
- Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009; and the accompanying Urban Design Manual, 2009 - The 2009 guidelines and accompanying urban design manual provide guidance on planning for sustainable neighbourhoods in differing locations. The accompanying manual introduces the core principles of urban design and draws up 12 criteria which make up the essence of good urban design.

Section 4 of the Building Height Strategy sets out a policy approach for the assessment of building height in the County which aligns with the Section 28 Guidelines. The policy approach builds on the principle of allowing taller buildings in town centres, district centres, **areas close to high frequency public transport** and some other areas identified as suitable for height.

At present, two Dublin Bus routes are located within 120 meters of the site entrance. The site is served by the 44b Bus route at Lambs Cross which connects to Dundrum Luas Station and the 114 Bus, which runs to Blackrock DART station. The Glencairn Luas stop (with park and ride) on the Green line is 1.9km from the proposed site, a 27-minute walk or 9 minute cycle from the site entrance. The site’s location on a quality bus corridor and within a short walking and cycling distance of a LUAS encourages increased densities that will contribute to the consolidation of Dublin City.

The TFI 90 Minute Fare, which was introduced by TFI, includes the flexibility to transfer between Dublin Bus, Luas and most DART, commuter rail (zones 1 to 4 in the Short Hoop Zone) and Go-Ahead Ireland services in Dublin – just touch on your last journey within 90 minutes of the first.

With high frequency and high capacity urban public transport stops within short walking distance, this proposed development site is appropriate for residential development of a higher density. The Glencairn LUAS is a 9 minute cycle from the site and 2 no. Dublin Bus stops are within 120m of the site.

- Glencairn LUAS – 1.9km / 9-minute cycle
- Sandyford Business District - 2.1km / 27 min walk
- Lamb's Cross Neighbourhood Centre – 400m east
- 44 Bus Route to City Centre & DCU – 1.2km / 14 min walk
- 47 Bus route to City Centre via UCD – 1.2km / 14 min walk.
- 44B Bus Route to Dundrum Luas Stop – 120m
- 114 Bus Route to Blackrock Dart station – 120m

The Building Height Strategy provides that there may be instances where an agreement can be made for increased height within the plan area and in those instances any such proposals would have to be assessed in accordance with any new performance criteria set out in Section 5 of the Building Heights Strategy as per SPPr3.

To ensure application of the SPPrs and having regard to the other content of the Guidelines a number of policies have been formulated in the Building Height Strategy which support increased building height and/or taller buildings at appropriate locations. Policy Objective BHS1 – Increased Heights states:

BHS 1 - It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (**i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route**) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

The Building Height Strategy sets out the performance-based criteria that the Planning Authority will use in assessing applications for increased height in the County. There has been an additional amendment to the Performance Based Criteria below which now includes the following statement *“Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development.”*

The performance based criteria as set out in the Building Height Strategy takes into account the protection of residential amenities, the protection of the County's built and natural heritage and the promotion of compact growth in suitable locations throughout the County. The proposed development has a general shoulder height of 6 storeys, with stepped variations responding to the specific site context. This considered design approach results in heights of 1 to 3 storeys at sensitive locations to a central marker building extending to 6 storeys in the heart of the scheme. The heights proposed can be demonstrated as follows:

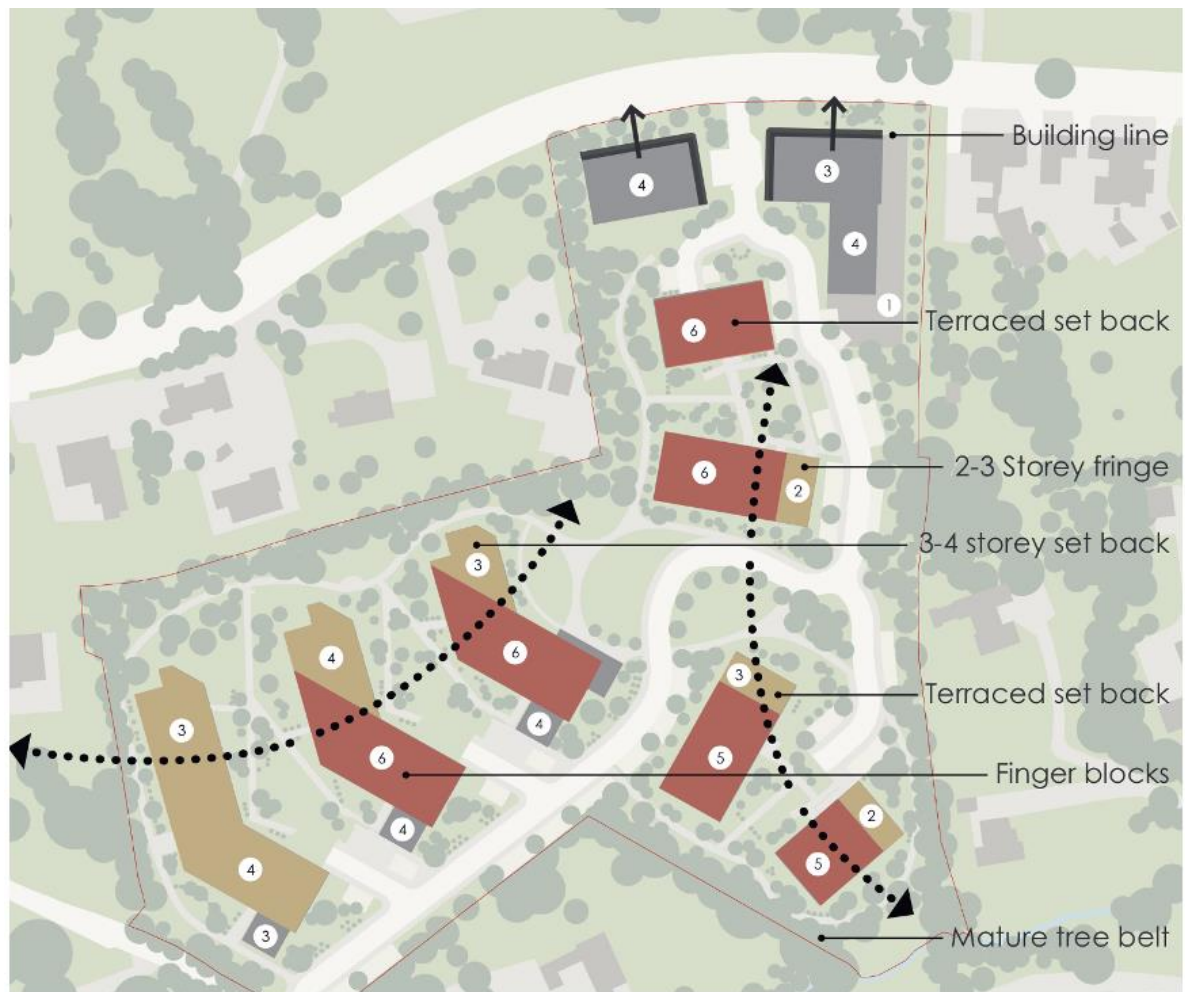


Figure 1 - Proposal for building height

The criteria for assessing proposals for increased height or taller buildings must demonstrate satisfaction with the following criteria as set out in Table 1 below:

Table 1 – Responses to criteria in Table 5.1 of the DLRCC Development Plan 2022-2028 – Building Height Strategy

CRITERIA FOR ALL SUCH PROPOSALS	COMPLIANCE
<b>AT COUNTY LEVEL</b>	
<p><b>Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth.</b></p>	<p>As set out in the Statement of Consistency (SOC) and Planning Report which accompanies this application the proposal secures the relevant objectives of the NPF. The proposed development of 360 no. units yield a significant density of 97.3 units. This increase in housing delivery and density are supportive of, and in alignment with the following National Policy Objectives of the NPF:</p> <ul style="list-style-type: none"> <li>• NPO2a- A target of half of future population and employment growth will be focused in the existing five cities and their suburbs.</li> <li>• NPO3a – Deliver at least 40% of all new homes nationally, within the built up footprint of existing settlements.</li> <li>• NPO 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.</li> <li>• NPO5 – Develop cities, towns and villages of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.</li> <li>• NPO 35 – Increased residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area of site-based regeneration and increased building heights.</li> </ul> <p>These NPOs seek to focus future development in existing urban environments, more efficiently using land resources and developing the critical mass required to provide public transport and local services and to sustain local businesses. They also underpin the NPF’s primary National Strategic Outcome (NSO), ‘compact Growth’.</p>
<p><b>Site must be well served by public transport – i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport.</b></p>	<p>As detailed in the Planning Report and Statement of Consistency prepared by Brock McClure, and the Traffic and Transport assessment prepared by OCSC , the overall site is well served by public transport.</p> <p>Public transport stops are within short walking distance. The Glencairn LUAS is a 9 minute cycle from the site and 2 no. Dublin Bus stops are within 120m of the site. The available bus services include Dublin Bus Route 44B which operates between Dundrum Luas Stop and Ballybrack Road, Glencullen. In addition, Go-Ahead Bus operates bus route 114 in the vicinity of the subject site providing services between Rockview, Ballinteer and Blackrock Station via Sandyford and UCD Belfield.</p> <ul style="list-style-type: none"> <li>• Glencairn LUAS – 1.9km / 9-minute cycle</li> <li>• Sandyford Business District - 2.1km / 27 min walk</li> <li>• Lamb’s Cross Neighbourhood Centre – 400m east</li> <li>• 44 Bus Route to City Centre &amp; DCU – 1.2km / 14 min walk</li> <li>• 47 Bus route to City Centre via UCD – 1.2km / 14 min walk.</li> <li>• 44B Bus Route to Dundrum Luas Stop – 120m</li> <li>• 114 Bus Route to Blackrock Dart Station - 120m</li> </ul>

	<p>In addition, it is worth noting that the works underway on the Blackglen Road, include a new bus priority routes which will improve the connectivity and linkages between the site and the wider area.</p> <p>These modes of transport provide direct connections throughout the city region, including the city centre, where residents can easily transfer to other routes and modes for onward connectivity.</p>
<p><b>Proposal must successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or crossroads or public transport interchange to the benefit of the legibility, appearance or character of the area.</b></p>	<p>Careful consideration has been given to the successful integration of the proposal into the existing character and topography of the site and area. We note specifically that additional height is only proposed at locations where topography and existing site characteristics are favourable and in keeping within the surrounding development of the area.</p> <p>The layout and public realm elements of the development prioritise pedestrian linkages, connectivity, and amenity in order to best utilise the transport and open space amenities in the immediate facility.</p>
<p><b>Protected Views and Prospects: Proposals should not adversely affect the skyline or detract from key elements within the view whether in foreground, middle ground, or background. A proposal may frame an important view.</b></p>	<p>The proposal does not affect any strategic protected views or prospects. Residential development is considered permitted in principle under this zoning objective.</p>
<p><b>Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.</b></p>	<p>Generally, with respect to water services, the Confirmation of Feasibility issued by Irish Water confirmed the feasibility of connecting to their potable water and foul water networks. Further details of the proposals are contained in OSCS Consulting Engineers_ ' _Engineering Services Report.</p>
<p><b><i>Proposed Material Amendment - Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development</i></b></p>	<p>A detailed Energy and Sustainability Report accompanies this application. Discussions between the client and the design team recognize the importance of creating a sustainable development which interplays between good urban design, and the most efficient use of energy and natural resources. The building services design strategy for the proposed development utilises as many sustainable design options as possible and energy efficient systems that are technically, environmentally, and economically viable for this project to achieve a low energy and environmentally friendly development.</p> <p>In relation to social and community infrastructure, the <i>Social Infrastructure Capacity Assessment including School Capacity Assessment submitted with this application</i> is of relevance. The Reports indicate the availability of adequate childcare and school places within the environs of the subject site to meet the demand generated by the development and ample provision of a broad range of services.</p>
<p style="text-align: center;"><b>AT DISTRICT/NEIGHBOURHOOD/STREET LEVEL</b></p>	
<p><b>Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.</b></p>	<p>Included in the SHD application is a combined Planning Report and Statement of Consistency which fully sets out compliance with the criteria as set out in the aforementioned guidelines.</p>

<b>Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks.</b>	Careful consideration has been given to ensure that a monolithic appearance is avoided within the proposal. We refer An Bord Pleanala to the O'Mahony Pike (OMP) Architects drawings and the Design Statement enclosed with this SHD application for further details.
<b>Proposal must show use of high quality, well considered materials.</b>	Appropriate use of materials and fenestration details as proposed by OMP Architects has ensured that the building fabric is well considered. We refer An Bord Pleanala again to the Design Statement and the Building Life Cycle report prepared by Aramark.
<b>Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.</b>	There is no inland waterway or marine frontage within the current proposal. We refer to the material from O' Connor Sutton Cronin (OSCS) included herewith which provides for comment on flood risk.
<b>Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.</b>	<p>The proposal offers significant enhancement to the local public realm by way of a new pedestrian connections, a new residential amenity area, and significantly improved frontage along Blackglen Road.</p> <p>The development takes the context of its surrounding developments into account in terms of block formation, height, and density. The layout and public realm elements of the development prioritise pedestrian linkages, connectivity, and amenity in order to best utilise the transport and open space amenities in the immediate facility.</p> <p>We also refer the Design Statement submitted by OMP for further details on matter of context, connectivity, inclusivity, public realm, adaptability, privacy and amenity, parking, and detailed design items.</p>
<b>Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area.</b>	An appropriate mix of unit types and sizes are incorporated into the development proposal. Notably, a residential mix of 123 x 1 beds (34%), 224 x 2 beds (62%) and 13 x 3 beds (4%) is proposed. 1, 2 and 3 bedroom apartment typologies are set out in the Design Statement prepared by OMP Architects.
<b>Proposal should provide an appropriate level of enclosure of streets or spaces.</b>	<p>The proposed development is considered to make a positive contribution in terms of place-making again through the provision of new pedestrian connections, a new residential amenity area and significantly improved frontage along Blackglen Road.</p> <p>The main open space by virtue of its sense of enclosure and orientation creates a strong sense of place, security, and privacy for all residents of the development.</p>
<b>Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.</b>	<p>As set out by the Design Statement, careful consideration has been given to the proposal in regard to how it addresses the existing surrounding development and local topography. The high-quality design submitted provides an appropriate transition between the neighbouring sites. The development has a general shoulder height of 6 storeys, with stepped variations responding to the specific site context. This considered design approach results in heights of 2 to 3 storeys at sensitive locations to a central marker building extending to 6 storeys in the heart of the scheme.</p> <p>The Daylight &amp; Sunlight Assessments prepared by OCSC confirms that there are acceptable levels of access to natural daylight and sunlight. Similarly, the detailed Wind and Microclimate Study also confirms that the proposal does not</p>

	<p>impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings.</p> <p>The proposal has been designed specifically to enhance connections to the surrounding area. Open space areas are designed to maximise on passive surveillance. An integrated development is delivered and one which enhances the presence of the natural landscape with high quality materials sympathetic to the surroundings.</p>
<b>Proposal must make a positive contribution to the character and identity of the neighbourhood.</b>	The proposed development is considered to make a positive contribution in terms of place-making again through the provision of new pedestrian connections, a new residential amenity area (Block B), a new play area, and significantly improved frontage along Glenamuck Road. The main open space by virtue of its sense of enclosure and orientation creates a strong sense of place, security, and privacy for all residents of the development.
<b>Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties</b>	<p>The proposed scheme presents in a series of new residential blocks which are focused on placemaking and a central area of open space. There is sufficient variety in scale and form of the Blocks through the use in variety of building layouts, sizes, and heights.</p> <p>Care has been given at height sensitive areas to ensure there is no undue impact on established levels of residential amenity adjoining the site.</p>
<b>AT SITE/BUILDING SCALE</b>	
<b>Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing.</b>	A detailed design rationale for the form, massing and height of the proposed development is set out in the enclosed Design Statement by OMP.
<b>Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met.</b>	<p>The current proposal is accompanied by a Daylight and Sunlight Analysis, which includes a detailed assessment and review of the proposed development and the possible impacts of the proposal on existing and potential neighbouring development. The Board is directed to review this report as submitted with the application.</p> <p>In addition, it confirms that there are acceptable levels of access to natural daylight and that overshadowing is minimised. In this regard, appropriate consideration has been given to the relevant guidance documents and specifically 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting' and site layout Planning for Daylight and Sunlight:2022, (3<sup>rd</sup> Edition).</p>
<b>Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing.</b>	An analysis of the impact of building height and positioning of buildings has been carried out through specific assessment criteria including sunlight and daylight access analysis, visual impact assessment and wind analysis, of which demonstrate that the design proposals are appropriately considered which have confirmed that no adverse or negative impacts arise. These assessments are submitted as part of the application.
<b>Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure.</b>	The site is not located in or adjacent to an Architectural Conservation Area, nor does the site contain a protected structure.

<b>COUNTY SPECIFIC CRITERIA</b>	
Having regard to the County's outstanding architectural heritage which is located along the coast , where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	Not Applicable to the subject site or proposed development.
Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height, and massing so as to avoid being obtrusive.	The proposal responds to the surrounding context in the form of an appropriate transition in scale away from where the boundaries either adjoin or are adjacent to existing residential development. The proposed buildings will respond (in their setback from the boundaries, their height and steps in the massing) to the particular conditions and degree of sensitivity of the adjacent lands. At a maximum height of 6 storey's the proposal will not be obtrusive and of a scale that would negatively impact on the quality and amenity value of the County's 'high quality mountain foothill landscape'.
Additional specific requirements (Applications are advised that requirement for same should be teased out at preplanning's stage).	A formal pre-planning meeting was held to discuss the proposal in principle with DLRCC, furthermore a formal Strategic Housing Development pre-application meeting was held with An Bord Pleanála and any request following their opinion is included in the 'Response to Opinion' documents which accompanies this application.
Specific assessments such as assessment of microclimatic impacts such as down draft.	We refer An Bord Pleanála to the enclosed Wind Report prepared by OCSC which examines in detail the impacts of proposed development in terms of Wind and Microclimate.
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas.	This SHD application is accompanied by an AA Screening Report prepared by Enviroguide, which demonstrates that the proposed building height does not have any potential to adversely impact on the biodiversity of the area. As outlined in the AA Screening, the development is not located within any European Site and therefore there will be no loss or alteration of habitat as a result of the proposed development.
Assessment that the proposals allows for the retention of telecommunications channels, such as microwave links.	Given the height and scale of the development proposed, it is not anticipated that the proposal will interfere with important telecommunications channels such as microwave links. A Telecommunications Report prepared by ISM accompanies this application and their findings concluded that no Microwave Transmissions links would be impacted by the height and scale of the development. In addition, the assessment also did not identify any Radio Frequency links that would be impacted also.
An assessment that the proposal maintains safe air navigation.	In preparation of this planning application, the applicant has consulted with the IAA who have confirmed there have no comment to make on the proposal. As identified in the appendix at the rear of the Statement of Consistency and Planning Report the IAA stated on 08 <sup>th</sup> August 2022: <i>'I wish to advise that we have no observations on this application from the Safety Regulation Division, Aerodromes'.</i>
Relevant environmental assessment requirements, including SEA, EIA (schedule 7	An Appropriate Assessment Screening Report and an Ecological Impact Assessment Screening Report has been

<b>information if required), AA and Ecological Impact Assessment, as appropriate.</b>	prepared and submitted by Enviroguide. They ultimately conclude that there is no reason for the development not to proceed on key ecological and environmental grounds.
<b>Additional criteria for larger redevelopment sites with taller buildings</b>	Not applicable
<b>Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development.</b>	<p>The proposed development is considered to make a positive contribution in terms of place-making again through the provision of new pedestrian connections, a new residential amenity area, and an improved frontage along Blackglen Road. The main open space by virtue of its sense of enclosure and orientation creates a strong sense of place, security and privacy for all residents of the development.</p> <p>The proposed scheme presents in a series of new residential blocks which are focused on placemaking and a central area of open space. There is sufficient variety in scale and form of the Blocks through the use in variety of building layouts, sizes and heights. Care has been given at height sensitive areas to ensure there is no undue impact on established levels of residential amenity adjoining the site</p>
<b>For larger unconstrained redevelopment sites BRE standard for daylight and sunlight/any forthcoming EU standards on daylight sunlight should be met.</b>	We refer the board to the accompanying Daylight and Sunlight assessment prepared by OCSC submitted with this application. The subject site is not considered to be unconstrained, therefore, this criterion does not apply to the development. However, An Bord Pleanála is redirected to the response in relation to daylight and sunlight above.

Informed by the responses provided to the criteria above (which are set out in Table 5.1 of the Development Plan's Height Strategy), it is considered that the proposed development complies and is consistent with Policy Objective PHP42 (Building Design & Height) of the Development Plan:

*"It is a Policy Objective to:*

- Encourage high quality design of all new development.*
- Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF)."*

Given the proposed development's compliance with Policy Objective BHS 3 which allows an assessment of increased height to be provided, the height of up to just 6 No. storeys is considered to be appropriate and a progressive means through which to secure additional, sustainable housing delivery.

Furthermore, the design has sought to respect existing and proposed residences, preventing overlooking, overbearing and overshadowing. Therefore, permitting the proposed development will be in accordance with proper planning and sustainable development and a strong rationale for increased building height has been provided above in response to Table 5.1 of Appendix of the Development Plan. Therefore, we consider that the proposed heights are in accordance with Table 5.1 of the Development Plan however this has been included in the Material Contravention Statement on a precautionary basis, if An Bord Pleanála do not agree.

Proposals for height are considered to align with the national policy mandate to increase height and densities at appropriate locations. Specifically, the Building Height Guidelines (2018) set out that there is a presumption in favour of buildings of increased height in locations with good public transport accessibility. Blanket numerical limitations on height should be avoided and a set of Development Management Criteria should be applied to test the appropriateness of the heights proposed.

The current design has considered this context and has sought to deliver height ranging overall from 2-6 storeys. As detailed by OMP Architects, the height strategy is carefully considered, to respond to the hillside context and to protect established levels of residential amenity. We refer the Board to Section 4.4 of the OMP Design Statement, which clearly articulates the well-considered approach to height.

## **General Principles**

In addition to the above, it is our submission the General Principles section contained in Section 5 of the Strategy also support increased height at this location.

The general principles, should be applied by the competent authority in assessing appropriate building heights throughout the County. The general principles referenced are set out below:

- To protect the residential amenities of the County.
- To protect the County's built heritage and natural areas of exceptional beauty.
- To promote high densities and allow for increased densities around public transport nodes and centres of activity.
- To encourage higher densities and also to allow for increased building heights at appropriate locations along public corridors.
- To promote high density through in-fill development.
- To allow for landmark buildings in the right places.

It is our submission that the current proposal:

- Will protect existing levels of residential amenity in the area, as demonstrated in the material enclosed herewith from OMP Architects and IAC's Architectural Consultants. Specifically, we note that the OMP ABP Design Statement has addressed in detail all residential amenity considerations associated with proposals for height. In addition, it is the finding of OCSC's analysis that any impacts on daylight access to nearby existing buildings are likely to be minor and that the proposed development will have no undue adverse impact on daylight access within buildings in the wider area surrounding the application site.
- With the exception of the proposed site being located at the foothills of the Dublin Mountains, the development does not impact on the County's built heritage and natural areas of exception beauty, given the significant removal of the site from such locations. Notably, and more importantly, the site is not located in or adjacent to an Architectural Conservation Area, nor does the site contain a protected structure.
- Promotes an appropriate level of infill residential density to allow for increased densities along the Blackglenn Road i.e., an overall masterplan residential density of 97.3 units per ha is proposed. This principle of development is supported in national policy and the site is considered a unique opportunity to deliver appropriate building heights and residential densities.

It is having considered the policy approach on height; the general principles that are applied when considering new proposals for development; and the existing permitted context along the Blackglenn Road that we consider the proposal submitted herewith to be acceptable in terms of building height.

We note specifically that this combined Planning Report and Statement of Consistency has also set out the consistency of the development proposal with the performance criteria of the Building Height Guidelines, which is the prevailing context for height in this case. It is submitted that there is a sufficient policy context to grant permission for the proposed development in line with the compliance of the scheme vis a vis SPPR 3A.

It is our view that there is adequate support at national level (by way of Ministerial Guidelines) to justify the height as currently proposed and a material contravention may be permitted.

## **2.2 Residential Size and Mix**

Section 12.3.3.1 of the Development Plan sets out the requirements in relation to the mix of units provided as part of new apartment development as follows:

***“planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County”***

Planning applications received in both new residential communities and within the residual built up area shall include:

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

The characteristics of the sites are set out in the accompanying Design Statement prepared by OMP and the Planning Report and Statement of Consistency. The proposed site is located in an area in which the immediate environs is populated by one-off 1-3 storey housing. There are also numerous apartment complexes in the neighbouring areas of Belarmine and Stepside. Also, as set out in the accompanying Community Infrastructure Statement the neighbouring villages of Sandyford and Belarmine have a plethora of community infrastructure facilities to include fresh food markets, doctors surgery, dry cleaners, a restaurant, and a childcare facility.

Furthermore the site is in close proximity to the Glencairn LUAS Stop. This link includes a pathway linking to Ferrincarrig Avenue, Sandyford Hall Avenue and Murphystown Way. This route can be travelled on foot in approximately 22 minutes and is approximately 1.9km in distance. This routes goes past the Sandyford Hall local centre, which contains a Centra, McCabes Pharmacy, Costa Coffee and Kidz Biz Day Nursery. In addition to the local LUAS stop, there numerous Dublin Bus, TFI and GoAhead bus stops in the vicinity, not to mention the 2no. stops on Blackglen Road served by the number 44B and 114 routes.

For clarity, the percentage of 1 bed units currently proposed is 34.2% (123 no. units). In addition, 62.2% are 2 no. bed units (224 no. units) and 3.6% are 3 no. bed units (13 no. units)

The percentage of units with a floor area over 80 sq. m is 64 % or 232 of 360 units proposed. This figure of 64% is considered acceptable given the mix proposed is primarily 1 and 2 bed units.

Area	Requirement	Proposed
Existing Building up Area	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination on of one bed and studios and no more than 20% of the overall development as studios  Minimum 20% 3+ bedroom units	<b>123 no. 1 bed units (34.2%)</b> <b>224 no. 2. bed units (62.2%)</b> <b>13 no. 3 bed units (3.6%)</b>

We note in the context of these requirements that the policy document 2020 ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ contains a Specific Planning Policy Requirement in relation to dwelling mix requirements (SPPR 1), which takes precedence over any conflicting policies and objectives of the 2022-2088 County Development Plan.

In case the Board were to consider that the proposed development would give rise to a Material Contravention of the Development Plan in respect of development mix, we have set out a full justification in respect of this matter in Section 3 of this report.

## 2.3 Residential Density

Chapter 4 of the Development Plan 2022-2028 sets out the policies and objectives in relation to 'Neighbourhood – People, Homes and Place' and section 4.3.1.1 refers to residential Density.

"It is a Policy Objective to:

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

We also note the plan states that the 'Sustainable Residential Development in Urban Areas Guidelines and the accompanying 'Urban Design Manual' include recommendations regarding appropriate densities for various types of locations. Having regard to the Guidelines and consistent with RPO 3.3 and 4.3 in the RSES as follows:

- Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density) will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare (net density<sup>1</sup>). The plan states that this density may not be appropriate in all instances but should be applied particularly in relation to 'greenfield' sites or larger 'A' zoned areas. Higher density schemes should offer an exemplary quality of life for existing and future residents in terms of design and amenity.

A density of 97.3 units per ha is proposed at a rate of 360 units on a site area of approx. 3.7 ha. This is considered appropriate and achievable at this location given the quality of the scheme proposed, the proximity to public transport, and the protection of existing levels of residential amenity for sites surrounding.

The open character and residential amenity of the site is also retained through a high quality, open landscape design that reflects the existing character whilst ensuring that a higher density is delivered. The open character and recreational amenity of the site has been integral to the design of the proposal. The landscape plan provides for quality landscaping, leaving open areas of the site, and reflects its existing character.

Notwithstanding this, it is submitted that the proposed development gives rise to a Material Contravention of the Development Plan in respect of residential density. In this case, it is our view that the proposal is of national importance and the current proposals for density are fundamentally supported by the National Planning Framework and more specifically National Policy Objective 35. On this basis, permission can be granted for the proposal.

We therefore set out a full justification of this matter in Section 3 of this report.

## 2.4 Transitional Zone

The subject site (zoned Objective A) is located proximate to an area of zoned open space (Zoning Objective F) to the northeast. It is submitted that the site is therefore situated in a Transitional Zone. Having regard to Section 13.1.2 of the development plan, we submit that a material contravention occurs in relation to this policy, as there is a noticeable change in scale between the open space lands at Fitzsimons Wood and the new development site. The following provisions of the Development Plan as they relate to the site are set out below:

Section 13.1.2 of the Development Plan sets out that:

*“The maps of the County Development Plan show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties.”*

For the avoidance of doubt, we confirm that this material contravention is not in relation to the zoning of land but relates to the nature/scale of the transition between the open space zone and residential zone.

It is our opinion that it could be interpreted that a Material Contravention in respect of a transition zone policy is occurring in this instance, and this is a matter for An Bord Pleanála to ultimately adjudicate on. It is our view that the proposal is of strategic importance and can be delivered in line with the provisions of the National Planning Framework.

We therefore set out a full justification of this matter in Section 3 of this report.

### 3 Material Contravention Justification

In the event that the Board considers that the proposed development constitutes a material contravention of the 2022-2028 Dún Laoghaire-Rathdown County Development Plan by virtue of the proposed height, residential mix, density and transitional zone, the justification for deciding to grant permission in circumstances of such a material contravention is set out below, as required under the relevant criteria under Section 37(2)(b) of the 2000 Act, as amended.

The proposal has been designed with full complement to the direction set out in National Planning Policy and Ministerial Guidelines. There is a clear mandate for higher density development and increased building height on appropriately located sites and it is our considered view that the subject site is one such location.

#### 3.1 Proposed Development is of Strategic Importance

The proposal is for 360 residential units and therefore falls within the definition of a Strategic Housing Development in accordance with the definition under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended. Strategic housing development also comes within the definition of Strategic Infrastructure Development. On this basis also, it is considered that the proposed development is, by definition, strategic in nature and of strategic importance.

The Housing for All: A New Housing Plan for Ireland 2021 (HFA), recognises the strategic importance of higher density housing. Within the Plan, a new fund the Croí Cónaithe (Cities) Fund has been introduced to further the implementation of planning permissions for apartments. Housing Policy Objective 15, no. 15.1 states that the HFA plan will *“Introduce the Croí Cónaithe (Cities) Fund to ensure that planning permissions for apartments in high density areas already secured by 2021 are activated by the end of 2025 for build to sell.”*

In addition to this, the new fund will focus on *“activating housing supply through enhanced viability measures targeted at developing properties for individual household purchasers, including first-time buyers and right-sizers.”* The fund will *“stimulate activation of existing planning permissions for build-to-sell apartment developments of four floors or more, above a certain density threshold, and this will be complemented by the sanction of a tax to activate vacant lands for residential purposes.”*

Moreover, Housing Policy Objective 11, no. 11.2 supports high-density housing: *“Develop section 28 Guidelines for Planning Authorities on Sustainable and Compact Settlement Guidance (SCSG), including guidance on housing typologies to facilitate innovative approaches to medium and higher densities.”*

Furthermore, new planning arrangements are to be introduced for large-scale residential developments (LSRD). Objective 12, 12.3 of that document states *“Introduce a new planning process for Large Scale Residential Developments to replace the Strategic Housing Development (SHD) process”*. Following stakeholder engagement, and aligned with commitments in the programme for Government, these new arrangements will replace the current Strategic Housing Development (SHD) arrangements and will comprise three stages:

- Pre-application consultation stage: planning authorities will be required to complete the final consultation meeting aspect of the pre-application consultation stage including the provision of an opinion as to whether the proposals constitute a reasonable basis for moving to the next phase and submitting a planning application within 8 weeks of receipt of such meeting request from the developer/project promoter.
- Planning application stage: planning authorities to determine LSRD planning applications within eight weeks of receipt, with limited scope for ‘further information requests’ in the light of the pre-application consultation phase.
- Appeal stage: An Bord Pleanála will be required to determine LSRD appeals within a certain timeframe (which may be generally 16 weeks from receipt), again with similar limited scope for ‘further information requests’.

The Housing for All plan therefore supports the provision of new housing, particularly high-density housing for build-to-sell apartments. Moreover, it is clear that the Government have implemented a plan that

supports homeownership by increasing affordability, which will consequently increase capacity and efficiency of delivery in both public and private sectors.

This proposal contributes positively to the current national shortfall in housing supply. The HFA Plan recognise the strategic importance of larger residential developments (including those over 100 units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply.

Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act as amended, and therefore should the proposal be determined to be a material contravention of any of the policies set out above, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.

### **3.2 Conflict in Development Plan Policy**

It has been identified that there are conflicting objectives and provisions within the proposed development in relation to matters of height, residential mix, residential density, and transitional zone. We note specifically that Sections 2.1. 2.2 and 2.3 above have examined the conflicting objectives and provision of both plans in this regard.

Therefore, should the proposed building height, residential mix and residential density be determined to be a material contravention of the Development Plan, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended and specifically in relation to section 37(2)(b)(ii) for conflict in Development Plan policy.

### **3.3. Compliance with National Policy and Section 28 Ministerial Guidelines**

The following section demonstrates how the proposed building heights, residential mix and residential density are justified in the context of recent National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities and height, reduce car parking, and provide for flexible residential mix options on zoned serviced lands adjacent to public transport corridors. It is again highlighted that the Ministerial Guidelines referenced below were published prior the adoption of the Dún Laoghaire Rathdown County Development Plan 2022-2028, which is a key consideration for this site and proposal:

- **Project Ireland: National Planning Framework 2040.**
- **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020).**
- **Urban Development and Building Heights, Guidelines for Planning Authorities (2018).**

#### **3.3.1. Project Ireland 2040 – National Planning Framework**

The ‘**National Planning Framework 2040**’ sets out the following key objectives:

**National Policy Objective 1** - Planning for a population in the Eastern and Midland Region of 490,000 - 540,000 additional people i.e. a population of around 2.85 million;

**National Policy Objective 2a** – A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

**National Policy Objective 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 5** - Develop cities, towns and villages of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

**National Policy Objective 11** – In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns, and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

**National Policy Objective 13** – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

**National Policy Objective 26** – Outlines the objectives of integrating Public Health Policy such as Healthy Ireland and the National Physical Activity Plan with Planning Policy.

**National Policy Objective 27** – Aims to 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 the existing and proposed developments and integrating physical activity facilities for all ages.

**National Policy Objective 31** - Prioritise the alignment of targeted and planned population and employment growth with investment in the provision of childcare facilities and new and refurbished schools on well located sites within or close to existing built up areas that meet the diverse needs of local populations.

**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, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Having considered the above, it is our view that the current proposal complies with the above national policy on the following basis:

- The current proposal for 360 residential units in a development of up to 6 storeys in height is a well-designed, high-quality scheme and one that has carefully considered existing levels of residential amenities at adjoining residential development. The layout of the development has been thoroughly considered and greater heights are positioned away from nearby residential dwellings.
- It is considered that the proposed scheme design strikes a balance between respecting the surrounding environment of the scheme and ensuring the development potential of a strategically positioned and underutilised plot is maximised and appropriately densified in accordance with the objectives of the NPF.
- The development will rejuvenate the site and is a direct response to current trends in tenure and household formation in Ireland providing much needed housing for Dublin. This will encourage more people to live in the existing urban footprint while also contributing towards generating more jobs and activity within the urban area and will also contribute towards the target of delivering 550,000 no. additional households by 2040.
- The proposed development actively encourages the use of sustainable modes of transport such as public transport and the provision of car share spaces and bicycle parking. The development also includes high quality and attractive open spaces for all age groups, which will encourage the active engagement.

- We note in particular that the residential amenity of the proposed development was considered in detail at a very early stage in the design evolution of the overall masterplan for the site. This application includes supporting documentation from O’ Mahony Pike Architects which demonstrates specifically how the proposed development maintains existing and proposed levels of residential amenity in terms of urban design and access to daylight and sunlight specifically.
- The subject site is clearly defined as being infill, within the established urban footprint of Dublin City. The site is consistent with the definition of underutilised land zoned for development and proximate to established social infrastructure. The proposed development represents a dynamic and appropriately considered design response which will provide a landmark at Blackglen Road, and establish precedent for further sustainable, high quality density development on the remaining residentially zoned lands in the general area.
- It is our professional planning opinion that the proposed development site has been designed at an appropriate scale within the surrounding context and represents the appropriate densification of this key underutilised site, contributing positively to the regeneration of the surrounding area.
- At present, two Dublin Bus routes are located within 120 meters of the site entrance. The site is served by the 44b Bus route at Lambs Cross which connects to Dundrum Luas Station and the 114 Bus, which runs to Blackrock DART station. The Glencairn Luas stop (with park and ride) on the Green line is 1.9km from the proposed site, a 27-minute walk or 9 minute cycle from the site entrance. The site’s location on a quality bus corridor and within a short walking and cycling distance of a LUAS encourages increased densities that will contribute to the consolidation of Dublin City.

The current national planning policy, ultimately seeks the expedient delivery of critically required quality residential development at strategically located sites proximate to public transport nodes and corridors. This proposal contributes positively to the current national shortfall in housing supply.

### 3.3.2. Sustainable Urban Housing: Design Standards for New Apartments (2020)

The ‘Sustainable Urban Housing: Design Standards for New Apartments (2020)’ are ministerial guidelines issued under section 28 of the 2000 Act, to which the Board is obliged to have regard. In particular, the board is obliged to comply with any Specific Planning Policy Requirements under these guidelines.

Section 2.2. of the Guidelines stated that *“apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping, and other services, are also particularly suited to apartments.”*

Section 2.23 of the Guidelines also recognise that the National Planning Framework *“signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance-based standards to ensure well-designed high-quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.”*

As set out above, the 2020 Apartment Guidelines explicitly direct that the scale and extent of apartment development should increase on sites that are proximate to urban centres and public transport. The site is served by public transport with high capacity, frequent service and good links to other modes of public transport. The 44b Bus route at Lambs Cross which connects to Dundrum Luas Station and the 114 Bus, which runs to Blackrock DART station. The Glencairn Luas stop (with park and ride) on the Green line is 1.9km from the proposed site, a 27-minute walk or 9 minute cycle from the site entrance. The scale of development proposed in this case is therefore supported by the Apartment Guidelines.

The Guidelines also state that the rigid application of numerical limits on height (as set out in the County Development Plan) is not appropriate and performance based standards should be relied upon in the assessment of such schemes. It is submitted that the proposed development performs exceptionally well when tested against the relevant criteria – as set out in the following section of this Report.

The proposed mix has been designed to suit the specific resident profile for this area as supported by demographic and market analysis.

### 3.3.3. Urban Development and Building Height Guidelines (2018)

The ‘Urban Development and Building Heights, Guidelines for Planning Authorities (2018)’ (Building Height Guidelines) which were issued in December 2018 under Section 28 of the 2000 Act set out national planning policy guidelines on building heights in relation to urban areas.

The Building Height Guidelines set out that a key objective of the National Planning Framework is to significantly increase the building heights and overall density of developments. The Minister's foreword to the Building Height Guidelines acknowledges that Ireland's classic development models for city and town cores has tended to be dominated by employment and retail uses, surrounded by extensive and constantly expanding low-rise suburban residential areas which is an unsustainable model. There is an opportunity for our cities and towns to be developed differently. Urban centres could have much better use of land, facilitating well located and taller buildings, meeting the highest architectural and planning standards. The Building Height Guidelines are intended to set a new and more responsive policy and regulatory framework for planning the growth and development of cities and towns upwards rather than outwards.

The Building Height Guidelines state that:

*‘A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels.’ [Our Emphasis]*

It is our professional planning opinion that the site has the capacity and capability to accommodate increased height that is actively sought in National policy guidance, particularly given the strategic location of the subject site in proximity to public transport, employment locations and services and facilities.

Chapter 3 of the Building Height Guidelines seek increased heights in urban locations. Under the heading, Development Management Principles, the state (at paragraph 3.1) that it is Government policy that building heights must generally be increased and that Planning Authorities must apply certain broad principles when considering development proposals for buildings taller than prevailing building heights in pursuit of the Building Height Guidelines Requirements in the . In addition , the Specific Planning Policy Requirements in the Building Height Guidelines are relevant to the assessment of this development.

Under section 3.1 of the Building Guidelines, the following three broad principles or criteria which must be applied in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines are:

**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?**

- As set out in accompanying documentation, the proposal secures the relevant objectives of the National Planning Framework. The proposed scheme involves the redevelopment of an existing underutilised, infill residentially zoned site in a sustainable location and is considered a unique opportunity for the delivery of strategic housing and the delivery of compact growth in accordance with national strategic planning policy.

**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?**

- The combined Planning Report and Statement of Consistency which accompanies this application sets out how the current proposal complies with provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028. The current Development Plan has taken account of the requirements set out in Chapter 2 of these Guidelines, but still maintains that maximum heights of 3-4 storeys in areas such as this should apply.

**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?**

- The Development Plan, which was adopted on 21st April 2022, allows an assessment of increased height to be carried out (Table 5.1 of Appendix 5). We have provided a detailed response to Table 5.1 and in our opinion, the proposed development ranging in height from 2 No. storeys to 6 No. storeys is appropriate for the subject site. However, we have included building height in this Material Contravention Statement in the event that An Bord Pleanála consider the increase in building height to represent a material contravention of the Development Plan.
- It has been clearly demonstrated in the Material Contravention Statement enclosed with this SHD Application that there is a clear misalignment with the National Planning Framework, the Apartment guidelines and the recently adopted Building Height Guidelines.
- We note, specifically, in National Policy Objective 35 of the National Planning framework. Which seeks an increase in residential density in settlements, through a range of measures including infill development schemes, area or site-based regeneration and increased building heights.

It is our opinion that the subject site has the potential for increased heights to sustainably densify this strategic site having regard to the high-quality architectural composition of the scheme, the open spaces provided and the site's location at a prominent road frontage on Blackglen Road, which will all contribute towards absorbing the proposed building heights

Notwithstanding the above, SPPRs (as stated in the Building Heights Guidelines) take precedence over policies and objectives of development plans and local areas 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 or Local Area Plans, the provisions of SPPRs must be applied instead. Section 9(3) provides:

*“(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.”*

In addition, section 1.14 of the Guidelines published, reflecting the statutory position as set out below, states:

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

### **Specific Planning Policy Requirements**

SPPR 3A 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 at Section 3.2 of the Guidelines, which are discussed 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 itself is set out below for ease of reference, following which, 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 (A)**

*“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.”*

The performance of the proposal vis a vis the building height criteria is further assessed below in sub-section ‘Development Management Criteria’.

#### **Development Management Criteria**

The Guidelines clearly set out that 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 a number of criteria. A response to the relevant criteria from the guidelines is set out in brief below:

<b>Development Management Criteria</b>	
<b>At the Scale of the Relevant City/Town</b>	
<b>Assessment Criteria</b>	<b>Comment</b>
<b><i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i></b>	<p>The site is served by public transport with high capacity, frequent service and good links to other modes of public transport. The Glencairn Luas stop (with park and ride) on the Green line is 1.9km from the proposed site, a 23-minute walk or 9 minute cycle from the site entrance. The LUAS provides frequent high capacity services to and from the City Centre. There are bus stops on Blackglan Road and Lamb’s Cross which provide good connectivity to the surrounding area and other modes of public transport. The 44b Bus route at Lambs Cross which connects to Dundrum Luas Station and the 114 Bus, which runs to Blackrock DART station.</p> <p>The TFI 90 Minute Fare, which was introduced by TFI, includes the flexibility to transfer between Dublin Bus, Luas and most DART, commuter rail (zones 1 to 4 in the Short Hoop Zone) and Go-Ahead Ireland services in</p>

	<p>Dublin – just touch on your last journey within 90 minutes of the first.</p> <p>These modes of transport provide direct connections through the city region, including the city centre, where residents can easily transfer to other routes and modes for onward connectivity.</p> <p>Transport infrastructure in the immediate area is being upgraded by way of the Blackglen Road Improvement Scheme, which is now underway. The scheme includes new bus stops and cycle lanes along Blackglen Road that will directly enhance the accessibility and connectivity of the subject site.</p> <p>It is also noted that Sandyford Road is identified in the Development Plan 2022 as having a 6-year Road Objective, which if delivered, will significantly increase the capacity of the road network, which may support additional bus services available to future residents of the proposed development, in line with Bus Connects.</p>
<p><i>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.</i></p>	<p>The proposal is not located within an architecturally sensitive area. However, careful consideration has been given to the successful integration of the scheme into the existing character and topography of the site and area. We note specifically that additional height is only proposed at locations where topography and existing site characteristics are favourable and in keeping within the surrounding development of the area.</p> <p>The proposed development will create a strong and defined frontage along Blackglen Road, albeit with an appropriate setback to protect future residents' amenities and to provide attractive open space and planting. This will support the activation of the site, which will make a positive contribution to the surrounding area by densifying a key underutilised site .</p>
<p><i>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</i></p>	<p>The subject scheme seeks to limit urban sprawl by making best use of an existing brownfield site. The proposed development is considered to make a positive contribution in terms of place- making again through the provision of new pedestrian connections, a new residential amenity building, a new play area, and significantly improved frontage along Blackglen Road.</p> <p>The main open space by virtue of its sense of enclosure and orientation creates a strong sense of place, security and privacy for all residents of the development. The subject scheme includes the provision of 5,008 sq.m of communal open space for future residents which has been subject to detailed design by Gannon and Associates Landscape Architects.</p> <p>The open spaces will enhance the quality of living of future occupants and thus will positively contribute to place making.</p> <p>The scheme will result in a high-quality architectural design, which has been informed by the surrounding</p>

	existing context, appropriately densifying an underutilised brownfield site, creating a clear definition to the urban edge along Blackglenn Road and providing varied and visual interesting façade for the surrounding streetscape.
<b>Development Management Criteria</b>	
<b>At the scale of district/ neighbourhood/ street:</b>	
<b><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i></b>	<p>In terms of the built environment, there are no Protected Structures, Recorded Monuments or Places, or Architectural Conservation Area on the subject Site. There is however, a ruined building, that is outside the application site, but adjacent to the boundary, and which is believed to have been occupied by Constance Markiewicz in the time leading up to the Easter Rising of 1916.</p> <p>The structure is the ruin of two semi-detached cottages, the northern of which is the smaller of the two and is the portion with the Constance Markiewicz connection.</p> <p>The layout of the proposed development will not involve construction in the immediate vicinity of the ruin. The roadway through the site will be at a distance of 15 metres, and the nearest apartment building is to be some 30 metres from the ruin.</p> <p>The proposal responds to the natural and built environment for the reasons set out under the response to ‘at the scale of the relevant city/town’ above. Careful consideration has been given to the proposal in regard to how it addresses the existing surrounding development and local topography.</p> <p>The high-quality design of the proposed development will allow the development to be integrated into the surrounding area, as noted above, will positively enhance the legibility and streetscape of the surrounding area. The development strikes a balance between respecting the residential amenity of the existing 2 storey residences , and also using intensity and residential density in a sustainable manner on accordance with the national, regional and local policy.</p>
<b><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></b>	<p>Careful consideration has been given to ensure that a monolithic appearance is avoided. Appropriate use of materials and fenestration details as proposed by O’ Mahony Pike Architects has ensured that the building fabric is well considered. We refer to the O’Mahony Pike drawings and the Design Statement enclosed herewith for further details.</p> <p>The development utilises an important vacant site along the R113, improving the streetscape and delivering a new identity to the area. The high quality design proposed will ensure that the development will be</p>

	legible and attractive when viewed from Blackglen and Woodside Road.
<b><i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</i></b>	<p>The proposed development will significantly enhance the Blackglen Road. It will provide for a high-quality contemporary development at an appropriate location and make a significant contribution to the existing streetscape.</p> <p>The proposal introduces a development which is compatible with its land use zoning and adjacent residential developments. The additional height proposed makes optimal use of an underutilised area of land which benefits from a strategic location. The layout of the residential blocks contributes to a sense of place and benefits from passive surveillance from the residential buildings.</p> <p>As set out above, the proposal offers significant enhancement to the local public realm by way of new pedestrian connections, open spaces and together with the upgrades which are underway to the Blackglen Road will significantly improve frontage along the Road. There is no inland waterway or marine frontage within the current proposal. We refer to the material from OCSC included herewith, which provides for comment on flood risk.</p>
<b><i>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i></b>	<p>The proposed development will create a new urban edge and interface with Blackglen Road. This is a positive element of the development enhancing the public realm and the high quality design of the scheme will ensure the development to be an attractive addition to the area.</p> <p>Legibility, navigability and permeability will be enhanced by the creation of the new pedestrian connection through the site which is delivered by way of a comprehensive landscape plan and specifically a series of permeable connections through the site and quality areas of open space.</p>
<b><i>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</i></b>	<p>The environs of the subject site have generally been comprised of low-rise, low-to-medium density residential development. The predominance of this proposed development is evidenced in the established areas of Sandyford Downs, Hillcrest Road, Sandyford Road and Sandyford Village.</p> <p>The proposed scheme seeks to contribute towards reducing the deficit in Dublin’s housing supply, and will contribute to the mix of unit typologies, offering a residential mix of 123 x 1 beds (34.2%), 224 x 2 beds (63.2%) and 13 x 3 beds (3.6%) in the area.</p> <p>In addition, we note that the proposal offers a significant residential amenity offering by way of a new residential amenity building and large creche within the development site.</p>

	The subject site is a key underutilised infill site and provides a prime opportunity to provide a residential development of suitable height, scale and mass that will result in the appropriate densification of the site.
<b>Development Management Criteria</b>	
<b>At the scale of the site/building:</b>	
<b><i>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light</i></b>	<p>The proposed development has been carefully designed to ensure that there is minimal impact on the daylight and sunlight reaching the existing and proposed residences on adjacent sites. The Daylight &amp; sunlight Assessment prepared by O' Conor Sutton Cronin Consulting Engineers, enclosed herewith, confirms that there are acceptable levels of natural daylight and sunlight.</p> <p>This report is exceptionally positive, and we note the following key conclusions from the document:</p> <p><b>Internal daylight within the proposed development</b></p> <p><i>"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 99.3 %compliance rate across the proposed apartments. Similarly, when compared against the 2022 Methodology, third edition of the same document, a pass rate of 94.5% has been achieved across the development."</i> (Page 90)</p> <p><b>Sunlight to proposed development amenity spaces</b></p> <p><i>"In terms of sunlight access, excellent levels of sunlight are experienced across the proposed development. The communal amenity spaces provided exceed the BRE guidelines for sunlight on the test day of 21st of March".</i> (Page 91)</p> <p><b>Sunlight to windows within the proposed development</b></p> <p><i>"The annual probable sunlight hours assessment has shown that 60% of windows across the development achieve the recommended APSH values stated in the BRE Guidelines, while 62% of windows achieve the recommended values during the winter months, when sunlight is more valuable".</i> (Page 91)</p> <p><b>Impact to surrounding properties</b></p> <p><i>"The analysis has shown that negligible impact will be perceived in terms of daylight access to any of the surrounding properties.</i></p> <p><i>The overshadowing images have demonstrated that the only impact to adjacent properties will be to those located to the East of the proposed development. A minimal impact will be perceived on March 21<sup>st</sup> after 3 p.m".</i> (Page 91)</p> <p>Overall, it can be concluded that the scheme design is supported in terms of access to daylight and sunlight</p>

	with no significant impacts within the development or to adjoining dwellings.
<b><i>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'</i></b>	As noted above, the Daylight/Sunlight Assessment and the Landscape Visual Impact Assessment ultimately demonstrates that no material impacts will occur on neighbouring properties.
<b><i>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution."</i></b>	As part of a compensatory design solution, prepared by O'Connor Sutton Cronin Consulting Engineers, the rooms that do not meet the recommended minimum average daylight factor, the proposed development has incorporated a number of compensatory design measures included in the Daylight and Sunlight Analysis.
<b>Development Management Criteria</b>	
<b>Site Specific Assessments</b>	
<b><i>Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</i></b>	We refer to the enclosed Wind Assessment by OCSC which demonstrates that the proposed development will create a pleasant environment for pedestrian comfort throughout the year.
<b><i>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.</i></b>	The appointed ecologists, Enviroguide have confirmed that the matter of collision for bird or bat species is not a significant phenomenon known in Ireland. We can confirm that the impact of lighting on bats has been fully considered as set out in the enclosed Lighting Report from OCSC.
<b><i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i></b>	Given the modest heights of 5 and 6 storeys, we do not foresee any impact on important telecommunication channels/microwave links. Please find Telecommunications Report prepared by ISM which accompanies this application.

<p><b>An assessment that the proposal maintains safe air navigation.</b></p>	<p>In preparation of this planning application, the applicant has entered into discussions with the IAA who had no significant comment to make on the proposal. As identified in the appendix to the rear of this report, the IAA in their review dated 8<sup>th</sup> August 22 concluded that:</p> <p><i>“ I wish to advise that we have no observations on this application from the Safety Regulation Division Aerodromes”.</i></p>
<p><b>An urban design statement including, as appropriate, impact on the historic built environment.</b></p>	<p>A comprehensive Design Statement has been prepared by O Mahony Pike and is enclosed herewith. This statement addresses the site context and proposed design in urban design terms and sets out in clear detail the design rationale for the current proposal submitted.</p> <p>A landscape and Visual Impact Assessment prepared by Modelworks , and verified views also prepared by Modelworks have also been included with this planning application in order to provide a complete overview of the subject design.</p>
<p><b>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.”</b></p>	<p>An Appropriate Assessment Screening Report, Environmental Impact Assessment Screening Report, Ecological Impact Assessment Report and Article 299B Statement, prepared by Enviroguide, have been submitted with this planning application.</p>

On the basis of the initial foregoing analysis, the proposed development meets the specific performance criteria under Section 3.2 of the Guidelines and is in compliance with the key SPPRs and development criteria requirements.

## 4. Conclusion

It is set out under the Section 9(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended, that the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under Section 28 of the Act of 2000.

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 the context of increased **height**, the most relevant of these requirements is SPPR 3A of the Building Height Guidelines. It is submitted that the Development Management criteria under Section 3.2 of the Guidelines have been satisfied in this regard by the development as proposed and that, accordingly, the Board can grant permission for the proposed development even if it considers that it would be a material contravention of building height policy and standards under the Development Plan, having regard to the terms of the relevant national policy discussed above and SPPR 3A of the Building Height Guidelines, in particular.

In the context of **residential mix**, SPPR 1 of the 2020 Apartment Guidelines applies and the proposal is considered to comply with this Specific Policy requirement. We note specifically that no more than 50% of the proposed units are one-bedroom or studio type units.

In relation to **residential density**, the proposal clearly supports the key policies of the National Planning Framework to deliver appropriate residential densities and brownfield and infill sites

In relation to **transitional zones**, the current proposal is considered to deliver a project of national importance given that it clearly delivers on the key policies of the National Planning Framework in terms of expediting residential development. It is also submitted that the proposal can be positively considered on the basis that these principles have been previously approved by a former planning permission for the site.

As set out in detail in this report there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Dun Laoghaire-Rathdown County Development Plan 2022-2028

In the event that the Board were to grant permission, the Board's "reasons and considerations" should 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(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 justification set out within this statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the proposed development in accordance with national planning policy and statutory guidelines and on the basis that there are conflicting provisions in the Development Plan.