

SLA

Stephen Little
& Associates

SHD Planning
Application to
An Bord
Pleanála

Material
Contravention
Statement

Proposed Strategic
Housing Development

Project Ironborn,
Sector 3, Aiken's
Village, Stepaside

For Ironborn Real
Estate Limited

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1 INTRODUCTION

This document has been prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants, 26 / 27 Upper Pembroke Street, Dublin 2, D02 X361, to address aspects of the proposed development that may be considered by An Bord Pleanála to materially contravene the Dun Laoghaire-Rathdown County Council Development Plan 2022 – 2028 (“the Development Plan”).

Under Section 8(1)(iv)(II) the Planning & Development (Housing) and Residential Tenancies Act 2016, (“the SHD Act”) where a proposed development is considered to materially contravene the objectives of the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), an Strategic Housing Development (SHD) Planning Application must include a statement indicating why permission should, nonetheless, be granted, having regard to matters referred to in section 37(2)(b) of the Planning & Development Act 2000, as amended). The statutory notice accompanying this SHD Planning Application includes an appropriate form of words that confirms this.

In considering whether there would be a material contravention of the statutory Development Plan, the relevant objective(s) must be identified and a determination made by the competent authority as to whether the proposed development, would materially contravene the objective of the plan. An Bord Pleanála has discretion to grant permission for development that materially contravenes the development plan, other than in relation to land use zoning, subject to the development satisfying specified criteria contained in section 37(2)(b) of the Planning & Development Act 2000, as amended. These criteria are identified below.

Section 37(2)(b) of the Planning & Development Act 2000, as amended, states that where a proposed development materially contravenes the Development Plan, the Board may grant permission only 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.”

Ministerial Guidelines can contain Specific Planning Policy Requirements (SPPR’s). Section 9(3)(a) of the SHD Act requires that the Board shall apply, where relevant, SPPR’s. Furthermore, Section 9(3)(b) of the the SHD Act provides that where a SPPR differs from the provisions of the Development Plan, then the SPPR to the extent that it so differs shall apply instead of the provisions of the Development Plan.

This Statement, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants, seeks to address the possibility that the proposed development could be deemed by Dun Laoghaire-Rathdown County Council or An Bord Pleanála to represent a material contravention of the Development Plan specifically relating to: -

- Objective PHP42 and Appendix 5 – Building Height Strategy of the Development Plan (including Policy Objective BHS1 / Objective BHS3) as it relates to building height.
- Section 12.3.5.2 of the Development Plan as it relates to separation between adjoining development and between apartment blocks.
- Section 12.8 of the Development Plan as it relates to Public Open Space.
- Section 12.3.3 of the Development Plan as it relates to unit mix (in the event that the provision regarding units mix within the current Ministerial Direction is reversed).

The SHD Act confirms that An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan, other than in relation to the zoning of land, as follows: -

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

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

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

As set out in this Statement, and in the Planning Application Report and Statement of Consistency, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants, the Board may consider that a material contravention does not arise and that the provisions of Section 9(3) of the SHD Act applies. For example, in relation to building height, as set out in the Planning Application Report and Statement of Consistency, SPPR3 can be applied for the purpose of Section 9(3) of the SHD Act and in accordance with that provision SPPR3 takes precedence over any conflicting provisions of the Development Plan. It is respectfully submitted that the Board should expressly treat SPPR3 in the context of the legal provisions in Section 9(3) of the SHD Act, and a justification of same is set out in the Planning Report, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants. However, should the Board also consider that there is a material contravention of the building heights in the Development Plan, it is respectfully submitted that the development meets the criteria in the Urban Development and Building Heights Guidelines for Planning Authorities (2018) (“the Building Height Guidelines”) which the Board may have regard to pursuant to Section 9(6) of the SHD Act (and in turn Section 28 of the Planning and Development Act 2000, as amended).

A response to the relevant criteria set out above is provided in Section 4 of this Report, and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed development, thereby enabling the Board to decide to grant permission, notwithstanding the potential material contraventions of the Development Plan.

2 PROPOSED DEVELOPMENT

The application site is located at lands in ‘Sector 3’, Aiken’s Village, Steppaside, Co. Dublin. The application site is split into two distinct parcels of land: -

- The site for proposed residential development is generally bounded by Thornberry Road to the north, by Atkinson Drive and the adjoining open space lands to the west, Sandyford Hall residential development adjacent Ferncarraig Avenue to the east and by Village Road and Griannan Fidh residential development to the south.
- The site for proposed ancillary services (foul storage tank) are on existing open space lands owned by the Local Authority generally bounded Griannan Fidh residential development to the north, Sandyford Hall residential development to the east open space lands (including detention basin) to the south and west. As noted in the Planning Application Report and Statement of Consistency, and as is stated in the Confirmation of Feasibility from Irish Water (dated 19 July 2022), in order to accommodate the proposed connection of the development to the foul drainage network, upgrade works are required to increase the capacity of wastewater network. A storage tank (c. 500m³) to mitigate the impact of storm water in the network is required. Irish Water confirmed that the storage tank will be required to cater for future development in the area arising from modelling carried out of the potential future zoned development lands within the collection catchment over a 10 – 15 year time horizon.

The combined parcels of land (i.e. the site) measures c. 3.39 Ha in area.

In summary, the proposed development broadly comprises: -

- 438no. ‘Build-to-Rent’ apartment units (154no. 1 bedroom units and 284no. 2 bedroom units) arranged in 9no. blocks ranging in height from 2 – 8 storeys over 2no. independent single level basements. Private patios / terraces and balconies are provided for some apartment units (not all units have a patio, terrace or balcony). Upper level balconies are proposed on elevations of all multi-aspect apartment buildings.
- Blocks A – D are located above Basement 1 (c. 6,002 sq. m gross floor area) and Blocks F – J are above Basement 2 (c. 5,058 sq. m gross floor area).
- Provision 1no. childcare facility (c. 514.9 sq. m gross floor area) in Block D.
- Provision of resident amenity space / communal areas (c. 1,455.7 sq. m gross floor area) in Block C and Block G.
- And all associated and ancillary site development, infrastructural, landscaping and boundary treatment works including: -
 - New vehicular access to Basement 1 from Atkinson Drive and new vehicular access to Basement 2 from Thornberry Road.
 - Provision of c. 9,799 sq. m public open space, including a public plaza onto Village Road and improvement works to landscaped area to the north of existing Griannan Fidh residential development.
 - Provision of 350no. car parking spaces including basement parking, set down spaces for proposed childcare facility and repositioning of set down area on Atkinson Drive.
 - Provision of 669no. bicycle parking spaces.
 - Provision of 14no. motorcycle parking spaces.
 - Communal bin storage and plant provided at basement level and additional plant provided at roof level.
 - Provision of below ground wastewater storage tank (c. 500m³) and associated connection to the wastewater networks including ancillary above ground kiosk and appropriate landscaping on open space lands to the south of Griannan Fidh residential development.

3 POTENTIAL MATERIAL CONTRAVENTION ISSUES

The current local planning policy context in respect to the potential material contraventions, as they relate to the Development Plan, are summarised below, with an explanation for the inclusion also provided.

3.1 Building Height

The guidance with respect to height is defined in the Building Height Strategy set out in Appendix 5 of the Development Plan which has been prepared in accordance with the principles set out in Urban Development and Building Heights Guidelines for Planning Authorities (2018) (“the Building Height Guidelines”).

Appendix 5 – Building Height Strategy of the current Development Plan identifies building heights for the Dun Laoghaire-Rathdown area and does not specify a building height cap for development in this location. Appendix 5 acknowledges that overly prescriptive building height caps are not desirable and the current Development Plan includes a “... *comprehensive set of performance based criteria for development management assessment of applications for increased height thus ensuring increased height in appropriate location, whilst protecting residential amenity and other assets of the County.*”

The basis for additional height is driven by the principle of securing an increase in land-use intensities and residential densities, informed by planning policy at all levels that prioritises new development in existing built-up urban areas rather than in greenfield locations. The following policies are considered relevant in the context of the proposed development: -

- **Policy Objective PHP42: Building Height & Design**

“It is a Policy Objective to: -

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

- **Policy Objective BHS 1: Increased Height**

“It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NPO 35, SPPR 1& 3). Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria. Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.”

- **Policy Objective BHS 3: Building Height in Residual Suburban Areas**

“It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area. Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban

areas. Any such proposals must be assessed in accordance with the criteria set out below in table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria. Within the built up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.”

The application site is located approx. 900m / 10 minutes walking distance of the Glencairn Luas stop. Evidence of this is included within the Traffic & Transportation Assessment prepared by Aecom Consulting Engineers that accompanies this SHD Planning Application. As such, it is considered that Policy Objective BSH 1 can reasonably be applied. However, the application site could also be considered as falling within a ‘residual suburban area’ as set out in Policy Objective BSH 1. It is considered necessary to justify the building height proposed on the basis that the proposal could arguably fall between two Objectives of the Development Plan. As such, we are adopting a precautionary approach relating to building height.

As part of this SHD Planning Application, the Applicant and their advisors have set out a robust and comprehensive assessment of the criteria set out under Specific Planning Policy Requirement (SPPR) 3(A) which presents a strong case as to why the current proposals should be considered acceptable. Table 5.1 in Appendix 5 of the Development Plan clearly reflects the criteria set out in Section 3.2 of the Building Height Guidelines.

The Board may consider that a material contravention does not arise relating to building height and that the provisions of Section 9(3) of the SHD Act applies. It is respectfully submitted that should the Board consider the heights a contravention of Objective PHP42 and Appendix 5 – Building Height Strategy, or Policy Objective BSH 1 or Policy Objective BSH 3 of the Development Plan, they can approve the proposed development having regard to the material contravention route in Section 9(6) of the SHD Act. The justification for same is set out in Section 4 of this Report.

3.2 Separation Distances

Section 12.3.5.2 – Separation Between Blocks of the Development Plan sets out the following in relation to separation distances: -

*“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. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows, 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.** In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.”*

[Emphasis added by SLA]

The separation distance between apartment blocks, in some instances are below 22 metres and are as follows: -

- Block C & B – c. 13.1 to 15.3m.
- Block A & D – c. 15.2m.
- Block G & H – c. 13.6 to 15.8m.
- Block F & J – c. 15 to 15.1m.

This is based on the design of the buildings and the location of secondary windows in these locations, however, it is acknowledged that this does not meet the separation distance which is, in general, required as set out in Section 12.3.5.2 of the Development Plan.

In term of separation distances to adjoining residential development, the following is also noted: -

- The proposed development is approximately 53m between the building edge and the neighbouring Griannan Fidh development to the south.
- Separation distances of between 52.5 and 39.2m are found along the eastern boundary with Ferncarraig Avenue.

These separation distances are significantly in excess of the Development Plan minimum. We refer the Board to the drawings prepared by Ferreira Architects which identify these separation distances.

The proposed blocks are set back between 8 and 26m from the residential units on Thornberry Road to the north. It is submitted that this is acceptable on the basis of the design measure implemented (no balconies, opaque glazing) and the scheme steps down to 2 / 3 storey along this edge to reflect the existing scale of development. Notwithstanding, the separation distance between the northern blocks and the existing houses on Thornberry Road may not be considered to comply with Section 12.3.5.2 of the Development Plan.

As set out in Section 4 of this Report, the proposed separation distances are considered to be justified in the context of the guidance set down in the Apartment Guidelines 2020, and which in turn is supported by the daylight and sunlight analysis undertaken by Chris Shackleton Consulting (enclosed with this SHD Planning Application).

3.3 Public Open Space

Section 12.8 of the Development Plan sets out open space requirements for all residential development. Categories of open space are set out in Table 12.7, with public open space classified as follows:

“Public open space is defined as being generally freely available and accessible to the public, and in the case of certain residential developments has, or is intended to be, ‘taken-in-charge’ by the Local Authority.

In all new residential development schemes, there should be some appropriate provision made for public open space within the site. In all instances where public open space is not provided a contribution under Section 48 will be required for the short fall.”

The quantum of public open space required in residential development is set out in Table 12.8 of the Development Plan. For residential development in New Residential Communities, or in Existing Built Up Areas the public open space requirement is 15% of total site area.

Section 12.8.2 – Open Space Categories for Residential Development of the Development Plan states that underground attenuation tanks will not normally be considered as part of any Open Space provision.

The Development Plan (Section 12.8.3.1) acknowledges that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. Where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended. The contribution in lieu to be paid for any shortfall in the quantum of public open space to be provided will be used for the provision of improved community and civic infrastructure and / or parks and open spaces, in the vicinity of the proposed development for use of the intended occupiers of same.

The proposed development includes the following provision of public open space: -

- Proposed Public Open Space – c. 4,930 sq. m or approximately 17.4% of the total site area.
- Existing DLRC Open Space – c. 4,869 sq. m which is located immediately south of the Blocks C, D, E, H and J and will be upgraded as part of the proposed development (additional paths and new planting).

The public open space is fully outlined in the Design Statement, prepared by Ferreira Architects and the Landscaping materials, prepared by Mitchell + Associates Landscape Architects and Urban Design. The quantum of public open space proposed meets the minimum standard set out in the Table 12.8 of the Development Plan.

We note that 2no. attenuation tanks will be located beneath the public open space. These are identified on the Site Layout Plans, prepared by Ferreira Architects and the Landscape Masterplan, prepared by Mitchell + Associates Landscape Architects and Urban Design. The public open space is proposed to be taken in charge.

Should the Planning Authority, or An Bord Pleanála consider that the open space provided does not meet the requirements of the Section 12.8 of the Development Plan due to the inclusion of the above two attenuation tanks, the Applicant accepts that a payment of a contribution in lieu for any shortfall in the quantum of public open space can be applied under Section 48 of the Planning and Development Act 2000, as amended.

However, should the Board consider that a shortfall in public open space areas arises, and that the payment of a contribution in lieu is not appropriate, and therefore a material contravention arises, as set out in Section 4 of this Report, the public open space is considered appropriate in the context of the Sustainable Residential in Urban Areas 2009 which provides for flexibility in relation to the application of public open space standards, and also provide for the payment of a contribution in lieu where it is deemed that there is a shortfall in the provision of public open space, and the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended.

3.4 Unit Mix

The Development Plan is the subject of a current Ministerial Direction. The Direction states the following: -

*“In accordance with Section 31(4) of the Planning and Development Act 2000, those parts of the Dún Laoghaire-Rathdown County Development Plan 2022 – 2028 referred to in the notice shall be taken to have **not come into effect**, namely: -*

- ...
- ...
- ...
- *The second paragraph of Section 12.3.3 ‘Quantitative Standards for All Residential Development’ of Chapter 12 (pg. 236) of the Written Statement, which states: **“That the requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix on page 237.”***

[Emphasis added by SLA]

Due to the Ministerial Direction, that aspect of the Development Plan is not in force, notwithstanding that the County Development Plan 2022 – 2028 is now in effect. That fact is confirmed on the web site of Dun Laoghaire-Rathdown County Council and is further outlined in the Planning Application Report prepared by Stephen Little & Associates accompanying this application.

At the time of submitting this SHD Planning Application the Ministerial Direction remains in effect and the provision of the Development Plan noted above is not in force. As such, the possibility remains that the provision set out under Section 12.3.3 of the Development Plan may yet come into effect during the assessment of this SHD Planning Application by An Bord Pleanála, notwithstanding it is not in effect at this time. As such, we are adopting a precautionary approach should that part of the County Development Plan relating to mix in Building to Rent schemes come into effect.

As set out in Section 4 of this Report, the proposed development is declared Build To Rent and as such provisions in relation to unit mix set out in SPPR 8 of the Apartment Guidelines (2020) take precedence.

As a result, we consider that this affords the Board with sufficient justification to materially contravene the County Development Plan in relation to unit mix, should that need arise.

4 JUSTIFICATION FOR MATERIAL CONTRAVENTION

As noted in Section 2 above, Section 37(2)(b) of the Planning & Development Act 2000, as amended, 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.”

We set out below our interpretation of how the Section 37(2)(b) considerations relate to the proposed development, from a planning perspective: -

4.1 (i) The Proposed Development is of Strategic or National Importance

For all of the items listed above in Section 3, the proposed development can be deemed of strategic importance and national importance having regard for a range of national housing and planning policy.

4.1.1 Rebuilding Ireland / Housing for All

The overarching aim of this Action Plan is to ramp up delivery of housing from its current undersupply across all tenures to help individuals and families meet their housing needs. It sets ambitious targets to double the annual level of residential construction to 25,000no. homes and deliver 47,000no. units of social housing in the period to 2021, while at the same time making the best use of the existing housing stock and laying the foundations for a more vibrant and responsive private rented sector.

The plan has 5 key pillars: Pillar 1 – Address homelessness; Pillar 2 – Accelerate social housing; Pillar 3 – Build more homes; Pillar 4 – Improve the rental sector and; Pillar 5 – Utilise existing housing. Pillars 3 & 4 are particularly relevant in terms of the subject site, as they seek to increase the output of private housing to meet demand and to address the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.

Pillar 3 of the Action Plan set out to deliver 25,000 units per annum in the period until 2021. The supply of housing units continues to fall far short of this target. Notwithstanding, the proposed development supports the delivery of this action.

In addition, ‘Housing for All – a New Housing Plan for Ireland’, which was published on 2 September 2021 and sets out that: -

“Our objective is that everybody should have access to sustainable, good quality housing to purchase or rent at an affordable price, built to a high standard, and located close to essential services, offering a high quality of life”.

The proposed development will assist in achieving this objective by providing a high-quality residential development on underutilised lands in close proximity to high-quality public transport and local amenities / services.

4.1.2 National Planning Framework – Ireland 2040

The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing in Metropolitan Dublin, the Greater Dublin Area and elsewhere having social and economic ramifications for sustainable national growth. We would therefore submit that the proposed development is of strategic and national importance.

Ten National Strategic Outcomes are outlined in the National Planning framework – Ireland 2040 (NPF). The 10 National Strategic Outcomes (NSO) of the NPF are: -

1. Compact Growth
2. Enhanced Regional Accessibility
3. Strengthened Rural Economies and Communities
4. Sustainable Mobility
5. A Strong Economy, supported by Enterprise, Innovation and Skills
6. High-Quality International Connectivity
7. Enhanced Amenity and Heritage
8. Transition to a Low-Carbon and Climate-Resilient Society
9. Sustainable Management of Water and other Environmental Resources
10. Access to Quality Childcare, Education and Health Services

These NSO's are addressed in turn below.

NPF – National Strategic Outcomes			
No.	Objective	Response	Criteria Met?
1	Compact Growth	Development of an underutilised / brownfield site in close proximity to existing high capacity / frequency public transport (Luas Green line approx. 900m from the site – approx. 10 minute easy walking distance).	Yes
2	Enhance Regional Accessibility	Luas Green line approx. 900m from the site – approx. 10 minute easy walking distance from the site which provide direct access to Dublin City Centre (interchange for Regional Rail at Connolly Station for example) and Sandyford Business Park (large employment area). The site is approximately a 5 minute drive to the M50 Motorway which allow easy access to the wider Motorway network including Dublin Airport.	Yes
3	Strengthened Rural Economies and Communities	N/A – Urban Area	N/A
4	Sustainable Mobility	Proposed development support a modal shift from private car usage to public transport. Proposes reduced car parking provision (0.8 no. space per unit including 5no. car share spaces), proximity of public transport and provision of 669no. bicycle spaces.	Yes
5	A Strong Economy, supported by Enterprise, Innovation and Skills	Sandyford Business Park, a significant employment district area containing over 500no. companies, is easily accessible from the subject site and therefore the proposed development is in close proximity to significant employers.	Yes
6	High-Quality International Connectivity	N/A – Related to Ports & Airports	N/A

7	Enhanced Amenity and Heritage	<p>The proposed development includes a high quality public realm which will integrate the scheme with the wider public spaces in the area. A central linear open space (c. 3,696 sq. m) is proposed which will enhance north / south connectivity through the site along with a northern plaza (c. 494 sq. m) and an arrival plaza (c. 740 sq. m) onto Village Road.</p> <p>Furthermore, 2no. courtyards are proposed as communal open space (c. 4,579 sq. m) providing a significant amenity for prospective residents.</p>	Yes
8	Transition to a Low-Carbon and Climate-Resilient Society	<p>The proposed development is premised on supporting the transition to alternatives mode of transport – the Luas Green Line is located approx. 900m from the application site.</p> <p>A range of SuDs measures are proposed including extensive green and blue roofs to control surface water run-off.</p> <p>All units proposed will energy efficient and will achieve an A2 BER rating.</p>	Yes
9	Sustainable Management of Water and other Environmental Resources	<p>A range of SuDs measures are proposed including extensive green and blue roofs to control surface water run-off. These have been designed as an integral part of the overall development in line with the GSDSDS and <i>Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas: Water Sensitive Urban Design Best Practice Interim Guidance Document</i> (Department of Housing Local Government and Heritage .</p>	Yes
10	Access to Quality Childcare, Education and Health Services	<p>We refer the Board to the Social Infrastructure Audit, prepared by Stephen Little & Associates Chartered Town Planners & Development Consultants which includes an assessment of school capacity, childcare capacity and social / health services in the area. It is demonstrated that the site is well located in terms of access to schools, childcare facilities and health services (GPs, Medical Centres, Hospitals).</p>	Yes

As a high quality, high density development located in Dublin City and Suburbs, the proposed development would contribute to the achievement of National Policy Objectives (NPO) 3a, 3b, 4, 13, 11, 33 and 35 of the NFP: -

National Policy Objectives	Response
<p>NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.</p> <p>NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.</p>	<p>The proposed development represents the achievement of more sustainable higher density residential development, in line with existing (Luas Green Line) and emerging transportation facilities (BusConnects) within the vicinity of the application site.</p> <p>The site is located within the existing built-up footprint of Stepside and located within the Dublin City & Suburbs and will therefore assist in meeting the objectives under NPO 3a and 3b.</p>
<p>NPO 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.</p>	<p>The proposed development represents the sustainable use of an underutilised, infill, brownfield site which is in close proximity to high capacity / frequency public transport.</p> <p>The scheme is designed to reflect the local scale of the immediate northern boundary with building height increasing moving south culminating in a 'marker' Block D (8 storeys) at the junction of Village Road and Atkinsons Drive.</p>

	<p>The proposal offer a generous central open space which will provide additional permeability though the immediate area.</p> <p>The scheme provides additional passive surveillance of existing opens spaces located south, west and east of the proposed development.</p>
<p>NPO 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.</p>	<p>The proposed development represents the sustainable use of an underutilised, infill, brownfield site which is in close proximity to existing and proposed high capacity / frequency public transport.</p>
<p>NPO 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.</p>	<p>The building heights proposed have full regard for the provision of the Building Height Guidelines (2018).</p> <p>The car parking provided is in line with the provision of the Apartment Guidelines (2020) which encourage lower car parking provision in areas proximate to high capacity / frequency public transport.</p>
<p>NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.</p>	<p>The proposed development constitutes an efficient and sustainable use of lands in delivering a new residential scheme with substantial provision of public open space on lands zoned for residential use as part of the Development Plan.</p>
<p>NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.</p>	<p>The proposed development represents the sustainable use of an underutilised, infill, brownfield site which is in close proximity to high capacity / frequency public transport.</p>

As set out above, it can be clearly demonstrated that the proposed development will assist in achieving both the NSO's and NPO's of the NPF.

4.1.3 Eastern and Midlands Regional Spatial & Economic Strategy

The Eastern and Midland Regional Spatial Economic Strategy includes a Metropolitan Area Strategic Plan (MASP) which envisages a population of 1.65 million in the Metropolitan Area by 2031, an increase of 250,000 people or 18% from 2016. It seeks to ensure a supply of strategic development areas for the sustainable growth and continued success and competitiveness of the Dublin Metropolitan Area.

The (MASP), seeks to focus development on large scale strategic sites and on the redevelopment of underutilised lands, based on key transport corridors, that will deliver significant development in an integrated and sustainable manner. The subject lands are located on the MetroLink-Luas Corridor to the south-west of the Dublin Metropolitan Area as identified in Figure 5.2 where MetroLink and LUAS green line upgrades are identified in the RSES.

The RSES objectives promote the intensive consolidation of development at infill and brownfield sites in built up urban areas in 'Dublin City & suburbs'. Regional Policy Objective (RPO) 4.3 states: -

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

The RSES objectives broadly support the development of strategic sites in already established areas with excellent public transport connections (such as the subject site). They promote the consolidation of Dublin City & Suburbs through sustainable and intense urban form.

The proposed development is fully consistent with RPO 4.3, which promote the consolidation of infill / brownfield site in close proximity to existing high capacity / frequency public transport (Luas Green line approx. 900m from the site – approx. 10 minute easy walking distance).

4.1.4 Summary

In summary, the proposed development is of strategic or national importance by reason of: -

- Contribution to the achievement of the Government’s policy in Rebuilding Ireland / Housing for All to increase delivery of housing.
- Contribution to arresting the current shortfall in meeting housing supply targets.
- The site is within the Dublin City and Suburbs area where it is necessary to deliver at least half (50%) of all new homes within the existing built-up footprint and this site satisfies that NPF objective.
- The site is underutilised and in close proximity to existing high capacity / frequency public transport (Luas Green Line).
- The proposed development is in accordance with the integrated land use and transportation strategy set out in the MASP, providing for sequential development of the metropolitan area and higher densities along public transport corridors.

For the reasons set out above, it is our professional opinion that the proposed development is of ‘Strategic and National Importance’ for the purposes of Section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, so that the Board can grant permission for development.

4.2 (iii) Permission for the Proposed Development should be Granted having regard to Regional Spatial and Economic Strategy for the Area, Guidelines Under Section 28, Policy Directives Under Section 29, the Statutory Obligations of any Local Authority in the Area, and any Relevant Policy of the Government, the Minister or any Minister of the Government

The following section demonstrates how the aspects of the proposed development in respect to building height, separation distances and public open space, is appropriate and justified in the context of recent National and Regional Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned serviced lands in proximity to high frequency / capacity public transport corridors. These include: -

- National Planning Framework – Ireland 2040 (NPF).
- The Eastern and Midland Regional Spatial Economic Strategy (RSES).
- Urban Development and Building Height Guidelines 2018 (Building Height Guidelines).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020 (Apartment Guidelines).
- Sustainable Residential Developments in Urban Areas 2009.

4.2.1 Building Height

As noted above, if it is considered by the Board that the proposed height (ranging between 2 – 8 storeys) represent a material contravention of Objective PHP42 and Appendix 5 – Building Height Strategy (including Policy Objective BHS1 and BHS3) of the Development Plan, the proposed building heights are considered to be justified in the context of the National Planning Framework, the RSES, and the Building Height Guidelines.

This is further justified below.

National Planning Framework – Ireland 2040

The NPF seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl and increase the sustainability of public transport networks. The NPF states in respect of ‘Performance-Based Design Standards’ that: -

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

In particular, 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.”

The proposed development is located on public transport corridor lands in close proximity to existing established areas with a range of employment uses such as Sandyford, Stepaside, Leopardstown and Dun Laoghaire. The subject site is proximate to quality public transport and major employment centres. It is therefore considered that the subject site is an appropriate location for increased building heights and increased densities to support the objectives of the NPF. The proximity of the Glencairn Luas Stop (c. 900m / 10 minutes walking distance) is of particular relevance given the national guidelines.

National Policy Objective 35 of the NPF states: -

“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 proposed net density at c. 154no. units per Ha and with a maximum height of the development at 8 storeys at its tallest (Block C) is therefore considered to be consistent with the objectives of the NPF by utilising this strategically located land to provide for the critical mass to support the surrounding services, commercial centres, employment nodes and the high quality public transport infrastructure. The height range for proposed buildings is between 2 to 8 storeys.

The proposed development will strongly support the attainment of the NPF’s objectives as detailed at Section 4.1.2 of this Statement. The proposed development complies fully with the foregoing objectives, which support the nature and form of development proposed, including the proposed building heights which allow for the creation of a high-quality scheme at a sustainable density, at a location which benefits from high capacity / frequency public transport . Having regard to the provisions of the NPF, it is respectfully submitted that the Board can approve the proposed development under Section 9(6) of the SHD Act notwithstanding any potential material contravention in respect of building height.

Eastern and Midlands Regional Spatial & Economic Strategy

Regional Policy Objective 4.3 of the RSES states: -

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

The RSES objectives broadly support the development of strategic sites in already established areas with excellent public transport connections (such as the subject site). They promote the consolidation of Dublin City & Suburbs through sustainable and intense urban form.

Urban Development and Building Height Guidelines 2018

As set out in this Report, and in the Planning Application Report and Statement of Consistency, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants, the Board may consider that a material contravention does not arise and that the provisions of Section 9(3) of the SHD Act applies. For example, in relation to building heights, as set out in the Planning Application Report and Statement of Consistency, SPPR3 can be applied for the purpose of Section 9(3) of the SHD Act and in accordance with that provision SPPR3 takes precedence over any conflicting provisions of the Development. It is respectfully submitted that the Board should expressly treat SPPR3 in the context of the legal provisions in Section 9(3) of the SHD Act, and a justification of same is set out in the Planning Report, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants. However, should the Board also consider that there is a material contravention of the building heights in the Development Plan, it is respectfully submitted that the development meets the criteria in the Building Height Guidelines which the Board may have regard to pursuant to Section 9(6) of the SHD Act (and in turn Section 28 of the Planning and Development Act 2000, as amended).

As set out in the Planning Application Report and Statement of Consistency, Appendix 5 of the Development Plan sets out a Building Heights Strategy for the County and Table 5.1 of Appendix 5 sets out the performance-based criteria for assessing proposals for increased height. Proposals must demonstrate satisfaction with a number of criteria and the criteria set out are generally aligned with SPPR 3 of the Building Height Guidelines which requires assessment of building height at the scale of the relevant town / city, at the scale of district / neighbourhood / street and at the scale of a site / building. A justification under each heading is set out in the Planning Application Report and Statement of Consistency, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants.

However, in assessing the proposed scheme in the context of the Development Plan, should the Board be of the view that the proposed heights contravene the height limits in the Development Plan, then this section provides a justification for a proposed material contravention having regard to SPPR 3 of the Building Height Guidelines, thereby allowing the Board to grant permission for the proposed heights under S. 9(6) of the SHD Act.

Section 3.1 of the Building Height Guidelines states that: -

“Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines: ...”

In this, the Guidelines acknowledge that there is a presumption in favour of buildings of increased height in our town / city cores and in other urban locations with good public transport links. Section 3.1 requires Planning Authority’s / An Bord Pleanála to apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas: -

“Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?”

Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?”

Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?”

In response, we submit that the proposed development is wholly in accordance with the provision of the NPF in securing compact development on underutilised lands within close proximity to high quality public transport, and located on lands within the existing built-up area of Stepside and within the area of Dublin City & Suburbs.

As noted above, the current Development Plan Building Height Strategy has been prepared having regard to the Building Height Guidelines.

On the basis that the development proposed positively assists in securing NPF objectives, as is evidenced at Section 4.1.2 of this Statement, it is demonstrated that the requirements under Section 3.1 of the Building Height Guidelines have been met.

The Applicant must show that proposals satisfy the Development Management Criteria set out in Section 3.2 of these Guidelines, these are as follows: -

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

At the scale of the relevant city / town: -

- *The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*
- *Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*
- *On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.*

At the scale of the district/neighbourhood/street: -

- *The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape*
- *The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.*
- *The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).*
- *The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.*
- *The proposal positively contributes to the mix of uses and/or building/ dwelling typologies available in the neighbourhood.*

At the scale of the site/building: -

- *The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*
- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.*
- *Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.*

Specific Assessments

To support proposals at some or all of these scales, specific assessments may be required and these may include: -

- *Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.*
- *In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.*
- *An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.*
- *An assessment that the proposal maintains safe air navigation.*
- *An urban design statement including, as appropriate, impact on the historic built environment.*
- *Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.*
- *Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28(1C) of the Planning and Development Act 2000 (as amended)."*

Specific Planning Policy Requirement 3 states in respect of the above that: -

"It is a specific planning policy requirement that where: -

- (A) *1. an applicant for planning permission sets out how a development proposal complies with the above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

- (B) *In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme*

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

SPPR 3A is of particular relevance in this instance. The Applicant's summary response to the criteria set out in Section 3.2 of the Guidelines is set out below: -

Applicant's Response

At the Scale of the Relevant City / Town

The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.

The site benefits from being accessible for walking, cycling and public transport. Excellent pedestrian infrastructure facilities connect the site to an array of existing services and amenities in Sandyford Hall and Belarmine including shops, restaurants and medical facilities.

The Glencairn Luas stop on the Green line is situated c. 900m walking distance from the site, which provides frequent services to and from Dublin City Centre, which will assist to promote accessible travel to and from the site. A large majority of the trams have been introduced with new increased lengths from 40m to 55m in recent times, thereby increasing the capacity of the Luas.

The site is situated within relatively close proximity to a number of bus stops (between c. 375m and 730m walking distance). These stops are operated by Dublin Bus and include the No. 44, 44b, 47 and 114 Routes.

We refer the Board to the Traffic & Transport Assessment, prepared by Aecom Consulting Engineers which provide an assessment of the capacity and frequency of the Luas and bus services adjacent the site. It has been determined that there is existing capacity in the current service and that the anticipated demand created by the proposed development and other committed developments in the immediate area can be more than adequately absorbed.

It can be seen from this that the site is well served by high capacity and high frequency public transport at present, with good links to other modes of public transport in the area.

Furthermore the emerging MetroLink proposals will introduce a Metro from 2027 connecting Charlemont to Estuary via Dublin City Centre and Dublin Airport. The Charlemont stop is approximately 25mins journey time from the subject site. In addition, there are further future capacity upgrades scheduled for the LUAS Green line which are set out in the RSES, including further enhancements by the introduction of greater numbers of new extended trams along the Luas Green line. It is acknowledged that these enhancements are not relevant in the context of the existing capacity and frequency of public transport.

Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into / enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.

The subject site is a greenfield site located approximately 700m south of the M50 in the already established residential area of Aiken's Village, Stepside, Dublin 18. The site is not located within an architecturally sensitive area. The site is situated between two existing open green spaces, to the west and east. The site is well served by local public and private transport links and benefits from access off the existing Village Road. Shops are available nearby at the Sandyford Hall and Belarmine's local facilities; both of which are readily accessible on foot or bicycle.

The existing residential areas surrounding the site to the west, north and east are predominantly made up of two and three storey houses. Immediately south of the site the main spine route of Village Road is populated by higher blocks with four to five storey elements located along this route. This leads on to Belarmine where a mixture in heights is evident with a significant proportion of higher buildings from five to eight storeys.

Apartment blocks of 2, 3, 4, 5 and 6 storey height with a landmark 8 storey element, are arranged around two main courtyard areas over podium level. The two main courtyard areas define the edge of the main central public open space of the proposal, which falls gently from the northern boundary by Thornberry Road to the southern boundary by the Village Road. Blocks of 3 & 5 storey height enclose the main open space at both ends, with visual and pedestrian permeability through it. The taller elements of the development are located to the south, addressing the existing linear park and Village Road itself.

Overall, the building heights proposed work with the existing contour on the site. Block C provides a focal point for the development and sites within the lowest part of the site which result in the overall height OD that is not substantially in excess of the existing dwelling to the north of the proposed development. Further to this, Ferreira Architects has demonstrated that the scheme in general is consistent with other schemes built within the Stepside area (generally 2 – 6 storeys).

In addition, a Landscape and Visual Impact Assessment (LVIA), with accompanying CGIs and verified views from key locations, are enclosed in this SHD Planning Application. The LVIA includes an assessment of 19no. views from key locations in the surrounding area. A majority of the view assessed, the visual impact is not deemed to give rise to any long term negative impacts. Generally the impact on views are considered slight to moderate negative in the short term at construction stage and slight to moderate neutral in the long term at operational stage. The LVIA generally concludes that: -

*“The site is one of the last areas for development in the general Belarmine / Aikens Village area that commenced in the early 2000s. **The general landscape character of the area is one that is undergoing significant residential development** and the landscape character of the area will suffer some level of negative visual intrusion during the construction stage but **as the landscape matures around the site the negative visual impacts will tend towards imperceptible**. Given the fact that the site has been zoned for development for some time **there would be an expectation of construction taking place on the site**. Given the recent publication of the Guidelines for Planning Authorities on Urban Development and Building Heights there would be an expectation that the site would be developed in a sustainable manner with the level of the existing local infrastructure of public transport, roads, educational facilities and retail. The requirement to reduce the heights of the blocks at the northern end to match the Thornberry development heights results in the increased heights at the Village Road end of the development where the site contours benefit increased building heights.*

*The residual visual impacts of the development will impact mainly on the existing development of Cluan Shee, Grianan Fidh and Ferncarriga Avenue that face onto the site given the height difference of the proposed and the existing 2 to 4 storeys heights but **the proposed blocks have been set away from the existing housing to reduce the visual impacts and a landscaped open space provides separation between proposed and existing.**”*

[Emphasis added by SLA]

It is generally submitted that in this instance, the development is consistent with emerging development trends in the area and so not a significant impact. Arising from this assessment and the details contained in this SHD Planning Application generally, it can be concluded that the development should successfully integrate into / enhance the character and public realm of the area, whilst having regard to topography, its cultural context, setting of any key landmarks, protection of any key views.

Furthermore, we note the commentary of the An Bord Pleanála Inspector with regard to building height as part of the previously permitted SHD scheme on the site (ABP Ref. ABP-309828-21 – Project Ironborn 2). In the interim, a new Development Plan has come into effect (April 2022). However, the national planning policy context remains the same (promotion of higher densities in proximity to high capacity / frequency public transport). We acknowledge that this current proposal will be assessed on its merits, however, the comments made by the Inspector on the previous scheme (ABP Ref. ABP-309828-21 – Project Ironborn 2) are of note in so far that it was highlighted that the application site had capacity to absorb increased density and building height, stating that: -

*“I am of the view that the **proposal has responded well to its context. The height strategy pursued is one that pays sufficient heed to the surrounding developments**. The heights drop to three and four storeys (above ground/car park level) to the north-east of the site, which is cognisant the prevailing heights of the development to the immediate north. The apparent height of the proposal will two and three storeys, given the proposed ground level will be at a lower elevation than Thornberry Road. The heights generally increase as one moves south across the site. On the eastern boundary, the heights rise from 4 to 5 to 6 storeys (above ground/car park level). I note that there is a considerable setback from the proposed 6 storey elements to the 2 storey dwelling houses at Ferncarriga (c40m), reducing any visual impact from same.”*

And

*“**These increase heights are reflective of the relatively higher existing prevailing heights in the wider area, to the south and south-east, where there are developments of up to 6 storeys in height**. ... While I note that the site has a higher elevation than the majority of surrounding sites, I am also cognisant of the curved nature of Village Road, which tends to limit long views towards the site, therefore limiting views towards the higher elements of the proposal. The existing street trees, too, provide a significant level of screening. While the 8 storey element will be most visible from the Cluain Shee development to the south-west of the site, this is set back some 42.3m from the nearest residential unit at Cluain Shee and I am not of the view that it will be overbearing in nature. **The 8 storey element is limited to a small portion of the site, with lower heights prevailing on the remainder of the site.**”*

[Emphasis added by SLA]

The building heights proposed as part of the current proposal do not exceed the height proposed as part of the previously permitted SHD scheme on the site. Adjustments have been made to Block F to omit a floor to reduce perceived impact on adjoining existing development. This reduces the height of the block facing Ferncarraig Avenue from 5 storeys to 4 storeys. As such, it is generally submitted that in this instance, the proposed development is consistent with emerging development trends in the area and so not a significant impact.

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.

The proposed development creates new, high quality public open spaces which interact with the proposed buildings and integrate well within the existing urban grain and which will make a positive contribution to place-making in this part of Stepside. The proposed built form is varied and also cohesive with the surrounding urban context. Public linkages through the scheme in a north south direction engages with the neighbouring residential area, provides new public realm and an enhanced permeability for residents in the area generally. For further details, we refer the Board to the enclosed Landscape Plans prepared by Mitchell + Associates Landscape Architects, as well as the Design Statement, prepared by Ferreira Architects.

The arrangement of the buildings and the building heights themselves have been arranged to respond to the surrounding context and scale of surrounding developments and will create visual interest in the wider streetscapes it abounds. The variety of massing, height and elevational treatment helps provide a variety of built form and interest in this area and does so working with the existing topography of the locale.

A series of streetscape details have been prepared by both Mitchell + Associates and Ferreira Architects to demonstrate the relationship the existing streets and the existing adjoining development where relevant (Street Section Drawing and Design Statement respectively).

We would again refer to the Landscape and Visual Impact Assessment (LVIA), with accompanying CGIs and verified views from key locations which are enclosed in this SHD Panning Application.

Arising from this assessment and the details contained in this SHD Panning Application generally it is concluded that the development being proposed will make a positive contribution to place-making, incorporates new links/streets and public spaces, uses massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.

At the Scale of District / Neighbourhood / Street

The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.

The proposed development responds to the site and the surrounding developments in several ways. The site itself is disturbed ground, having functioned as a construction compound for earlier phases of development in the Aiken's Village area.

The profile of the proposed buildings steps up from Thornberry Road at the north of the site, and is articulated as a series of stepped elements within the blocks themselves as the site slopes down to the open space area at Village Road to the south. The 8 storey building will provide a marker onto the junction of Village Road and Atkinsons Drive providing a distinctive edge to the proposed development.

The arrangement of the buildings and the building heights themselves have been arranged to respond to the surrounding context and scale of surrounding developments and makes a positive contribution to the urban neighbourhood and streetscape as a result. The variety of massing, height and elevational treatment helps provide a variety of built form and interest in this area and does so working with the existing topography of the locale.

The proposed lower-rise buildings of 2, 3 or 4 storeys are located along Thornberry Road next to the existing 2 and 3-storey houses while the taller elements of the blocks sit along Village Road next to the existing open space.

Proposed open spaces are carefully located to maximise visual amenity for neighbouring residents. The proposed development compliments the surrounding built and natural environment through its scale, massing, materiality and open spaces.

A Landscape and Visual Impact Assessment (LVIA), with accompanying CGIs and verified views from key locations, are enclosed in this SHD Panning Application. Arising from this assessment and the details contained in this SHD Panning Application generally it is concluded that the development being proposed does positively respond to its natural and built environment and will make a positive contribution to the urban neighbourhood and streetscape in this particular part of Stepside.

The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials/ building fabric well considered.

Ferreira Architects have ensured that the buildings proposed in each of the courtyards are appropriately modulated and treated elevationally so as to present an attractive high-quality addition to the area. There are breaks within the built form which assist in creating a diverse and interesting built form.

Brickwork is the primary material for most blocks, used in the main body of the buildings and provided in three different brick colours: mottled-red, white and brown. Stone cladding, in two tones: light, sand-coloured and blue-grey, is proposed for important elements in the scheme such as the tall corner element of Block C at the focal point of the site and as secondary cladding at the base of some of the blocks. Also, stone is used to mark entrances and frame elements. Metal cladding appears in two grey tones, light and dark, as the main upper storey material and also as vertical strips helping to break the massing of the blocks. Balcony balustrades are glazed with thin metal frames and rails. Courtyard ground floor or podium level terraces are enclosed with metal railings.

We refer the Board to the Design Statement, prepared by Ferreira Architects which sets out in detail the material palette for the proposed development. It is demonstrated in the Design Statement that a varied palette of materials is proposed for the finishes to be applied to all blocks in the scheme.

We are satisfied that the proposal before the Board is not monolithic and avoids uninterrupted walls of building in the form of slab blocks. On the contrary, the proposal provides for two courtyard blocks comprised of 9no. blocks with varying height and articulation which will provide a positive contribution to the built environment in this area. As noted above, high quality finishes and materials are being proposed for these buildings, which have been carefully considered by Ferreira Architects.

The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).

The proposed development provides a built edge addressing existing public open space to the south, west and east and thereby enhances the urban design context for these spaces and thereby enables additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure of these spaces. The elevations of these buildings will overlook these spaces ensuring that passive surveillance is generally increased. A new central public open space is proposed between the blocks to facilitates increased movement and connection of existing community to wider surrounding area. We refer the Board to the Design Statement, prepared by Ferreira Architects and Landscape Plan, prepared by Mitchell + Associates Landscape Architects for further details.

As noted in the Flood Risk Assessment, prepared by JBA Consulting accompanying this SHD Planning Application, the proposals do not give rise to any flood risk and as such are in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).

The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.

The proposal has been developed using best practice urban design principles including permeability, legibility and connectivity. The proposal consists of a clear and legible streets, routes and spaces accessible by all. Valuable routes are provided for cycle and pedestrian movements throughout the site connecting the open spaces within the scheme to the surrounding context, including the Glencairn LUAS stop.

In the main central public open space, a central lawn enables kick about active play, playground facilities cater for individual play, group play and social interaction forms part of a north south public connection between the route to the LUAS and the wider residential population to the north. That link is open, publicly accessible, coherent and improves the greater legibility in the area. In the communal open spaces, the arrangement of the buildings around courtyards spaces allows for communal gardens that serves the immediate residents overlooking the spaces. The proposal provides for direct active frontage onto all public open space within and outside the scheme, with permeable and pedestrian friendly streetscapes.

Further enhancements are proposed as part of this development to the existing public open space to the south of the apartments being proposed. These enhancements are in the form of greater north-south connectivity through this space, so as to link with the connections in the development itself and thereby improving the overall connectivity and legibility for residents in Thornberry to the north to the amenities and facilities of the wider area lying to the south at Belarmine Village, the local schools and the LUAS stop.

For all of these reasons and having regard to the content of the SHD Panning Application generally, the proposal will make a positive contribution to the improvement of legibility through the site and wider urban area within which the development is situated and integrates in a cohesive manner with this.

The proposal positively contributes to the mix of uses and building/dwelling typologies available in the neighbourhood.

The proposed development will provide for a range of one, and two bed apartment units, in a variety of formats that cater for families and individuals. This is at a highly accessible location adjacent to established neighbourhood/local centres and frequent Luas and Dublin Bus services. The development also makes provision for a childcare facility. The development thereby will positively contribute to the mix of uses and dwelling typologies available in the neighbourhood.

At the Scale of the Site / Building

The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the building Research Establishments ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.

Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

The massing and height are designed to achieve high density, but with a variety in scale and form to respect and respond to the scale of adjoining existing dwellings, developments and open spaces, while creating visual interest in the streetscape. The scheme is conceived as two main courtyard blocks made up of northern and southern blocks, separated by a new public open space between.

We refer the Board to the Sunlight, Daylight and Shadow Assessment, prepared by Chris Shackleton Consulting. The public spaces within the proposed development pass the BRE requirement relating to the area which can receive 2 hours of sunlight on the 21st March (Spring Equinox) with the pass rate being 86%. All private balconies within the proposed development have been tested with 95% complying with the BRE Requirements.

In terms of daylight (Target Illuminance ET), 95% of all habitable rooms are complaint. This pass rate increases to 99% if we include those results which are just marginal.

Overall, the development achieves a very high level of daylight and sunlight access in accordance with the BRE Guidelines, Version 3, 2022 (“the BRE Guidelines”). There are however a number of apartments that do not pass the standards set out in the BRE Guidelines. In those cases compensatory design solutions have been applied, as set out below: -

Compensatory Design Solutions

We refer the Board in the first instance to the Sunlight, Daylight & Shadow Assessment, prepared by Chris Shackleton Consulting.

- **Daylight (Target Illuminance E_T)**

95% of all habitable rooms are compliant with Target Illuminance E_T of BS/EN 17037 Annex NA (i.e. daylight). This pass rate increases to 99% if we include those results which are just marginal. Overall, 95% pass rate is an exceptionally high level of pass rate under these guidelines.

In total, from the entire development of 438no. apartments, only 14no. rooms do not meet the BRE requirements fully in terms of Target Illuminance E_T of BS/EN 17037 Annex NA. They only just fall below the pass rate. Compensatory measures have been implemented in the design of the apartments which do not meet the relevant standards as follows: -

Apt. No.	Room Type	Aspect	Min. Apt. Standard (sq. m)	Apt. Area (% above Standard)	Room Area (sq. m)	Room Area (% above Standard)
B1.05	Bedroom	E – CC	55.3	18	15.6	37
B1.07	Living	Dual – CC	61.2	36	25.4	10
B1.08	Living	Dual – CC	86.3	18	30.6	2
B1.09	Living	Dual – EPOS	90.5	24	33.7	12
C1.02	Bedroom	Dual – EPOS	87	19	11.4	-
C1.06	Bedroom	Dual – EPOS	87	19	11.4	-
C1.11	Living	W – EPOS	68.8	53	31.7	38
C1.14	Bedroom	Dual – EPOS	61.2	36	11.4	-
D1.18	Living	E – CC	86.8	19	31.4	5
F1.05	Bedroom	W – CC	61.3	38	14.8	30
G1.09	Living	Dual – PPOS	84.2	15	32.4	8
G1.11	Living	W – PPOS	87.4	20	34.4	15
H1.03	Living	W– PPOS	52.8	17	25.2	10
H1.04	Living	W– PPOS	59.2	32	31.3	36

Table 1: Table showing the units where compensation measures are required under the Apartment Guidelines (2020).

Note: Existing Public Open Space (EPOS), Planned Public Open Space (PPOS), Communal Courtyard (CC).

- **Sunlight to Living Rooms**

In terms of sunlight access to Living Rooms, 95% of living rooms are compliant with the 1.5hr BRE test on the 21st March. Sunlight access increases to 97% if we include those results which are just marginal. The Sunlight, Daylight & Shadow Assessment, prepared by Chris Shackleton Consulting notes that: -

“The BRE guidelines accept that it is not possible for all living spaces to face the sun and are pragmatic in this regard. The guidelines provide guidance in this regard with a 4/5 or 80% compliance being considered as “careful layout design”.

These results are consistent with the BRE guidelines recommend pass rate for apartment developments of 80%.”

In total, from the entire development of 438no. apartments, only 14no. living rooms do not meet the BRE requirements fully in terms of sunlight. They only just fall below the pass rate. Compensatory measures have been implemented in the design of the apartments which do not meet the relevant standards as follows: -

Apt. No.	Aspect	Min. Apt. Standard (sq. m)	Apt. Area (% above Standard)	Room Area (sq. m)	Room Area (% above Standard)	Living Room Width (m)	Living Room Width (% above Standard)
B1.03	Dual – CC	86	18	30.6	2	6	67
B1.14	Dual – CC	86	18	30.6	2	6	67
B1.25	Dual – CC	86.1	18	30.6	2	6	67
B1.32	W – EPOS	53.3	23	25.4	10	3.4	3
C1.10	Dual – EPOS	93.2	28	36.1	20	7	94
F1.31	Dual – CC	88.4	21	31.4	5	3.7	3
F2.02	Dual – CC	46.7	4	23.3	1	3.6	9
G1.01	W – PPOS	55.3	23	25.7	12	3.4	3
G1.03	Dual – CC	86.3	18	31.7	6	3.7	3
G1.04	E – CC	53.2	18	25.6	11	3.4	3
G1.15	Dual – CC	88.3	21	31.5	5	3.7	3
H1.08	E – CC	49.6	10	23	-	3.4	3
H1.18	E – CC	55.3	23	23.4	2	3.4	3
J1.10	Dual – EPOS	85.1	17	30	-	5	39

Table 2: Table showing the units where compensation measures are required under the Apartment Guidelines (2020).

Note: Existing Public Open Space (EPOS), Planned Public Open Space (PPOS), Communal Courtyard (CC).

The proposed development has been carefully designed to ensure maximum daylight and sunlight can be achieved. The development comfortably exceeds the standards for good design in the BRE Guidelines. In the very small number of units (6%) have certain rooms which do not meet the standards (see table above) where compensation by way of an attractive aspect and significantly larger than minimum requirements have been proposed.

Specific Assessments

The Building Height Guidelines state that at some scales, specific assessments may be required for taller buildings. These include: -

- **Assessment of Micro-Climatic Effects**

A Wind Microclimate Modelling Report, prepared by B-Fluid Ltd. is enclosed with this SHD Planning Application. It demonstrates that the proposed development will produce a high-quality environment that is attractive and comfortable for pedestrians of all categories.

A Sunlight, Daylight and Shadow Assessment, prepared by Chris Shackleton Consulting is enclosed with this SHD Planning Application. As highlighted above, this demonstrates that the development will benefit from excellent levels of sunlight and daylight access.

- **Potential impacts on Birds / Bats**

We refer the Board to the Ecological Impact Assessment, prepared by Scott Cawley Ltd. This demonstrates that the proposed development is not anticipated to have any negative impact on birds / bats.

- **Appropriate Assessment**

An Appropriate Assessment Screening Report, prepared by Scott Cawley Ltd. accompanies this SHD Planning Application. This concludes that the possibility of any significant effects on any European sites, whether arising from this project alone or in combination with other plans and projects, can be excluded.

- **An Assessment that the Proposal allows for the Retention of Important Telecommunication Channels, such As Microwave Links**

We refer the Board to the accompanying Telecommunication Report, prepared by Independent Site Management (ISM). This concludes that no microwave links have been identified as being likely to experience significant impact or diffraction on their Fresnel Zones rendering them ineffective as a consequence of the Sector 3 Aiken's Village development.

- **Impact on Safe Air Navigation**

It is not anticipated that buildings of this height would impact on safe navigation. Stephen Little and Associates Chartered Planners & Development Consultants consulted the Irish Aviation Authority (IAA) on the development proposals by letter dated 8 July 2022. The IAA responded on 26 July 2022 (enclosed) confirming the Authority have no observations in relation to the development.

- **Urban Design Statement**

We refer the Board to the enclosed Design Statement, prepared by Ferreira Architects.

Having regard to the above and the provisions of the Building Height Guidelines and SPPR3, it is respectfully submitted that should the Board consider the heights a contravention of Objective PHP42 and Appendix 5 – Building Height Strategy of the Development Plan (including Policy Objective BHS1 and BHS3), they can approve the proposed development having regard to the material contravention route in Section 9(6) of the SHD Act.

4.2.2 Separation Distances

As noted in Section 3, Section 12.3.5.2 of the Development Plan requires a minimum separation distance of c. 22 metres in general, between opposing windows in the case of apartments up to three storeys in height, and in taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances. We note that, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.

As summarise above, the separation distance between apartment blocks, in some instances are as follows: -

- Block C & B – c. 13.1 to 15.3m.
- Block A & D – c. 15.2m.
- Block G & H – c. 13.6 to 15.8m.
- Block F & J – c. 15 to 15.1m.

The proposed blocks are set back between 8 and 26m from the residential units on Thornberry Road to the north.

As such, the separation distance between the opposing windows in the apartment blocks and between the existing houses on Thornberry Road, may not be considered to comply with Section 12.3.5.2 of the Development Plan and therefore a justification for a grant of permission through a material contravention of the Development Plan under S. 9(6) of the SHD Act is provided.

The Planning Application Report and Statement of Consistency, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants has provided a justification for the proposed separation distances in planning and design terms, with reference to accompanying SHD Planning Application documentation, and the following provides a justification with regard to Section 37(2)(b)(iii) should the proposals be considered to contravene Section 12.3.5.2 of the Development Plan.

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020 / National Planning Framework – Ireland 2040 / Sustainable Residential Developments in Urban Areas 2009

To encourage higher residential densities and increased supply of apartments in appropriate urban locations, the Apartment Guidelines support a shift away from prescriptive standards *“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.”*

NPO 13 of the NPF states that: -

“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.”

[Emphasis added by SLA]

Section 7.10 of the Sustainable Residential Developments in Urban Areas (2009) relate to ‘residential density’ and states that *“Planning authorities should ensure that the cumulative effect of setting specific minimum quantitative standards for parking, private and communal open space, and separation distances between dwellings does not militate against the achievement of the minimum residential densities recommended in Chapters 5 and 6. Qualitative standards should be the real test, and innovative design solutions which achieve good performance standards should be considered on their merits.”*

In the instances where separation distances fall below 22m within the scheme this is limited to the end of block conditions. It is submitted that this is acceptable on the basis of the design measure implemented (no balconies, orientation of units, opaque glazing where relevant).

The proposed blocks are set back between 8 and 26m from the residential units on Thornberry Road to the north. It is submitted that this is acceptable on the basis of the design measure implemented (no balconies, opaque glazing) and the scheme steps down to 2/3 storey along this edge to reflect the existing scale of development.

Block F which is located in the northeast of the site includes recessed private amenity space on the eastern elevation to avoid overlooking of the unit directly north on Thornberry Road.

The blocks which are closest to dwelling on Thornberry Road face toward the gable ends of these properties with no windows to habitable rooms which avoids direct overlooking. As such, there are no directly opposing windows where the separation distance is below 22m.

We refer the Board to the enclosed Site Layout Plans and Design Statement, prepared by Ferreira Architects which elaborates further in relation to separation distances.

The Sunlight, Daylight & Shadow Assessment, prepared by Chris Shackleton Consulting demonstrate that vast majority of apartments meet the relevant standards (95% of all habitable rooms are compliant and 99% if those results which are just marginal are included – Section 4.2.1 above). Furthermore, the impact of the proposed development on the amenity spaces of adjoining development (in particular the existing units on Thornberry Road) pass the BRE requirement relating to the area receiving 2 hours of sunlight on the 21st March > 50% or not breaching the 0.8 times its former value limit. Therefore the proposed separation distances are justified on the basis that there is no significant impact on residential amenity of existing and proposed units.

Therefore, having regard to the above and the provisions of the Apartment Guidelines 2020, the NPF and the Sustainable Residential Developments in Urban Areas 2009, it is respectfully submitted that the Board can approve the proposed development under Section 9(6) of the SHD Act should the proposals be considered to constitute a material contravention of Section 12.3.5.2 of the Development Plan.

4.2.3 Public Open Space

The Development Plan states in Table 12.8 that a public open space standard equivalent to 15% of the site area applies to “residential development in the existing built up area.” Section 12.2.2 – Open Space Categories for Residential Development notes that ‘underground flood attenuation tanks’ are “*not normally be considered as part of any Open Space provision*”

It is proposed to provide 4,930 sq. m of Public Open Space within the proposed development. This amounts to approximately 17.4% of the total site area. An existing and proposed surface water attenuation tanks are located within the central public open space.

The public open space is fully outlined in the Design Statement, prepared by Ferreira Architects and the Landscaping pack, prepared by Mitchell + Associates Landscape Architects and Urban Design. The quantum of public open space proposed meets the minimum standard set out in the Table 12.8 of the Development Plan.

Sustainable Residential Developments in Urban Areas 2009

The Guidelines on Sustainable Residential in Urban Areas 2009 generally provides for flexibility in relation to the application of public open space standards in favour of an emphasis on qualitative standards which include quality design, layout and facilities, accessibility, variety.

In relation to flexibility and a relaxation of standards, the Sustainable Residential in Urban Areas 2009 state that: -

*“It will be necessary for planning authorities to take a more flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards outlined above. **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.**”*

[Emphasis added by SLA]

As such, the following table set out the provision of public open space relating to the planning history of the public space associated with Sector 1, 2 and 3 of Aiken Village.

	Reg. Ref. D10A/0440 Sector 1, 2 & 3	Reg. Ref. D16A/0511 Sector 3	Current Proposal Sector 3
Central Public Space	2.08	2.08	2.08
Southern Public Space	0.58	0.58	0.58
On-site Provision per Sector (additional to above primary spaces)	0.26	0.245	0.4930
Total Provided	2.92	2.905	3.15
% of Total Site Area for Sector 1, 2 & 3 *	24.7	24.5	26.6

* Reg. Ref. D10A/0440: Site Area – 11.82 Ha.

As can be seen from the table above the provision of public open space associated with the proposed development and the existing dwellings constructed in Sector 1 and 2 that approximately 2.99 Ha of public open space will ultimately be provided.

We note that the area of 0.58 Ha is already provided and is in use by the public and is subject to improvement works as part of this proposal. The remaining 2.08 Ha open space provided by a different Developer is hoarded off at present, but it remains possible for the Planning Authority to secure the delivery of this through compliance with Conditions under DLRCC Reg. Ref. D10A/0440. We note also that Maples & Calder Solicitors have confirmed that these lands are in any event controlled by the Council.



Figure 1: Extract from Google Earth showing the proximity of adjoining public open space serving the wider Stepside Area (Source: Google Earth, with SLA Overlay).

When the significant provision of public open space is considered in conjunction with the high quality communal open spaces provided for prospective residents it is considered that an exceptional level of open space amenity is provided.

In the wider context (See Figure 1) it can be seen that the proposed development is within walking distance of a significant quantum of public open space to the south in the form of Belarmine Linear Park and Fernhill Park. These are high quality amenity areas that are intended to server the wider surrounding area.

We note from Appendix 14 – Green Infrastructure Strategy of the Development Plan that a ‘key action’ is set out to develop the existing Fernhill Park as a Gateway / Regional Park. This existing public park is located within c. 800m of the application site to the south and is linked via existing roads with pedestrian and cycle paths. This further demonstrates that there is an exceptional level of open space available to the prospective residential of the proposed development as well as existing residents in the area.

We respectfully submit to the Board that the provision of public open space provided as part of the proposed development in conjunction with the high level of adjoining public amenity space comfortably exceed the requirements of the Development Plan.

Notwithstanding, should the Planning Authority consider that the open space provided does not meet the requirements of the Section 12.8 of the Development Plan, the applicant accepts that a payment of a contribution in lieu for any shortfall in the quantum of public open space can be applied under Section 48 of the Planning and Development Act 2000, as amended.

Having regard to the above and the provisions of the Sustainable Residential Developments in Urban Areas 2009, it is respectfully submitted that the Board can approve the proposed development under Section 9(6) of the SHD Act, should the proposals be considered to constitute a material contravention of Section 12.8 of the Development Plan in respect to the quantum / classification of public open space proposed.

4.2.4 Unit Mix

As set out in Section 3.4 the Development Plan is the subject of a current Ministerial Direction.

At the time of submitting this SHD Planning Application the Ministerial Direction remains in effect and the provision of the Development Plan relating to unit mix in Build to Rent schemes is not in force. As such, the possibility remains that the provision set out under Section 12.3.3 of the Development Plan may yet come into effect during the assessment of this SHD Planning Application by An Bord Pleanála, notwithstanding it is not in effect at this time. As such, we are adopting a precautionary approach should that part of the County Development Plan relating to mix in Building to Rent schemes come into effect.

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

Specific Planning Policy Requirement 8 of the Apartment Guidelines (2020), states as follows: -

For proposals that qualify as specific BTR development in accordance with SPPR 7: -

(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.

(ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity.

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.

(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes.

(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.”

[Emphasis added by SLA]

The proposed development is declared BTR and the statutory notices confirm this is the case and as such provisions in relation to unit mix set out in SPPR 8 of the Apartment Guidelines (2020) take precedence.

Having regard to the above and the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020, it is respectfully submitted that the Board can approve the proposed development under Section 9(6) of the SHD Act, should the proposals be considered to constitute a material contravention of Section 12.3.3 of the Development Plan in respect to the unit mix (should this provision of the Ministerial Direction be reversed in the period in which this SHD Planning Application is being assessed).

As set out above, the proposed development is declared Build To Rent and as such provisions in relation to unit mix set out in SPPR 8 of the Apartment Guidelines (2020) take precedence.

As a result, we consider that this affords the Board with sufficient justification to materially contravene the County Development Plan in relation to unit mix, should that need arise.

5 CONCLUSION

We respectfully submit that, should the Board consider the proposed development is a material contravention of specific Development Plan, that there is reasonable justification to grant permission, having regard to the relevant criteria under Section 37(2)(b) of the Planning and Development Act 2000, as amended.

The proposed development is considered to be of strategic and national importance having regard to; the definition of ‘strategic housing development’ pursuant to Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The site is zoned for residential use and strategically located with the Dublin Metropolitan Area as identified by the RSES and DMASP. The proposed development has significant potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness, and to facilitate the achievement of greater density in residential development further supporting the consolidation of Stepside area.

In particular, this statement seeks to demonstrate to the Board that the proposed development may be favourably considered in respect of building height, separation distances, public open space provision and unit mix. The site location and characteristics are relevant in the consideration of strategic national and regional planning policy and the SPPR’s of the relevant Section 28 Ministerial Guidelines relating to sustainable residential development, building height and apartment design in urban areas.

We acknowledge that the function lies with An Bord Pleanála to determine whether the proposed development materially contravenes the relevant objectives or the Development Plan. If minded to grant permission, it is required to provide its rationale for granting permission having regard to the specific considerations set out under Section 37(2)(b) of the Planning & Development Act 2000, as amended. We trust that this report is of assistance to the Board in respect of its assessment and determination of the matter.

Stephen Little & Associates are committed to progressing and achieving sustainable development goals.

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