

Strategic Housing Development

Material Contravention Statement

Residential Development

at

Site at Dundrum Road

Dundrum

Submitted on Behalf of

Eir (formerly Eircom)

February 2022

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1.0 INTRODUCTION

This Material Contravention Statement accompanies an application by Eircom Ltd (trading as 'eir') for a residential development of 111 no. apartments, telecommunications infrastructure, and ancillary and associated development and works. The application site accommodates a Data Centre operated by eir. The site is situated to the north of Dundrum town centre and is bounded by Dundrum Road to the west, and by the rear gardens of existing housing estates located to the north (Sommerville), and the south and the east (Larchfield).

This Statement has been prepared to address matters associated with the proposed development that might be determined to materially contravene relevant provisions of the current Dún Laoghaire-Rathdown County Development Plan, 2016-2022 (DLRCDP).

The Dún Laoghaire-Rathdown Draft County Development Plan, 2022-2028 (the Draft Plan) went on public display on 12 January 2021. Material Amendments were put on public display on the 11 November 2021, and it is expected that a new Plan will be made in January 2022. Assuming the Plan is made in January, the new Plan will have effect from a date in March 2022. Accordingly, the new plan may be in place at the time of the determination of this application.

Accordingly, this Statement also addresses the relevant provisions of the Draft Plan (at Material Amendments Stage) that the proposed development may materially contravene.

This Statement is prepared pursuant to Section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (hereafter referred to as 'the 2016 Act') that requires an application that materially contravenes a development plan or local area plan to contain a statement as to why permission should be granted by having regard '*to a consideration specified in section 37(2)(b) of the Act of 2000*'.

It is noted that elements of a proposed development may contravene a policy or objective of a statutory land use plan but may not be determined to represent a 'material contravention' of the plan. This is a matter of professional planning judgement. This Statement has included a number of matters that are considered to contravene provisions of the current DLRCDP, primarily to comply with Ministerial Guidelines published since the adoption of the DLRCDP, and that could be determined to 'materially contravene' the relevant provisions of the current Development Plan. In many instances, these matters arise from a mis-alignment between national and county policy, and have been addressed in the Draft County Development Plan to make it consistent with the 'Sustainable Urban Housing: Design Standards for New Apartments' (December, 2020) (the 'Apartment Guidelines') issued under section 28 of the Planning and Development Act, 2001.

These matters relate primarily to qualitative and quantitative residential standards, as set out in Chapter 8 of the current DLRCDP. It is noted that Chapter 8 of the DLRCDP includes an advisory note (included overleaf) expressly states that the provisions of the Apartment Guidelines (referencing the 2015 Guidelines) take precedence over the following sections of the DLRCDP:

- Sub-section 8.2.3.3 (i) relates to 'Design Standards';
- Sub-section 8.2.3.3 (ii) relates to 'Dual Aspect' provision;
- Sub-section 8.2.3.3 (v) relates to 'Internal Storage' provision;
- Sub-section 8.2.3.3 (vii) relates to 'Minimum Apartment Floor Areas'; and
- Sub-section 8.2.3.3 (viii) relates to 'Public, Communal and Private Open Space' provision.

Advisory Note Included in Chapter 8 of the Dun Laoghaire Rathdown Development Plan 2016-2022**ADVISORY NOTE****'Sustainable Urban Housing – Design Standards for New Apartments' DoECLG(2015)**

Users of this Dún Laoghaire-Rathdown County Development Plan 2016-2022 are advised that the standards and specifications in respect of Apartment Development- as set out in Section 8.2.3.3. (i), (ii), (v), (vii) and (viii) of the Development Plan Written Statement –have been superseded by Ministerial Guidelines 'Sustainable Urban Housing – Design Standards for New Apartments' published by the Department of Environment, Community and Local Government (DoECLG) on 21st December 2015.

The DoECLG Apartment Guidelines contain certain 'Specific Planning Policy Requirements' which became mandatory on foot of the Planning and Development (Amendment) Act 2015that was signed into law by the President on 29th December 2015. The 'Specific Planning Policy Requirements' set out in the DoECLG Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan.

The Guidelines can be accessed through the link below;

http://www.environ.ie/sites/default/files/publications/files/apartment_guidelines_21122015.pdf

16th March 2016

An abundance of caution approach has been adopted in the identification of the provisions referenced and addressed in this Statement (as set out in detail under Section 3, below). In summary these matters relate to apartment development standards relating to:

- Unit Mix;
- Physical Separation Distances between Blocks;
- Car Parking Provision;
- Public / Communal Open Space Provision;
- Private Amenity Space Provision;
- Residential Density;
- Building Height;
- Tree Retention; and
- External Storage Provision (arising solely from the provisions of the Draft County Development Plan).

This Statement provides a rationale for the Board to grant permission, pursuant to its statutory powers, notwithstanding the possible material contravention of these policies and objectives of the current DLRCDP and Draft County Development Plan.

2.0 RELEVANT LEGISLATION**2.1 Planning and Development (Housing) and Residential Tenancies Act, 2016**

In the event that a proposed development would materially contravene the relevant provisions of a development plan other than in relation to the zoning of the land, Section 8(1)(iv)(II) of the 2016 Act requires that the applicant should include a statement as to why permission should nonetheless be

granted having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000, as amended (the 2000 Act).

This document constitutes a Statement of opinion, in compliance with section 5(6), setting out an opinion as to why permission should be granted having regard to those provisions.

Sections 9(3) provides that the Board shall have regard to specific planning policy requirements contained in guidelines issued by the Minister (i.e., Section 28 Guidelines), and where those requirements differ from the provisions of the development plan, then those requirements will apply instead of the relevant provisions of the development plan:

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

Section 9(6) provides that the Board may decide to grant permission for a proposed strategic housing development even where the proposed development (or a part of it) materially contravenes the development plan or local area plan, other than in relation to the zoning of land. This is subject to Section 9(6)(c), which provides:

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

Section 10(3)(a) requires that a decision of the Board under Section 9 must state: *"the main reasons and considerations on which the decision is based"*. Furthermore, under Section 10(3)(b), the Board must state, where permission is granted in material contravention of a development plan or local area plan, *"the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be"*.

2.2 Planning and Development Act, 2000 (as amended)

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

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

Having regard to the above criteria, it is demonstrated in Section 4 (below) that the development satisfies criterion (i) and (iii). It is noted that the inclusion of the word 'or' after criteria (ii) to (iv) establishes that a development need only satisfy one of those criteria in addition to criterion (i).

3.0 MATERIAL CONTRAVENTION STATEMENT

The following statement is provided pursuant to Section 5(6) of the 2016 Act:

- Section 37(2)(b)(i) of the 2000 Act: The proposed development is a "Strategic Housing Development", as defined under Section 3 of the 2016 Act.
- Section 37(2)(b)(ii) of the 2000 Act: There appear to be conflicting objectives in the development plan, the objectives of which are not clearly applied in relation to this development.
- Section 37(2)(b)(iii): Compliance with the Regional Settlement and Economic Strategy (RSES), Specific Planning Policy Requirements (SPPRs) contained in relevant Section 28 Planning Guidance

This section is structured to provide the following information:

Section 3.1 sets out reasons why the proposed development is considered to be Strategic Housing Development under Section 37(2)(b)(i) of the Planning and Development Act.

Section 3.2 address matters relating primarily to residential standards, as set out in Chapter 8 of the DLRCDP¹, along with instances where conflicting objectives are included within the DLRCDP (as per Section 37(2)(b)(ii) of the Planning and Development Act). Under each of the sub-headings a detailed reasoned justification is provided to demonstrate how the proposed development is compliant with the RSES and relevant Specific Planning Policy Requirements (SPPRs), as contained in Section 28 Planning Guidance under Section 37(2)(b)(iii) of the Planning and Development Act.

3.1 Section 37(2)(b)(i): Strategic or National Importance

It is submitted that the proposed residential development is of strategic importance having regard to provisions of the National Planning Framework (NPF) and the Regional Settlement and Economic Strategy (RSES).

The proposed development comes within the definition for 'Strategic Housing Development' under the Acts on the basis that the proposed development exceeds 100 no. units and is located on appropriately zoned land - Objective '*A – To Protect and/or Improve Residential Amenity*' as indicated on Map 1 of the County Development Plan.

In addition to the proposed development being considered to be strategic by reason of coming within the definition of a Strategic Housing Development for the purpose of the Act, it is submitted that the proposed development is also strategic for the reasons set out below.

The National Planning Framework (NPF) advocates an '*emphasis on renewing and developing existing settlements..., rather than continual expansion and sprawl of cities and towns out into the countryside....* *The target is for at least 40% of all new housing to be delivered within the existing built-up areas of cities,*

¹ As noted under sub-section 5.3.4 of the submitted Planning Report and Statement of Consistency – Chapter 8 of the DLRCDP includes an addendum that clarifies that the guidance / development standards contained under sub-sections 8.2.3.3 (Apartment Development) – (i), (ii), (v), (vii) and (viii) have been superseded by the relevant standards contained in the S28 Guidance – 'Sustainable Urban Housing – Design Standards for New Apartments (2015), as subsequently amended in 2018 and 2020.

towns and villages on infill and/or brownfield sites. The rest of our homes will continue to be delivered at the edge of settlements and in rural areas.' [Emphasis added in underlining]

Each chapter of the NPF contains National Policy Objectives (NPOs) that promote coordinated spatial planning, sustainable use of resources, and protection of the environment and the Natura 2000 network. The NPOs most relevant to the subject application are included in Chapter 4 Making Stronger Urban Places and Chapter 6 People, Homes and Communities. In this regard NPO 13 (below) is of particular relevance and requires that in urban areas, planning and related standards, 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.

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.

Other NPOs that are also relevant to the proposed development and the purposes of this statement are as follows:

National Policy Objective 4

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

National Policy Objective 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 27

Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

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 34

Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.

Furthermore, the NPF seeks to secure compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites (and either reusing or redeveloping existing sites and buildings) in well serviced urban locations, particularly those served by good public transport and supporting services.

The proposed development will contribute positively towards the achievement of targeted growth whilst promoting compact growth and urban consolidation objectives through the intensification of a centrally located and accessible, brownfield, infill site that is well served by existing public transport including Luas and Bus connections. Accordingly, the application site is considered highly suitable for higher-density apartment development.

Rebuilding Ireland has been recently replaced with **Housing for All** which acknowledges that Ireland's housing system is not meeting the needs of enough people and is failing to provide enough homes to buy or to rent in the private sector. Housing for All identifies an average national need of 33,000 homes constructed per annum until 2030 to meet targets set out for additional households, as outlined in the NPF. An overarching objective of Housing for All is to increase new housing supply. New homes need to be built in the right place, to the right standard and in support of climate action. Housing for All identifies a need to satisfy demand for housing across four tenures – affordable, social, private rental and private ownership.

Housing for All seeks to put in place pathways that will create the environment needed to enable supply of over 300,000 new homes by 2030, meaning an annual average of at least 33,000 homes per year to come from both the public and private sector. To achieve this, Housing for All identifies the need to increase housing supply quickly.

More recently, the Economic and Social Research Institute (ESRI) published a research paper entitled Structural Housing Demand at County Level in December 2020. As outlined in the DHLGH Ministerial Letter to Local Authorities dated 18 December 2020, based in the ESRI findings and other factors affecting existing demand, there is a total projected new household demand under the '*high international migration scenario is close to 33,000 per annum and is around 26,000 per annum in the low international migration scenario. Our baseline scenario results suggest, relative to population shares, higher levels of housing demand in Dún Laoghaire-Rathdown, Cork City, Meath and Kildare and relatively lower levels of demand in Mayo and Fingal.*' [Emphasis added in **bold**]

The Ministerial Letter acknowledges current undersupply of housing and states that since the NPF was published in 2018, there have been three further years where supply has been constrained relative to demand, exacerbated by the setback arising from the Covid-19 pandemic.

The subject site is located within the Dublin Metropolitan Area, for which the RSES includes a detailed planning and investment framework as set out in the Dublin Metropolitan Area Strategic Plan (MASP). Compact growth and accelerated housing delivery is identified as guiding principles of the MASP. The MASP seeks to promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport. The MASP acknowledges that strategic sites, other than those outlined in the Plan, will come forward during the lifetime of the MASP through the ongoing development and intensification of brownfield and infill opportunities. The subject site is considered to be such an infill opportunity that is suitable for a higher density apartment scheme of modern new homes, situated on a brownfield site that is well served by public transport provision and local service provision. This is in accordance with the principles and vision of the Metropolitan Area Strategic Plan (MASP).

Available information on New Dwelling Completions from the CSO indicates that the current rate of dwelling completions nationally is falling substantially below the 25,000 unit per year target set in Rebuilding Ireland and the NPF, which itself does not address the latent housing demand arising from the under-provision of housing in previous years. In 2018, just 17,952 no. new dwellings were completed nationally, which is 7,048 no. units below the NPF target. In 2019 this figure rose to 21,241 no. new dwellings which is 3,759 below the NPF target. This means over this two-year period there was a deficit of 10,807 no. new dwellings. The shortfall was further increased in 2020, with 20,676 no. new dwellings completed, 1.9% less than the previous year, falling well below the anticipated 25,000 unit target set in the NPF and the 33,000 envisaged in the Ministerial Letter.

It is evident that despite national policy to accelerate housing delivery, new housing has not been provided in tandem with recorded population growth and that substantial residential development needs to occur to meet national population targets. It is therefore considered of strategic national importance that suitable and sustainable residential development is facilitated where it accords with national and regional level policies and Guidelines. It is submitted that the proposed residential development is consistent with the strategic and national policy objectives of the NPF and RSES / MASP that promote compact residential development at urban locations that are well integrated with public transportation and sustainable modes of transport, close to employment and recreational opportunities, at a sustainable density which contributes to the viability of services and public transport provision. It is submitted that the proposed development is of strategic importance in the delivery of additional housing and will specifically relieve demand pressure on the available supply of housing in the Dublin Metropolitan Area.

The Statement of Consistency submitted herewith illustrates that the proposed development is consistent with the provisions of the Ministerial Guidelines, the NPF and the RSES, and represents an appropriate and high-quality and sustainable urban infill development within the Dublin Metropolitan Area. It is considered that the proposed development is of a scale that will make a meaningful contribution towards meeting housing stock requirements and population targets as set out at the regional level and national level.

Accordingly, the proposed development can be considered to be of 'Strategic Importance' for the purposes of Section 37(2)(b)(i) of the 2000 Act.

3.2 Material Planning Considerations

3.2.1 Unit Mix

Sub-section 8.2.3.3 (iii) of the DLRCDP requires that apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.

Policy Res7 of the DLRCDP encourages the delivery of a range of housing types and sizes in order to address the Countywide trend that shows a decline in family housing and an increase in elderly and single person households. It states that the overall aim is to have a balance of housing types and tenure in the County that reflects this changing household composition and is responsive to the local context. It is an objective of DLRCC that '*all housing developments, including apartment developments, contain an acceptable proportion of larger flexible units to ensure that such developments are sustainable and provide suitable and viable long-term options for families.*'

Table 12.1 of the Draft County Development Plan provides that for the Existing Built-up area, 50+ unit schemes (Apartment Developments) may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios, and a minimum of 20% 3+ bedroom units.

The proposed apartment mix is as follows:

- 3 x Studios (3%)
- 51 x 1 Bed Apartments (46%)
- 11 x 2 Bed / 3 Person Apartments (10%)
- 46 x 2 Bed Apartment / 4 Person Apartments (41%)

The combined percentage of studio and 1 bed units proposed is 49%. Having regard to the submitted HQA, a total of 23 no. units (or 20.5% of the total number of units) have a floor area in excess of 80 sq.m. Whilst this latter level of provision is compliant with the current development plan guidance, it is not compliant with the Draft Plan requirement for 3-bedroom units. Also, the proportion of studio and 1-bedroom units exceeds the prescribed maximum proportion of 20% in the current Development Plan, and the corresponding 30% requirement of the Draft Plan.

Given that the addendum at Chapter 8 of the DLRCDP excludes the provisions of section 8.2.3.3. (iii) relating to housing mix, the proposed development could be interpreted to give rise to a Material Contravention of the Development Plan in respect of housing mix. Furthermore, it could be determined that the scheme does not provide a 'wide variety of units' and on that basis that the proposed development could potentially materially contravene Policy Res7.

Notwithstanding that the proposed development on a standalone basis provides for a relatively limited range of units, it is considered that the proposed unit mix is fully in accordance with broader planning policies and is appropriate given the established dwelling mix in the area.

Contributing to the Dwelling Mix in the Wider Area

It is submitted that the proposed development by providing a mixture of smaller type unit sizes to include studio, one and two bed apartments in an area predominately characterised by larger family size houses would indeed contribute to the overall variety of housing types and sizes in the area. The CSO 2016 (census) results demonstrate that the housing stock in the Dublin area is dominated by larger units greater in size than typical one and two bedroom apartments. Of the 530,753 permanent households recorded in the census, 55,091 or c.10% represents one and two bedroom units. Given that changing demographics are resulting in smaller household sizes, particularly increased single person households, the demand for such smaller dwelling units is strong at present and is very likely to increase in the future. The provision of one and two bedroom units is consistent with the unique demographic profile of Dublin's population, with almost 50% of all households in Dublin City comprising of either one person households (28%) or couples (20%) in the 2016 Census.

As such, the proposed dwelling mix will contribute positively to improving the diversity of housing types and sizes in the area and satisfies an established housing demand in the market where there are significant shortfalls of supply at present.

3.2.1.1 Supportive Planning Policy

Dún Laoghaire Rathdown Development Plan 2016-2022 (DLRCDP)

Section 2.1.3.7 (Policy Res7) of the DLRCDP seeks to encourage a '*good mix of house types creates neighbourhoods for people of different ages and lifestyles*' and notes that encouraging good housing mix also '*allows people the choice and opportunity to remain in a given area while availing of accommodation that caters to their changing needs at particular stages of their life*'.

The justification text under Policy Res7 of the DLRCDP states that the provision of '*a good mix of house types creates neighbourhoods for people of different ages and lifestyles. Encouraging good housing mix also allows people the choice and opportunity to remain in a given area while availing of accommodation that caters to their changing needs at particular stages of their life*'.

The proposed housing mix is oriented towards smaller non-family type units, which will complement existing levels of family houses (as is immediately evident to the north, east and south of the application site) in the area. As such, the proposal will allow first time buyers (couples without children, couples with young children or single parents and single person households) to settle in the area, and to subsequently trade up into a larger house nearby as their housing needs changes with family demands. When these families age and their children move out of the house, these 'empty nesters' could potentially take up a small 2- or 1-bedroom unit again within the proposed development. As such, the proposed development would assist families to settle and stay in the area throughout their life stages.

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

It is noted that the addendum attached to Chapter 8 of the DLRCDP states that those apartment development standards that have been superseded by the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*' does not include apartment mix notwithstanding that the 2020 Guidelines contains a Specific Planning Policy Requirement in relation to dwelling mix requirements (SPPR 1):

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

Paragraph 2.20 of the Apartment Guidelines acknowledges the need for different forms of housing to be supported and emphasises '*the need to facilitate a mix of apartment types that better reflects household formation and housing demand*'.

As stated above, the combined percentage of studio and 1 bed units (at 49%) is below the 50% threshold indicated in SPPR1 (above) and the proposed 3 no. studio units represents only 6% of the total number of 1-bedroom and studio units. The proposed unit mix is therefore fully compliant with the standards of the Apartment Guidelines, is consistent demographic trends towards smaller household units, and is responsive to market housing demand.

3.2.2 Separation Distances between Blocks

Section 8.2.3.3 (iv) of the DLRCDP requires:

'All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.'

Section 12.3.5.2 of the Draft Plan also requires a minimum clearance distance of circa 22 metres, in general, between opposing windows in the case of apartments up to three storeys in height. It also provides that in the case of taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. However, in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. It goes on to state that in all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

Matters relating to external residential amenity impacts arising from the proposed development arising from the separation distances between proposed blocks and neighbouring properties are addressed in the Response Report to the ABP Opinion (Item No. 3).

The wording of section 8.2.3.3(iv) of the DLRCDP refers to the internal relationships of constituent blocks of a proposed development rather than relationships between new development and existing development. In this regard, it is likely that the proposed units will be bought off plan or upon completion of the development and will be occupied either by the first owners of the units, or the first renters of a unit that was purchased as a rental property. As such, the expectation of privacy of a new owner / renter within the proposed scheme is different to the expectation of privacy of an adjoining neighbour.

Notwithstanding this subjectivity, the guidance under section 8.2.3.3 (iv) of the current DLRCDP is quantified in an approximate manner where it states '*The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height*'. It is noted that this provision is carried forward into the Draft Plan, as set out above. The use of the word 'circa' in front of the 22 numerical value makes it clear that the 22m separation distance is not an absolute value that must be adhered to in all instances. It is rather intended as a guideline that will be subject to tolerances. Whilst the word 'circa' generally means 'approximately'. The word 'approximately' has its roots in the Latin word '*proximus*' meaning 'nearly' – it could thus be a little less, or a little more than the specified value.

In this instance the submitted first floor plan (RAU Drawing No. P20-113D-RAU-ZZ_01-DR-GAP-107 demonstrates as follows:

- Separation distances between the western and eastern wings of Block A across the courtyard space is typically between 20.9m and 21.5m, and is therefore approximately 2.3% to 5% lower than the guideline 22 m separation distance.
- Separation distances between the eastern elevation of Block A and the western elevation of Block B across the intervening communal garden are typically between 20.2m and 28.2m. Therefore, at its narrowest point it is approximately 8% lower than the aspirational 22m separation distance, but mostly exceeds 22m in separation.

- Separation distances between the western and eastern wings of Block B across the courtyard space is typically between 21.7m and 28.2m, and is therefore approximately 1.4% lower than the guideline 22 m separation distance, but mostly exceeds 22m in separation.

It is submitted that the levels of separation achieved internally within the proposed scheme between constituent blocks are consistent with the advice given in Para. 2.23 of the Apartment Guidelines (2020) that recognise that the NPF explicitly '*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.*' [Emphasis added]

In this regard the daylight / sunlight performance of the scheme has been tested specifically for the natural light and sunlight penetration to the intervening communal spaces that separates constituent blocks. The results have shown that all of the proposed communal open spaces will receive good levels of natural lighting to ensure these spaces will be attractive and functional spaces that offers a high level of amenity to residents in terms of their potential to meet the active or passive recreational needs of residents of the scheme. Furthermore, the 19 verified views demonstrate that the blocks cannot reasonably be considered to be visually overbearing. These performance based assessments support the contention that the margin of deviances from the guideline 22m separation distance between constituent blocks are of no material consequence, and that the development is consistent with national policy objectives for urban consolidation, sustainable land use close to urban centres and public transportation corridors, and national policy on housing delivery and high-quality outcomes.

3.2.3 Car Parking Provision

Table 8.2.3 of the DLRCDP identifies the following parking standards for apartments:

- 1 space per 1 bed unit; and
- 1.5 spaces per 2 bed unit.

In this regard, the DLRCDP states:

'The car parking standards set out for residential land uses in Table 8.2.3 shall be generally regarded as 'standard' parking provision. The parking standards in Table 8.2.3 include spaces for both residents and visitors and these car parking spaces shall be clearly designated. Visitor car parking, preferably grouped within communal parking areas, should be adequately provided for and reserved only for the use of visitors.'

The Draft Plan clarifies that maximum car parking standard shall apply for all uses except for residential where reduced provision may be acceptable dependent on criteria set out in Section 12.4.5.2 as follows:

- Proximity to public transport services and level of service and interchange available.
- Walking and cycling accessibility/permeability and any improvement to same.
- The need to safeguard investment in sustainable transport and encourage a modal shift.
- Availability of car sharing and bike / e-bike sharing facilities.
- Existing availability of parking and its potential for dual use.

- Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).
- The range of services available within the area.
- Impact on traffic safety and the amenities of the area.
- Capacity of the surrounding road network.
- Urban design, regeneration and civic benefits including street vibrancy.
- Robustness of Mobility Management Plan to support the development.
- The availability of on street parking controls in the immediate vicinity.
- Any specific sustainability measures being implemented including but not limited to:
 - The provision of bespoke public transport services.
 - The provision of bespoke mobility interventions

The Draft Plan reduces the 2-bed apartment standard from 1.5 spaces per unit in the current DLRCDP to 1 space per unit in the Draft Plan and retains the 1-bed standard at 1 space per unit.

Applying the above current DLRCDP standards, the number of car parking spaces that would be required for the proposed development is 140 no. car parking spaces². In applying the reduced Draft Plan standards, the number of car parking spaces that would be required for the proposed development is 111 no. car parking spaces³.

The proposed development provides 39 no. car parking spaces (of which 10 no. spaces are fitted for Electric Vehicles and including 3 no. car club spaces) at semi-basement level beneath Block A. At ground / surface level provision is made for a further 2 no. disabled car parking spaces (both fitted for Electric Vehicles). This level of provision (at a ratio of 0.34⁴ spaces per unit or 1 space for every 2.9 units provided.

Having regard to the Apartment Guidelines, Section 2.4 identify a range of locations in cities and towns that may be suitable for apartment development. In this regard, the guidelines identify '*Central and/or Accessible Urban Locations*' as locations that '*...are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:*

- *Sites within walking distance (i.e., up to 15 minutes or 1,000-1,500 m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*
- *Sites within reasonable walking distance (i.e., up to 10 minutes or 800-1,000 m) to/from high capacity urban public transport stops (such as DART or Luas); and*

² Assuming a maximum of 1 space per studio unit will be applicable.

³ Assuming a maximum of 1 space per studio unit will be applicable.

⁴ Excluding the 3 no. car club spaces.

- ***Sites within easy walking distance (i.e., up to 5 minutes or 400-500m) to/ from high frequency (i.e., min 10 minute peak hour frequency) urban bus services.***’ [Emphasis in bold]

Having regard to the qualification criteria above, the following locational factors should be noted in respect of the subject development site:

- The UCD campus is situated approximately 1.5km away and Dundrum Town Shopping Centre is situated approximately 600m to the south, both of which are large scale employment hubs in the area.
- The Dundrum LUAS Stop is situated approximately 535 m walking distance to the south of the application site. Windy Arbor LUAS Stop is situated approximately 815 m towards the north-east as accessed via Dundrum Road (northwards) and westwards along St Columbanus Road.
- There are a number of bus stops on Dundrum Road within a 5-minute walking distance of the site. These are served by 3 no. NTA-regulated bus routes (17 / 17c / 17d, 44 and 61), which connect Dundrum to Dublin city centre and to suburbs in the north, south, and south-east of the city. The nearest bus stops are No. 2823 (northbound) and 2893 (southbound). The northbound stop is situated approximately 60 m to the north of the subject site along Dundrum Road. The nearest southbound bus stop is located approximately 180 m to the south of the site along Dundrum Road.

Paragraph 4.18 of the guidelines emphasise that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

In terms of the classified ‘Central and/or Accessible Urban Location’ applicable to the subject site, Paragraph 4.19 goes on to state that ‘...higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances...’

Paragraph 4.20 goes on to qualify the above policy position by stating it would ‘be particularly applicable in highly accessible areas...especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.’

In this regard it is note that the justification text provided under sub-section 8.2.4.5 of the DLRCDP states that:

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

It then goes on to acknowledge instances where reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on the following qualification criteria:

- *The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.*
- *The proximity of the proposed development to public transport.*

- *The precise nature and characteristics of the proposed development.*
- *Appropriate mix of land uses within and surrounding the proposed development.*
- *The availability of on-street parking controls in the immediate area.*
- ***The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.***
- *Other agreed special circumstances where it can be justified on sustainability grounds.'* (Emphasis added in **bold**)

Lastly, Policy ST3 (Development of Sustainable Travel and Transportation Policies) of the DLRCDP states that:

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

The objective for having a 'standard' requirement for residential parking as set out in Table 8.2.3 of the DLRCDP requiring this development to provide 140 no. car parking spaces, is seriously at odds with Policy ST3 which is aimed at achieving a modal shift away from private car use, as well as the qualification text under Section 8.2.4.5 which appears to overlap significantly with the qualification criteria listed in the Apartment Guidelines for 'Central and/or Accessible Urban Locations', such as the application site. In this regard, and in addition to the locational factors listed in support of a reduction of car parking standards, it should also be noted that the proposed development provides a high number of cycle parking spaces to accommodate the needs of residents and visitors to the site in order to promote cycling (along with walking) as a sustainable mode of transport. Furthermore, the accompanying and submitted Traffic and Transport Assessment sets out in Chapter 8 a Residential Travel Plan (RTP) along with Mobility Management targets and measures to be implemented as part of the RTP in order to ensure an effective modal shift away from private car use.

It would appear that the rigid application of Table 8.2.3 (parking standards) of the current DLRCDP does not take into account the above circumstances and locational factors associated with the subject site where significant reductions in car parking are actively promoted. However, the Draft County Development Plan does acknowledge and provide criteria for reduced parking delivery as set out above, which is considered consistent with national planning guidance in this regard.

Under Section 37(2)(b)(iii) of the 2000 Act, the Board is referred to the Section 28 Ministerial Guidelines – Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020). Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPRs) of the guidelines in carrying out their function. SPPRs, as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. The Apartment Guidelines emphasise the policies of the NPF to promote and deliver more compact forms of development and to enable people to be closer to employment and recreational opportunities in order to reduce car dependency in favour of more sustainable forms of transport usage (including walking and cycling).

The NPF advises that:

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

In this regard the following Specific National Planning Framework policies are of relevance:

- 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 27 - Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 64 - Improve air quality and help prevent people being exposed to unacceptable levels of pollution in our urban and rural areas through integrated land use and spatial planning that supports public transport, walking and cycling as more favourable modes of transport to the private car, the promotion of energy efficient buildings and homes, heating systems with zero local emissions, green infrastructure planning and innovative design solutions.

In addition to the above, it is also noted that planning precedent exists for reduced car parking provision (as granted permission by ABP), as follows:

- Site at Walled Garden, Gort Muire, Dundrum, Dublin 14 (ABP Ref. 304590- 19 - In this instance the subject site, the 'Walled Garden' site benefits from a lower order classification, being classified as an '*intermediate urban location*'. However, an SHD development was permitted by the Board in September 2019 with a car parking ratio of 0.31 spaces per residential unit. A subsequent amendment application for the permitted development at the site was approved in October 2020 which resulted in a further reduction in ancillary car parking to a ratio of only 0.18 spaces per unit (ABP Ref. 307545).

The Inspector's Report in respect of the latter amendment application noted that whilst there was a significant shortfall in car parking provision, the reduced car parking numbers are in line with national guidance which emphasises a need to move away from universal parking standards to a performance based approach. The Inspector's Report further noted that the proposed car parking provision was in line with County Development Plan objectives and was also '*in compliance with Policy ST3 by effecting a modal shift from the private car to more sustainable modes of transport*'.

Accordingly, it is submitted that the proposed car parking ratio of 0.34 spaces per unit proposed within the subject application represents an increased car parking provision when compared against the above permitted development. The subject proposal will clearly contribute to effecting a modal shift towards sustainable modes of transport in accordance with both the Dún Laoghaire Rathdown Development Plan 2016-2022 and with wider strategic planning policy objectives.

3.2.4 Public / Communal Open Space Provision – Quantitative Provision

Section 8.2.8.2 of the DLRCDP states that the Planning Authority will require public⁵ and/or communal open space to be provided within new residential developments. In this regard, section 8.2.8.2 (i) requires Open Space provision of 15 to 20sq.m of Open Space per person. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. '*A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii) below. The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space irrespective of the occupancy parameters set out in the previous paragraph.'*

Based on the prescribed method of calculation (15-20 sq.m per person and based on an occupancy rate of 1.5 persons per dwelling), the proposed 111 no. units would require between 2,498 sq.m and 3,330 sq.m of open space. These figures represent approximately 32% and 43% of the site area, respectively. Such levels of open space provision is not consistent with national, regional and county level objectives for urban densification and consolidation as it would unduly inhibit the development potential of the site by leaving too little developable area on-site. Such a development pattern would result in disproportionately small building footprints in an attempt to reduce site coverage and to increase open space provision. As a consequence the only option available to an applicant would be to increase building heights in an attempt to make an otherwise unviable scheme, commercially viable which would result in a range of other adverse impacts.

In this regard, section 4.19 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) notes the difficulties associated with using occupational rates in the quantitative calculation of open space standards. Section 4.20 recognises that in order to ensure adequate safeguards are in place and to avoid over-development that public open space should generally be provided at a minimum rate of 10% of the total site area in the case of large infill sites or brownfield sites, such as the application site.

DLRCDP Policy OSR5 promotes public open space standards generally in accordance with overarching Government guidance documents '*Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities*' (2009) and the accompanying '*Urban Design Manual - A Best Practice Guide*'.

Section 4.21 of the above guidance emphasises the importance of adopting a '*flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards... Where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution towards public open space or recreational facilities*

⁵ For the purposes of this section, 'Public' open space refers to all areas of open space within a new development (be that public (taken in charge), communal, semi-private or otherwise) that is accessible by all residents/employees of the development and in certain cases may be accessible by the wider general public. 'Public' open space within new developments may not necessarily be taken in charge or be publicly owned/controlled by the Council.

in the wider area in lieu of public open space within the development.'

It is submitted that notwithstanding the generous level of communal open space provision within the scheme (approximately 1,923 sq.m), at a rate of approximately 2.9 times the required standard, the shape of the site is not conducive to the provision of publicly accessible open space. Given the above provisions of national guidance it is submitted that due to the proximity of the site to existing parks and public open spaces it is appropriate in this instance to apply a relaxation in the provision of public open space, and that the Board could consider an appropriate condition requiring the provision of a financial contribution in lieu of such provision.

It is noted that this approach to open space provision is consistent with the guidance provided in the Draft County Development Plan, as set out in Table 5.3 of the submitted Planning Report and Statement of Consistency.

3.2.5 Private Amenity Space Provision

Section 8.2.8.4 (iv) requires that every apartment shall have direct access to its own area of private open space in the form of a balcony, winter garden or patio area (Table 8.2.5 (inset below, right) sets out minimum requirements).

The following additional design measures / standards are prescribed:

'The minimum depth of balconies for all or most of their length should normally be 1.5m and be accessed from living rooms. Larger balconies should be assessed in terms of overshadowing of other units and other visual impacts. Above ground floor units shall also have access to semi-private/communal and other open amenity spaces. No balconies shall overhang the public footpath.'

**Table 8.2.5: Balconies / Winter Gardens:
Minimum Private Open Space Standards**

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

Having regard to Table 8.2.5 of the DLRCDP, the following is noted:

- It does not make express provision for a standalone standard for private amenity space in connection with studio type units; and
- The standard for 2-bedroom units does not distinguish between a 2 bed/ 4 person unit or a 2 bed / 3 person unit.

Notwithstanding the above and having regard to the submitted Housing Quality Assessment, it is noted that:

- 6 of the proposed 51 no. one bedroom units meet the minimum DLRCDP standard of 6 sq.m; and
- 14 of the proposed 57 no. two bedroom units meet the minimum DLRCDP standard of 8 sq.m.

Given that the addendum at Chapter 8 of the DLRCDP excludes the provisions of section 8.2.3.3. (viii) relating to private amenity space provision, it could be interpreted that the proposed development gives rise to a Material Contravention of the Development Plan in respect of private amenity space provision. It is noted that the addendum attached to Chapter 8 of the DLRCDP which seeks to clarify those apartment development standards have been superseded by the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*' does not include private amenity space provision for apartments notwithstanding that the 2020 Guidelines provides express guidance in Paragraphs 3.35 to 3.37 regarding the quantitative and qualitative requirements of private amenity space associated with apartments and goes on to set out minimum standards at Appendix A in this regard, as duplicated in the inset table, right.

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

Having regard to the prescribed standards for private amenity space provision within Appendix 1 of the Apartment Guidelines, it is noted that the standards are more refined and tailored to a wider variety apartment types that can reasonably be expected to be provided for in apartment schemes. This range of apartment types envisaged to be provided is also in accordance with local and national planning objectives to secure a wide unit mix / range of unit types within housing schemes and within specific geographic areas (refer to sub-section 3.2.1, above). It is also noted that the Draft County Development Plan seeks to refine the current standards of the DLRCDP by adopting the above mentioned standards as contained in the Apartment Guidelines.

Having regard to the standards set out in the Apartment Guidelines, the following is noted from the submitted Housing Quality Assessment:

- Studios – all 3 no. proposed studio units provide private amenity spaces in excess of 5 sq.m per unit which far exceeds the 4 sq.m studio standard. In fact, in all instances the level of provision exceeds the relevant 5 sq.m standard for 1-bedroom units.
- One Bedroom units – All 51 no. 1-bedroom units meet the minimum required standard of 5 sq.m and 32 of the 51 no. units (or 63%) exceed this standard comfortably by at least 10% (5.5 sq.m) or more.
- Two bedroom / 3 person units - All 11 no. 2-bed / 3-person units meet the minimum required standard of 6 sq.m and 6 of the 11 no. units (or 55%) exceed this standard comfortably by at least 10% (6.6 sq.m) or more.
- Two bedroom / 4 person units - All 46 no. 2-bed / 4-person units meet the minimum required standard of 7 sq.m and 12 of the 46 no. units (or 26%) exceed this standard comfortably by at least 10% (7.7 sq.m) or more.

The level of compliance and level of exceedances – i.e. where the minimum required standard is comfortably⁶ exceeded (as summarised above) is indicative of a high quality scheme that will provide an exceptional level of private amenity space to future residents. Furthermore, it is noted that subsection 8.2.8.4 (iv) of the DLRCDP requires that in addition to private amenity space that all ‘Above ground floor units shall also have access to semi-private/communal and other open amenity spaces’.

In this regard it should be noted that all of the units at the upper floor levels will have shared access and use of approximately 1,923 sq.m (which is almost 3 times the required level of provision) of communal open spaces as follows:

- Block A communal courtyard space – 377 sq.m
- Block A communal roof garden – 172 sq.m
- Block B communal courtyard space – 604 sq.m
- Block B communal roof garden – 188 sq.m
- Central communal open space (between Blocks A and B) – 582 sq.m

Concluding on this issue, it is acknowledged that the majority of proposed units do not meet the required and relevant private amenity space standard, as set out in the current DLRCDP which is more stringent than the relevant standards contained in the Apartment Guidelines. However, it is noted that the Draft County Development Plan is aligned with the standards promoted in the Apartment Guidelines. In this regard, all of the proposed apartments meet and in many instances (45 no. of units) comfortably exceed the relevant minimum standard promoted in the Apartment Guidelines. This level of private amenity space provision coupled with a very generous level of communal amenity space provision at almost 3 times the required rate will ensure a high-quality scheme offering an exceptional level of external amenity space for future residents.

3.2.6 Residential Density

Policy RES5 provides that densities should be in the region of 35-50 units per ha. Higher densities will be allowed where it is demonstrated that the site is located within circa a 1km pedestrian catchment of a Luas Line and where there is a quality proposal set out.

The provisions of the Draft County Development Plan is more reliant on national guidance. Section 12.3.3.2 of the Draft Plan provides in general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the Government Guidelines documents including ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (2009) and ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ (2020). As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport.

In this regard, a total of 111 units are proposed on the application site that extends to approximately 0.79ha in area, resulting in a density of approximately 140 units per ha. Given the lack of an upper ceiling or cap on residential density within the current DLRCDP, the Board may consider that the proposed

⁶ By 10% or more.

development give rise to a Material Contravention of the Development Plan in respect of residential density as the qualitative aspects associated with density, such as associated residential impacts arising from a development is considered to be somewhat subjective in nature.

3.2.6.1 Supportive Planning Policy Context

Dún Laoghaire Rathdown Development Plan 2016-2022 (DLRCDP)

Policy RES3 of the County Development Plan refers to Residential Density:

*'It is Council policy to **promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas**, with the need to provide for sustainable residential development... **Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.**' (Emphasis in bold)*

The provisions of sub-section 8.2.3.2 of the DLRCDP is also noted, where it states:

*'In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). As a general principle, and on the grounds of sustainability, the **objective is to optimise the density of development in response to type of site, location and accessibility to public transport**. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied. Higher residential density will not be appropriate in every circumstance and qualitative built form can sometimes be a more important determinant. **Higher densities should have regard to surrounding dwellings and should be achieved in tandem with the protection of the amenity of the future residents of the proposed development** (Refer also to Policy RES3 in Section 2.1.3.3).' (Emphasis added in bold)*

Having regard to the qualification criteria for 'higher density' schemes (i.e., schemes above 50 u/ha) it is submitted that the scheme meets the locational criterion of being located within a 1km pedestrian catchment of a Luas Line due to its proximity to both the Windy Arbour (approximately 850m walking distance by road) and Dundrum (approximately 850m walking distance by road) Luas stops. Furthermore, the proposed scheme is of a high-quality design that fits into the established townscape context and it has been demonstrated in the submitted Response to Item No. 3 of the Boards' Opinion that the proposed development respects the amenities of adjoining residents.

Furthermore, the sylvan character and amenity value provided by existing mature trees on the site is protected and retained through a high quality, responsive landscaping scheme that includes the retention and integration of high-quality trees, worthy of protection on the site. This matter is discussed in more detail under section 3.2.8, below.

Draft Dún Laoghaire Rathdown Development Plan 2022-2028

Objective PHP18 (Residential Density) of the Draft Plan provides that 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 of the Draft Plan. Higher

residential densities is encouraged 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.

The National Planning Framework (NPF)

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.'* In addition, National Policy Objective 35 seeks to promote an *'Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights'*.

The subject site is currently an underutilised brownfield development site that provides an opportunity to deliver a responsive infill development that would contribute towards urban consolidation objectives. It is appropriately zoned for residential development and is located proximate to public transport provision and nearby employment centres – all of which support a sustainable approach to development.

The proposal responds to the surrounding suburban housing context by stepping down in height from west to east across the site and retaining appropriate levels of separation from the site boundaries where it adjoins rear gardens of existing houses to the north, south and east.

As stated under sub-section 3.2.1 above, the existing locality is characterised by predominantly family type houses that results in a low-rise, low-density pattern of development. The subject proposal aims to rebalance residential density in the area and provides a variety of smaller apartment units to cater for the current lack of supply of this housing typology in the area. The proposed building heights are well considered and responsive to the site's established context. For these reasons, it is submitted that the proposed development accords with the key principles of the National Planning Framework, particularly in respect of the ongoing need for urban densification and consolidation in order to avoid urban sprawl.

In conclusion, it is submitted that the provision of a higher density apartment scheme is also consistent with the guidance contained in Section 2.2. of the Apartment Guidelines, which acknowledge the suitability of higher density apartment schemes within urban areas, and particularly the need to increase the intensity of such development close to existing public transport nodes, employment opportunities and locations such as Dundrum that offer a range of urban amenities including parks/waterfronts, shopping and other services. The response provided in the submitted report addressing Item 3 of the ABP Opinion demonstrates in detail how the proposed development will protect and preserve established residential amenities in the locality in accordance with emerging Policy Objective PHP18 of the Draft County Development Plan.

3.2.7 Building Height

The proposed development consists of 111 no. apartments, comprising 3 no. studios (3%); 51 no. 1 bed (46%) and 57 no. 2 bed apartments (51%) that are arranged in 2 blocks that vary in height from 2-storeys to 6-storeys.

The proposed building height of Block A could potentially be interpreted as being non-compliant with the Building Height Strategy (BHS). However, it is submitted that the proposed height is consistent with

the SPPRs contained in the Urban Development and Building Heights guidance, as set out below.

The BHS identifies that approximately 75% of the County's area is subjected to either explicit or implicit building height policy as it either falls within an Amenity Zone, Open Space Zone, LAP area, Non-Statutory Plan areas or Architectural Conservation Areas.

The subject site is not located within a designated area or within an area where specific controls are in place in terms of building heights. The BHS includes specific guidance and policy for such '*Residual Suburban Areas not included within Cumulative Areas of Control*' where it states that:

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

The BHS acknowledges that this maximum height of 3-4 storeys is not strictly applicable in every circumstance and allows for flexibility through the use of 'upward or downward modifiers' to be considered. It is noted that the BHS advises that the '*presumption is that an increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two.'*' [Emphasis added]

There is a ambiguity in the interpretation of the above Development Plan guidance, as it could imply a maximum building height of 4-, 5 or 6 storeys could apply to the subject site as follows:

- 4-storeys, assuming a 3-storey permissible height plus one additional upward modifier floor;
- 5-storeys, assuming a 4-storey permissible height plus one additional upward modifier floor, or 3-storey permissible height plus two additional upward modifier floors; or
- 6-storeys, assuming a 4-storey permissible height plus two additional upward modifier floors.

A precedent⁷ decision under SHD Reg Ref. ABP SHD Ref. 304469-19 and 307683-20 (refer to section 7.3.1, below) is noted. The Inspector's Report addressed whether the proposed development under the parent permission (ABP Ref. 304469-19) constituted a material contravention of the Development Plan (by reason of building height), and stated:

'In conclusion, I consider that 4 – 6 storey blocks are acceptable in this particular location. Having regard to the factors outlined in Appendix 9 of the Development Plan and having regard to the extant permission on the site, I conclude therefore that the proposal is not in contravention of the Development Plan. Furthermore, having regard to national policy and in particular the Guidelines on Urban Development and Building Heights, December 2018, I am satisfied that the SPPRs therein take precedence over any conflicting policies and objectives of Development Plans. Moreover, I am satisfied that it represents a reasonable response to its context and is stepped down at site boundaries to reduce impacts on adjacent residential properties.'

In granting the subsequent amendment under ABP Ref. 307683-20 to increase the permitted 4-6 storey

⁷ Like the application site The Upper Kilmacud Road area is primarily a residential area characterised by low-rise two storey semi-detached and detached dwellings. Like the application site it is situated on lands zoned Objective A and located outside the established commercial core area of Dundrum.

building height to 6-8 storeys in height, the Board concluded that 6 storeys was permissible, but that 8 storeys would materially contravene the Building Height Strategy:

'Section 4 of Appendix 9 notes that apartment development with a maximum height of three to four storeys may be permitted in appropriate locations, including prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes – providing they have no detrimental effect on the existing character and residential amenity. It further states that the maximum height cannot apply in every circumstance and there will be situations where a minor modification up or down in height by up to two floors could be considered. Therefore, subject to certain criteria a maximum of six number storeys permissible. The proposed development is eight-storey and, therefore, is above the maximum permissible height as set out in the plan.' [Emphasis added]

The proposed development would not exceed a building height of 6-storeys. Notwithstanding, given the ambiguity in the interpretation of the wording of the BHS, a precautionary approach has been applied, as the BHS states that '*...the maximum height cannot apply in every circumstance*'.

With regard to the specific provisions of Section 37(2)(b)(iii) of the 2000 Act, it is submitted that the proposed development meets the requirements of SPPR 3A of the Urban Development and Building Heights (December 2018). The Guidelines advocate a shift away from the application of generic maximum heights, as provided for under the DLRCC Building Height Strategy, towards a performance criteria driven approach. Chapter 3 states that building heights must be generally increased in appropriate urban locations, with a presumption in favour of buildings of increased height in core urban areas with good public transport accessibility. The Guidelines identify a number of development management principles and criteria that planning authorities should consider in the assessment of development proposals where the proposed height exceed relevant quantitative development plan building height standards. These principles and criteria are discussed and addressed below.

3.2.7.1 Compliance with Development Management Criteria

Section 3.2 of the Urban Development and Building Height Guidance require 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 the following criteria...*'

A range of criteria need to be addressed at a macro level (at the scale of the relevant city/town); intermediate level (at the scale of district/ neighbourhood/ street) and at a micro level (at the scale of the site/building). It is noted that the criteria referred to a in Table 5.1 of Section 5 of the Building Height Strategy of the Draft County Development Plan corresponds with the adopted criteria of the Urban Development and Building Height Guidance. These criteria are set out in Table 3.1, with the relevant requirement in the left-hand column, and the corresponding response in the right-hand column.

Table 3.1: Response to Qualification Criteria for Additional Height

1. At the scale of the relevant city/town	
<p><i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i></p>	<p>The site is well served and connected with high frequency public transport modes and will therefore facilitate sustainable modes of transport, as follows:</p> <ul style="list-style-type: none"> • <u>Bus Services</u> - The submitted TMTB identifies bus stops on Dundrum Road within a 5-minute walk of the

	<p>development site are served by 3no. NTA-regulated bus routes (17 / 17c / 17d, 44 and 61), which connect it to Dublin city centre and to suburbs in the north, south, and south-east of the city. Further bus stops within a 10-minute walk of the development site are served by an additional 6no. bus routes (14 / 14c / 44b / 75 / 75a / 161, 175 and 750) which include orbital routes running to Tallaght, Dún Laoghaire, and Dublin Airport.</p> <ul style="list-style-type: none"> • <u>Rail Services</u> - The nearest rail station is the Dart Station at Booterstown, approximately 3.65km to the east of the subject site from where Dart services operate north / south into and out of the city. • <u>Light Rail Services</u> - The Windy Arbour and Dundrum tram stops on the Luas Green Line are both within 10 minutes walking distance from the development site. These are served by frequent trams into and through Dublin city centre. • <u>Walking and Cycling</u> – Existing pedestrian facilities in the vicinity of the development site are of good quality and close to public transport services. Raised footpaths and public lighting are in place along Dundrum Road. A footpath width in excess of 2m is present along Dundrum Road in proximity to the development accesses. There is no cycle infrastructure present on Dundrum Road adjacent to the subject development site to the west.
<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>Accompanying this submission is a Landscape and Visual Impact Appraisal (LVIA) prepared by Cunnane Stratton Reynolds. It concludes as follows:</p> <p><u>Landscape Effects:</u></p> <p><i>'The landscape (townscape) sensitivity of the site and wider environs is regarded as Medium - it is a landscape with valued characteristics but reflecting ongoing change and with a capacity to accommodate change - a robust landscape / townscape.</i></p> <p><i>Local policy is supportive of change that consolidates and densifies the urban form. Valuable characteristics include trees and views to the mountains remain. The proposed development is comparatively modest and well composed to integrate in the receiving landscape. Change is regarded as of Medium magnitude.</i></p> <p><i>The importance of the effect is regarded as Moderate and</i></p>

	<p><i>qualitatively Neutral to Beneficial.'</i></p> <p><u>Visual Effects:</u></p> <p><i>'Section 7 above assesses 19 representative viewpoints. 12 of these are residential locations with a high sensitivity to change. 5 of these residential viewpoints experience no effect. 6 of the remaining experience Low to Important effects but all Neutral i.e. the development integrates well and complements the views. 1 view from Sommerville experiences a Moderate Importance and Adverse effect, partly created by the oblique angle of view from the location.</i></p> <p><i>4 of the remaining views are from the Dundrum Road. These experience Low and Neutral effects (further away) to Important and Beneficial effects when closer and the full elevation is visible.</i></p> <p><i>A view from Frankfort just off Dundrum Road also experiences a Moderate and Neutral effect.</i></p> <p><i>The view from William Dargan Bridge experiences a Negligible and Neutral effect and from the Luas stop at Windy Arbour the development is not visible.'</i></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>Whilst the site extends to more than 0.5ha in area, it is of a narrow shape with limited road frontage. To the north, east and south the site is landlocked by adjoining rear gardens backing onto the site. As such opportunities for new public streets, spaces and permeability through the site is limited. However, the proposed development comprises two u-shaped blocks that are arranged around a series of courtyard spaces and a central communal open space, which provides variety and interest. The proposed massing / height of the blocks is responsive to this context with the taller 6-storey element providing a strong edge condition along Dundrum Road with the height stepping down in an easterly direction to respond to the more traditional domestic scale of the adjoining houses.</p> <p>Please refer to the following documents that set out in detail how the proposed development this criterion:</p> <ul style="list-style-type: none"> • Urban Design Report, prepared by Reddy Architecture and Urbanism; and • Landscape Design Report, prepared by Cunnane Stratton Reynolds.

2. At the scale of district/ neighbourhood/ street

<p><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i></p>	<p>As stated above, a LVIA accompanies the application, which contains 19 no. views illustrating how the proposed development responds to the established townscape context. In this regard the LVIA concludes that '<i>...the development integrates well, is well designed and composed of appropriate materials in a contemporary manner that engages with its environs in different ways. Overall its effects although locally high in places, are Neutral to Benign – a beneficial change to the townscape and visual quality of the area and in keeping with existing ongoing change and as proposed in local policy.'</i></p>
<p><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></p>	<p>Due the restricted width of the site and its immediate low-rise context to the east, north and south it demands a responsive massing solution. The proposed development provides two separate courtyard blocks of varying heights, ranging between 2;- 3- 4- and 6-storey heights which will ensure that the massing is appropriately broken down to avoid the provision of a single large rectangular monolithic block occupying the site.</p>
<p><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></p>	<p>The proposed development provides for a strong built edge condition along the main road frontage onto Dundrum Road. The proposed development includes a strip of land in the ownership of DLRCC along the Dundrum Road frontage of the site up to the junction with Sommerville Road that will be landscaped to provide an enhanced public realm and attractive interface between Block A and Dundrum Road.</p> <p>Building heights are responsive in scale to provide an appropriate degree of enclosure of communal / semi-private open space spaces within the scheme whilst ensuring appropriate micro-climatic conditions, as discussed below to ensure high quality, functional spaces of high amenity value are provided.</p> <p>With regard to the Flood Management Guidelines (November 2009), A Flood Risk Assessment (FRA) prepared by CS Consulting Engineers accompanies this submission.</p> <p>The SSFRA indicates that the subject site falls within Flood Zone C. On this basis a Justification Test is not required. Section 4 of this assessment provides a flood risk assessment from various sources, including fluvial, tidal, pluvial, groundwater and failing infrastructure. In all instances the</p>

	<p>subject site and proposed development is not identified to be at risk of flooding.</p>
<p><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></p>	<p>For the reasons stated earlier, the varied scale, massing and height of the constituent buildings is consistent with and complimentary to the surrounding townscape context.</p> <p>Please refer to the following documents that set out in detail how the proposed development this criterion:</p> <ul style="list-style-type: none">• Urban Design Report, prepared by Reddy Architecture and Urbanism; and• Landscape Design Report, prepared by Cunnane Stratton Reynolds.
<p><i>The proposal positively contributes to the mix of uses and/or building/dwelling typologies available in the neighbourhood.</i></p>	<p>The delivery of smaller type studio, 1-bedroom and 2-bedroom apartments will contribute towards the overall housing mix in the locality which is characterised by a large proportion of low-density family type houses in the form of terraced, semi-detached and detached houses.</p>
3. At the scale of the site/building	
<p><i>The form, massing and height of proposed developments should be carefully modulated to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</i></p>	<p>To date, the design process was an iterative process whereby revisions were vigorously tested for associated visual impacts arising whilst being assessed daylight / sunlight impacts internally within the scheme and externally to neighbouring properties.</p>
<p><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></p>	<p>Enclosed with this submission is a Daylight, Sunlight and Overshadowing Report, prepared by Passive Dynamics Sustainability Consultants. This report provides an assessment of daylight / sunlight conditions arising as a result of the proposed development. This assessment was prepared in accordance with prescribed methodologies of the BRE guidance and had regard to specific daylight / sunlight quantitative performance standards contained therein.</p>
<p><i>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions</i></p>	<p>The submitted Daylight, Sunlight and Overshadowing Report clearly identifies instances where neighbouring properties will be impacted and where the proposed residential units will not be able to fully meet all of the recommended daylight standards.</p>

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.

Section 11 of the above Daylight / Sunlight assessment sets out compensatory measures in this regard.

3.2.8 Tree Retention

Under both the DLRCDP and the Draft County Development Plan there is an objective identified on the respective Development Plan zoning maps along the eastern boundary of the site – ‘To protect and preserve Trees and Woodlands’. This objective is denoted by the tree symbol along the eastern boundary of the site – see inset extract of zoning map, right. As noted above, this objective was carried forward, substantially in the same form into the Draft County Development Plan.

Section 8.2.8.6 (Trees and Hedgerows) of the current DLRCDP states that:

‘New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps. Arboricultural assessments carried out by an independent, qualified arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation. The assessment shall contain a tree survey, implications assessment and method statement. The assessment will inform the proposed layout in relation to the retention of the maximum number of significant and good quality trees and hedgerows. Tree and hedgerow protection shall be carried out in accordance with BS 5837 (2012) ‘Trees in Relation to Design, Demolition and Construction – Recommendations’. All requirements for arboricultural assessment should be determined at pre-planning stage. The retention of existing planted site boundaries will be encouraged within new developments, particularly where it is considered that the existing boundary adds positively to the character/visual amenity of the area. New developments should have regard to the location of new buildings/extensions relative to planted boundaries. Prior to construction, the applicant shall provide details of adequate measures on site to protect all planting/trees to be retained and this protection shall be maintained throughout the development during the construction period. Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition. A financial bond may be required to ensure protection of existing trees and hedgerows during and post construction.’



A tree protection and preservation symbol is identified along the eastern boundary of the site. Whilst none of the existing mature trees along this boundary are proposed to be removed, the tree preservation objective could potentially be interpreted as to apply to the entire site and not only the trees along the eastern boundary. For this reason, a precautionary approach has been adopted to address this matter as a potential material contravention of the plan could arise, given that some of the existing trees present in more central parts of the site are proposed to be removed to accommodate the proposed development.

At the location (eastern boundary of the site) where the symbol is identified there are approximately 10 no. mature trees within and immediately adjoining the confines of the site boundary (T1 to T9, and T17 of the submitted Tree Survey Report). The objective 'To protect and preserve Trees and Woodlands', must also be considered in the context of the other provisions of the plan, which do not require all trees to be retained. Section 8.2.8.6 provides that:

'New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps.'

The Plan further states in Section 8.2.8.6 that:

'Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition'.

The proposal in this case has been the subject of significant arboricultural input from the outset of the design. The Design Team has sought to maximise opportunities for tree retention as part of the subject scheme to aid in the assimilation of the scheme into its context. All trees (10 no.) identified in the area proximate to the tree objective symbol are retained as part of the development proposal, which is considered to accord with the requirements of the Development Plan to protect and preserve the trees subject of the objective.

Overall however, 14 no. trees (70%) of the 20⁸ no. trees on and adjoining the site are proposed to be retained. All of the trees retained are Category A or B trees, which are considered to be of high to moderate quality. A total of 8 no. trees are proposed to be removed (which includes 1 group of 3 trees). Of the 8 no. trees to be removed, (T12 to T16 & TG1), four (4) of them are category C (low quality trees) and two (2) are category B (moderate quality (T14 and TG1)). All of the trees to be removed are situated inside the application site boundary. These trees are smaller in height averaging about 7m high, so their loss will not have a significant impact on the city leaf-coverage, nor on the landscape and amenity value of the area. Full details of the arboricultural impact assessment are presented in the accompanying Tree Survey Report.

In order to offset the limited tree loss, the landscaping strategy proposes to augment the retention of the good quality mature trees with new tree planting. In this regard the submitted Landscape Strategy and Design Report clarifies that *'The proposed landscape plan includes for additional planting of hedgerows and 52 new trees along boundary's and within the site, 24 of which will be planted along the northern boundary'*

⁸ Note - Tree Group TG1 have been counted as one tree in the submitted Tree Survey but consist of 3 no. trees

Clearly, the proposed landscaping scheme will result in a significant net gain of approximately 47 no. new trees. This accords with the requirements of the Development Plan in that commensurate planting and replacement trees are delivered within the proposal. The design has been cognisant of the significant trees on the site and has allowed for the retention of all of the high quality trees.

It is submitted that the requirements of the Development Plan are met, where the retention of trees, as far as practicable, has been provided for. In addition, where it has been necessary to remove trees to facilitate the proposed development, a commensurate programme for replacement planting has been delivered. Notwithstanding this, it is a matter for the Board to consider whether there would be a Material Contravention in respect of the objective above relating to tree protection and preservation. If so, the applicant relies on sub-paragraph (ii) of Section 37 (2)(b) and on the conflicting objectives above which envisage the removal of trees '*where necessary to facilitate development*'.

3.2.9 External Storage Provision

Table 12.3 of the Draft Plan provides minimum storage space requirements which are consistent with the requirements of the Apartment Guidelines. Sub-section 12.3.5.3 of the Draft Plan goes on to state that in addition to this internal requirement, that Apartment schemes should also provide external storage for bulky items outside individual units (i.e., at ground or basement level). It is advised that these storage units should be secure, at ground floor level, in close proximity to the entrance to the apartment block and allocated to each individual apartment unit.

Table 12.3b, introduced with the proposed Material Amendments, provides external storage standards which require:

- 4m³ for 1-bed apartment; and
- 6m-8m³ for 2-bed apartments (3 or 4 person respectively).

All apartments benefit from internal storage areas consistent with the requirements of Appendix 1 of the Apartment Guidelines and therefore Table 12.3 of the Draft Plan. Detailed floorplans of all proposed apartment types are submitted that clearly shows the layout of the proposed units and showing proposed internal storage areas. In addition, a shared storage room of approximately 11.8 sq.m is provided at 2nd floor level within Block B, which is suitable for the storage of bulkier items.

However, due to the introduction of the external storage requirement late in the design process (at Material Contravention Stage), the proposed development does not provide for any allocated external storage space in addition to the proposed internal storage provision within units.

In this regard, it is submitted that the required provision of additional external storage space is an onerous requirement that could potentially have significant impacts on the site layout of a scheme and its ability to meet other critical development standards, such as cycle parking provision, open space provision and appropriate and safe circulation spaces, as the provision of such external storage spaces are 'land hungry' structures and in large scale residential developments would require a significant footprint of additional structure(s). For example, a typical 6m³ storage room / space could measure 1.5m (width) x 2m (height) x 2m (depth). Thus, the required footprint of such a unit measures approximately 3m² and applying such a requirement for illustrative purposes across a 111 unit scheme it would require an additional 333m² of building footprint (excluding circulation space). Clearly, such a requirement

would put increasing pressure on schemes to deliver on other qualitative aspects such as attractive and functional open space provision, car parking and cycle parking provision.

In respect of the latter, it is fairly common in the UK that externally located and allocated storage provision is provided in apartment schemes, such as the marked-up image below of an apartment development known as 'Trelawney Place' at Howard Road, Chafford Hundred, Grays, UK.



Drawing on the UK experience, it is worth noting that such provision is required for the storage of bulky items, which is mainly aimed at providing secure bicycle storage provision in an attempt to encourage cycling as a sustainable mode of transport.

The above experience is consistent with Paragraph 3.32 of the Apartment Guidelines where it recognises the need for external bulky storage rooms and acknowledge that such provision could be suitable for bicycles and other equipment where it states as follows:

*'Apartment schemes should provide storage for bulky items outside individual units (i.e. at ground or basement level). Secure, ground floor storage space allocated to individual apartments and located close to the entrance to the apartment block or building is particularly useful and **planning authorities should encourage** the provision of such space **in addition to minimum apartment storage requirements. This form of storage may be used for equipment such as, for example, bicycles or bicycle equipment, children's outdoor toys or buggies.** However, such storage does not satisfy bicycle parking requirements.'* [Emphasis in bold]

Paragraph 3.33 goes on to clarify the relationship and requirement to provide both internal and external storage provision where it clarifies as follows:

*'Where secure, allocated ground or basement level storage is provided, **it may be used to satisfy up to half of the minimum storage requirement for individual apartment units**, but shall not serve to reduce the minimum floor area required to be provided within each individual apartment unit, as set out in these guidelines. This is intended to enable greater flexibility in apartment design, whereby more living or bedroom space may be provided within the apartment unit **in lieu of a portion of required internal storage space where such storage space has been provided elsewhere in the building.**'* [Emphasis in bold]

From the above provisions of the Apartment Guidelines it is clear that a flexible approach is promoted rather than a prescriptive minimum standard that must be adhered to in all instances. The use of the phrase '*planning authorities should encourage*' is noted in Paragraph 3.32 which makes it clear that such delivery is not a mandatory requirement. In addition, it is noted that Paragraph 3.33 clarifies that a shortfall of internal storage space provision could be offset by up to 50% through the provision of external storage space provision. From this, it is clear that contrary to the Draft Plan, the full provision of external storage space is not an additional requirement to the provision of internal storage space provision but seeks to offset it to a great extent. Furthermore, the proposed development far exceeds the relevant long stay and short stay cycle parking requirements of the DLRCDP and the Draft Plan by meeting the relevant cycle parking requirements of the Apartment Guidelines. The proposed development also provides a very attractive landscaping scheme which has sought to integrate and retain as many of the existing mature trees on site.

It is respectfully submitted that the provision of additional external storage space units will interfere and unduly detract from the delivery of other qualitative aspects of the scheme, as outlined above. Given that adequate provision of internal storage space is provided within all units and coupled with the generous provision of cycle parking provision, which includes the provision of 4 no. cargo bike spaces together with the provision of an element of communal storage space at 2nd floor level within Block B it is unlikely that the need for any additional external storage space provision will arise.

4.0 CONCLUSION

On the basis of the foregoing, it is submitted that the Board can consider granting permission for the proposed development under the provisions and requirements of section 10(3) of the 2016 Act, in contravention of the DLRCDP for the reasons stated under sub-sections 3.1 and 3.2 above and pursuant to Section 37(2)(b) of the Act of 2000.

Given that the subject site is located on appropriately zoned lands which are well serviced and connected, it is submitted that having regard to Section 37(2)(b)(ii) and Section 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended), An Bord Pleanála can grant permission should the Board determine that the proposed development would constitute a material contravention of the Development Plan in terms of the unit mix; separation distances; car parking levels; public open space provision; private amenity space provision; residential density and building height.

In conclusion it is noted that the Board has permitted a number of strategic housing developments in the Dundrum area that constitute relevant and appropriate precedents for similar developments, particularly in respect of permissible building heights, residential density, dwelling mix that comprise smaller type units (1- and 2-bed units), and reduced levels of ancillary car parking provision. These developments are summarised in Section 6 of the accompanying Planning Report and Statement of Consistency.