

MATERIAL CONTRAVENTION STATEMENT

IN RELATION TO A

STRATEGIC HOUSING DEVELOPMENT (SHD)

AT

PARKSIDE 4, PARKSIDE DUBLIN 13

PREPARED BY



ON BEHALF OF

CAIRN HOMES PROPERTIES LIMITED

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1. INTRODUCTION

Cairn Homes Properties Ltd. intend to apply to An Bord Pleanála for a Strategic Housing Development (SHD) comprising 282 residential units in 4 apartment blocks ranging in height from 3 to 7 storeys. The development will include 94 no. 1 bed apartments, 8 no. 2 bed (3 person) apartments, 167 no. 2 bed (4 person) apartments and 13 no. 3 bed apartments. Apartments will have north/south/ east/ west facing balconies/ terraces. The proposed development will also include residential amenity facilities incorporating concierge, media centre, and gymnasium. 277 no. car parking and 289 no. cycle parking spaces will be provided in the basement along with basement stores, plant, waste management areas, motor bike spaces and EV charging points. There will be an additional 134 no. surface cycle parking for visitors along with 9 no. surface car parking. The proposed development provides for the continuation and completion of the Mayne River Linear Park as well as public open space and communal open spaces between the buildings. Vehicular access is from Parkside Boulevard. Pedestrian and cycle access are from Mayne River Park, Balgriffin Road and Parkside Boulevard. All associated site development works (including site re-profiling), landscaping, boundary treatments and services provision including ESB substations.

2. BUILDING HEIGHTS

This report seeks to address the issue of potential material contravention of the Dublin City Development Plan 2016 – 2022 and Clongriffin-Belmayne Local Area Plan 2012 - 2018 (extended until 2022) in relation to Building Height, as required under SHD legislation.

Section 16.7 of the City Development Plan outlines the building height strategy for the City Council area. In general, “outer city” locations; i.e. those areas of the city outside the canal cordons and not within 500m of Luas, Dart or (future) Metro; are limited to 16m building height (residential and commercial). This equates to approximately 5 storeys residential.

However, as per 16.7.2 of the Development Plan, sites subject to LAPs are to be assessed based on the specific height range stipulations contained within same.

Policy UD07 of the LAP states the following:

*“The height strategy for the LAP will seek positive integration of new building height with established character. Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys). **Heights of 2-6 storeys (including a set back at the top floor of a 5/6 storey building) may be facilitated subject to quality design criteria and set back requirements along the river corridor to complete the urban form of pavilion buildings to complete Marrsfield.** One location for a landmark profiled building (10-14 storey office height equivalent) is designated adjacent to Clongriffin Rail Station. In other locations, where 4 storeys residential height is proposed, some flexibility will be allowed on the height equivalent (13m) to achieve design improvements to the façade.”*

The proposed apartment development comprises 4 blocks ranging in height from 6 to 7 storeys, therefore one storey higher than the maximum height prescribed for the river corridor in the LAP.

Should the Board consider that this to represent a Material Contravention of the Development Plan we submit that the Board can grant permission under Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, which states:

“(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.”

Section 37(2)(b) of the 2000 Act states:

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

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

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

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

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

In this regard we submit the following under Section 5(6) of the 2016 Act:

- Section 37(2)(b)(i) of the 2000 Act: The proposed development is a “Strategic Housing Development”, as defined under Section 3 of the 2016 Act.
- The Board is referred to the Section 28 Ministerial Guidelines - *Urban Development & Building Heights: Guidelines for Planning Authorities* (2018).

Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are **required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. SPPRs as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.**

The Guidelines emphasise the policies of the NPF to **increase levels of residential development in urban centres and increase building heights and overall density** by both facilitating and encouraging the development of increased heights and densities by Local Authorities and An Bord Pleanála.

We note the following compliances with the Specific Planning Policy Requirements (SPPRs) of the Guidelines:

<p>SPPR 1 <i>Support increased building height and density in locations with good public transport accessibility to secure the objectives of the NPF and RSES and shall not provide for blanket numerical limitations on building height</i></p>	<ul style="list-style-type: none"> The site is within 15 minutes (1.3km) walktime of Clongriffin DART Station to the south-east and therefore represents an “Intermediate Urban Location” as defined in Section 2.4 of the <i>Sustainable Urban Housing: Design Standards for New Apartments</i> (2018) and is suitable for higher density apartment development.
<p>Development Management Criteria Section 3.2:</p>	
<p>At the scale of relevant city/town: <i>-The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i></p>	<ul style="list-style-type: none"> The site is also within 15 minutes’ walk of frequent Dublin Bus services (Nos. 15 and 27) which operate to and from the city centre.
<p>At the scale of district/ neighbourhood/ street; <i>- The proposal responds to its overall natural and built environment and makes a positive contribution</i> <i>- The proposal is not monolithic and avoids long, uninterrupted walls of building</i> <i>- The proposal enhances the urban design context for public spaces and key thoroughfares</i> <i>- The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies</i></p>	<ul style="list-style-type: none"> Proposed development makes use of a vacant site (formerly a temporary school) and brings into residential use at an attractive location. The character of the area is a mix of apartments (e.g. Balgriffin Park/The Hermitage) and houses (e.g. Parkside). Along the Mayne Linear Park, the precedent has been for apartments and duplexes fronting onto the park on one side and road (Marsfield Ave./Belmayne) on the other. The existing Marsfield apartment scheme to the east sets a scale of 6 storeys which is currently being extended to west towards the subject site with additional apartment development currently under construction. The current proposal seeks to continue this urban edge to the park with a scheme ranging from 6-7 storeys, but with the buildings oriented east-west so that the massing along the road and across from the Parkside houses is not overbearing and to allow views and access through the scheme to the park and beyond. A series of public and communal open spaces are created within the scheme and the proposal includes completion of the linear river park west of Balgriffin Park. The proposed development establishes an attractive urban edge to the park

	<p>providing for passive surveillance and security. It will also act as a local nodal development at the junction of Belmayne and Balgriffin Park.</p> <ul style="list-style-type: none"> The scheme contributes to an overall sustainable mix of residential types in Belmayne area.
<p>At the scale of the site/building: - Maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p>	<ul style="list-style-type: none"> The proposed development is set out in four residential blocks which run parallel to each other in a north south direction taking advantage of the site's orientation, ensuring all units have access to high quality daylight and sunlight and also that all of the open spaces between blocks are not excessively shadowed. A daylight/sunlight analysis confirming this, is submitted with the application.
<p>Specific Assessments: -Specific impact assessment of the micro-climatic effects such 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. -Development locations in proximity to sensitive bird/bat areas need to consider the potential interaction of the building location, materials and artificial lighting. -Relevant environmental assessment requirements.</p>	<ul style="list-style-type: none"> The low lying nature of the existing site, and the modest height and orientation of the proposed blocks indicates that the development is unlikely to create negative local wind microclimate impacts. The site and location have been assessed from an ecological perspective and in relation to potential impact on European sites. We refer to the submitted EIAR and NIS in this regard. We note that the site is considered of low sensitivity in relation to bats and protected bird species.
<p>SPPR 3 It is a specific planning policy requirement that where; 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan, local area plan or planning scheme may indicate otherwise.</p>	<p>The above analysis sets out how the proposed development complies with the range of criteria from site to city scale.</p> <p>DCC planning department also concurred, during pre-planning consultations, that the site was appropriate for additional height above the LAP stipulation having regard to its specific locational context and the assessment criteria now established in national guidance.</p>

3. PHASING, DENSITY & RESIDENTIAL YIELD

The Board is also referred to Chapter 16 of the LAP which outlines the Phasing & Implementation Strategy for the LAP lands. As outlined in the Statement of Consistency submitted with this application, the subject lands are located within LAP Phase 3 (Belmayne).

Notwithstanding that Chapter 16.2 states that there is flexibility to the phasing of development in the Belmayne area, we note that the current proposal within LAP Phase 3 is being brought forward subsequent to the delivery of Phases 1 and 2 (i.e. the existing Parkside development).

Page 95 of the LAP outlines a range of objectives for development of these lands in relation to land use, design, scale, and density.

In relation to density the table states a density range of 35-50 units per hectare. However, this density range is stated as “indicative” and is not a strict policy maximum. Furthermore, the table relating to these LAP Phase 3 lands do not set out an (indicative) maximum number of residential units to be achieved.

The Statement of Consistency outlines in detail how the proposed development of c.89 units per ha (gross) is in compliance with national, regional and local policy, is appropriate for this location and results from the suitability and quality of the apartment design along this riverside parkland setting which also reflects the scale of development already achieved on developments to the east.

Given the above it is contended that a material contravention of the LAP in relation to phasing and density does not arise as a result of the proposed development.

4. CONCLUSION

Given the above it is contended that the proposed 3-7 storey development complies with the national Building Heights Guidelines, and therefore the Board may grant permission under Section 5(6) of the 2016 Act.