



THORNTON O'CONNOR  
TOWN PLANNING

# Material Contravention Statement

## Planning Application

In respect of a Build-to-Rent Residential Development

at

The former Aldi Site, Carmenhall Road, Sandyford  
Industrial Estate, Dublin 18

Submitted on Behalf of Sandyford GP Limited (acting  
in its capacity as general partner for the Sandyford  
Central Partnership

November 2019



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## 1.0 INTRODUCTION

### 1.1 Purpose of this Report

The purpose of this Material Contravention Statement is to set out the justification for increased height proposed at the subject site which is located within Zone 1 of the Sandyford Business District as set out within the *Sandyford Urban Framework Plan 2016* (SUFP) which forms Appendix 15 of the *Dún Laoghaire – Rathdown County Development Plan 2016-2022*.

The development, which will have a Gross Floor Area of 49,342 sq m will principally consist of: the demolition of the existing structures on site and the provision of a Build-to-Rent residential development comprising 564 No. apartments (46 No. studio apartments, 205 No. one bed apartments, 295 No. two bed apartments and 18 No. three bed apartments) in 6 No. blocks as follows: Block A (144 No. apartments) is part 10 to part 11 No. storeys over basement; Block B (68 No. apartments) is 8 No. storeys over basement; Block C (33 No. apartments) is 5 No. storeys over lower ground; Block D (103 No. apartments) is part 16 to part 17 No. storeys over lower ground; Block E (48 No. apartments) is 10 No. storeys over semi-basement; and Block F (168 No. apartments) is 14 No. storeys over semi basement.

The development provides resident amenity spaces (1,095 sq m) in Blocks A, C and D including concierge, gymnasium, lounges, games room and a panoramic function room at Roof Level of Block D; a creche (354 sq m); café (141 sq m); a pedestrian thoroughfare from Carmanhall Road to Blackthorn Drive also connecting into the boulevard at Rockbrook to the west; principal vehicular access off Carmanhall Road with servicing and bicycle access also provided off Blackthorn Drive; 285 No. car parking spaces (254 No. at basement level and 31 No. at ground level); 21 No. motorcycle spaces; set-down areas; bicycle parking; bin storage; boundary treatments; hard and soft landscaping; lighting; plant; ESB substations and switchrooms; sedum roofs; and all other associated site works above and below ground.

It should be noted that there is an extant permission pertaining to the subject site for the provision of 459 No. residential units (ABP Ref. PLo6D.301428).

### 1.2 Background to the Preparation of this Material Contravention Statement

The preparation of the *Sandyford Urban Framework Plan* was a response to unprecedented levels of development in the late 90's and early 00's and the lack of specific guidance that was available at that time in Sandyford thus the *Sandyford Urban Framework Plan* (SUFP) was adopted in 2011 (with the initial document having a lifespan until 2016).

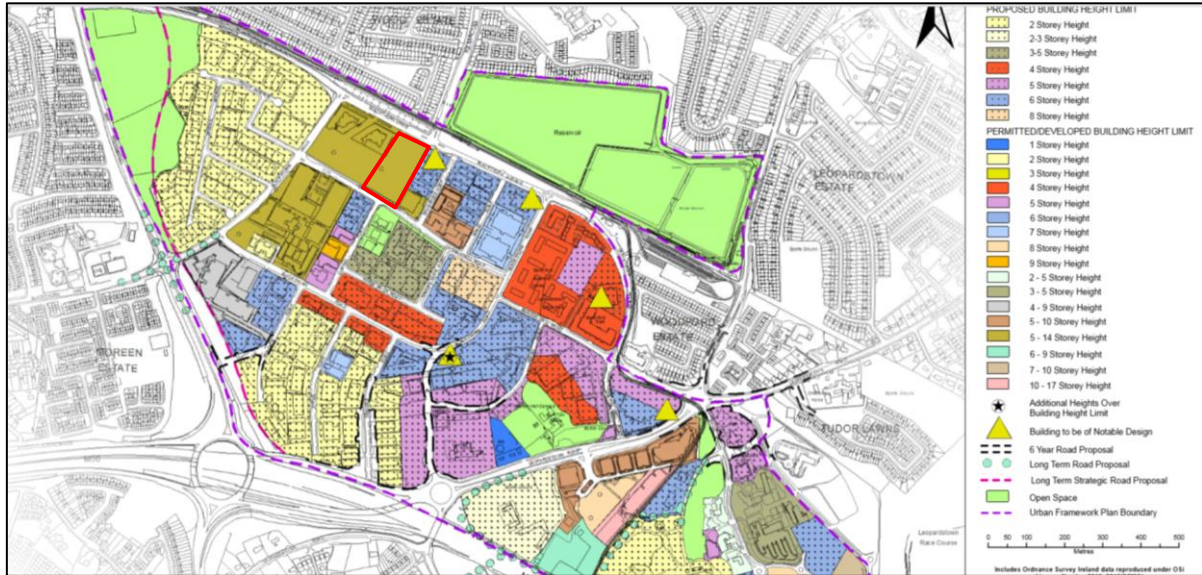
We note that the *Sandyford Urban Framework Plan 2016* states that '*the SUPF adopted as Variation No. 2 was reviewed and updated as part of the making of the County Development Plan 2016 – 2022 and is now included as Appendix 15 of County Development Plan 2016 -2022.*' It is our understanding that the proposed development conflicts with 1 No. policy objective set out in the SUFP:

#### Policy SUFP 3

Policy SUFP 3 is provided in Section 3.2.1 of the *Sandyford Urban Framework Plan 2016* and states:

*'It is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3.'*

The *Sandyford Urban Framework Plan 2016* sets out blanket heights for individual parcels of land within the Sandyford Business District including the subject site which has been designated as having a 'permitted/developed height limit' of 5 – 14 No. storeys, as illustrated at Figure 1.1 below.



**Figure 1.1:** Map Showing the Building Heights Envisioned in Sandyford with the Subject Site Outlined in Red.

**Source:** Map No. 3 *Sandyford Urban Framework Plan Annotated by Thornton O'Connor Town Planning.*

We note that the height limits provided within the SUFF were set prior to the introduction of the *Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)*, which were introduced under Section 28 of the *Planning and Development Act, 2000 (as amended)*. An Bord Pleanála and Planning Authorities must have regard to these Guidelines and we note with particular reference to the Specific Planning Policy Requirements (SPPRs) set out in the *Building Height Guidelines*, these elements are mandatory. SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore the imposition of the 14 No. storey height restriction at the subject site would be contrary to SPPR 1.

It is our professional planning opinion that the *Sandyford Urban Framework Plan 2016* has been superseded by the progression of National Policy and that there is significant potential for the subject site to provide increased heights, subject to appropriate safeguards. It is our professional planning opinion that the inclusion of a part 16 to part 17 storey building within the 6 No. buildings proposed at the subject site accords with best practice urban design principles and can be readily absorbed at the subject site without any undue impact on the character of the area or the amenity of neighbouring properties. With the exception of the proposed vertical tower element at Block D, the remainder of the site is 14 No. storeys or less. The justification for the increased height is set out at Section 4.0 and 5.0 of this Statement.

2.0 **PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES ACT, 2016 (AS AMENDED)**

Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended)* sets out the following in relation to developments which materially contravene the policies and objectives of a Development Plan:

- (a) ***'Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.***
- (b) ***The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.***
- (c) ***Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.'*** [Our Emphasis]

**TOC Comment:** We note that the site is zoned Objective 'MIC' (Mixed Inner Core) in the *Dún Laoghaire - Rathdown Development Plan 2016 – 2022* and residential use is 'permitted in principle' on 'MIC' zoned lands. As the subject scheme proposes a Build-to-Rent Residential Development, the proposed development fully complies with the zoning objective of the site. Therefore, the subject of this Material Contravention Statement relates to building height. We consider that the design of the proposed development is appropriate and justified for the subject lands having regard to recently adopted National Policy and the need to provide an entry point to Sandyford and the Boulevard from the transport interchange as detailed throughout this Report.

### 3.0 PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

As noted above, the *Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended)* sets out in summary that ‘where the proposed strategic housing development would materially contravene the development plan...then the Board may only grant permission 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) of the *Planning and Development Act 2000 (as amended)* states the following in relation to material contravention:

- (a) *Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*
- (b) *Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*
  - i. *the proposed development is of strategic or national importance,*
  - ii. *there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
  - iii. ***permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, 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.* [Our Emphasis]

**TOC Comment:** SUFP Objective 3 states that it is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3. Map 3 provides that the subject site is indicated to have a range of 5-14 No. storeys.

However, having regard to Section 37(2)(b) of the Act as set out above, we respectfully request that An Bord Pleanála consider that the heights proposed in the current development are appropriate having regard to the advancement of National Policy since the adoption of the *Dún Laoghaire - Rathdown Development Plan 2016– 2022* and the design team opinion that the provision of a part 16, part 17 storey building at Block D is the most appropriate design response to the site (with various design options having been discussed and discarded as detailed in Chapter 4 Examination of Alternatives of the EIAR enclosed with this application). We note that the *Urban Development and Building Heights Guidelines for Planning Authorities, 2018* [para 1.20] set out that a key objective of the National Planning Framework is to see that greatly increased levels of residential development in our urban centres and seek that significant increases in building heights

and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes.

We reiterate that Block D is part 16 to part 17 No. storeys in height and is the sole component of the proposed development that exceeds the height prescribed within the *Sandyford Urban Framework Plan 2016*. Block D is located to the north east corner of the subject site fronting Blackthorn Drive. This section of the development is located in close proximity to the green Luas line and multiple bus routes along Blackthorn Drive and is intended to be a physical marker of the location of a transport interchange (Stillorgan Luas station) as detailed in Section 2.3.1 and 2.5.2 of the accompanying Planning Report. The site also benefits from physical visual relief afforded by the zoned open spaces (proposed park) to the south of the site and the reservoir to the north-east of the site which in our opinion will assist in Block D being assimilated into its receiving context.

In discussions with Dun Laoghaire Rathdown County Council we have been advised that *'land uses in the Plan [SUFP] have been allocated based on a logic and rationale that examines the quantum of development which can realistically be carried on the Plan lands'*. We have examined the *Sandyford Urban Framework Plan Transportation Strategy 2011* which was furnished to us as the only background issues paper available relating to the preparation of the *Sandyford Urban Framework Plan* and note that there is no rationale in that document for the need to curtail heights at specific sites. The Planning Authority has also conveyed their concern that the proposed height of Block D in the subject scheme may compete with the existing part-built Sentinel Building at Sandyford. In our review of the background papers we cannot find any rationale underpinning the Planning Authorities Opinion that the Sentinel should be the only high building in the urban quarter. We further note in this regard that the proposed Block D at the subject site is considerably closer to the Luas station than the Sentinel building and therefore is best placed to provide a visual marker of the infrastructural node and a marking of the entrance to the Sandyford Business District from the Luas station (with the subject site providing the associated pedestrian pathways to allow the public to traverse the subject lands to access blocks to the rear within the district).

In our opinion the heights provided in the subject development are appropriate having regard to the express requirement in National level policy to achieve compact growth and the eminently suitable location of the subject location for high density development having regard to its location in close proximity to the green Luas line and numerous substantial employers located within easy walking and cycling distance from the site as detailed at Section 2.5 of the accompanying Planning Report.

Furthermore, the Landscape and Visual Impact Assessment and Wind Assessment enclosed as Chapters 8 and 13 of the accompanying Environmental Impact Assessment Report and the Daylight/Sunlight Assessment included within the application demonstrates that the height proposed at Block D (part 17 No. storeys) will not result in any adverse impacts to the amenity of adjacent properties.

## 4.0 JUSTIFICATION FOR THE MATERIAL CONTRAVENTION

### 4.1 *Project Ireland 2040: National Planning Framework*

*Project Ireland 2040: National Planning Framework* (NPF) is the Government's high-level overarching strategic plan that aims to shape the future growth and development of the country. The NPF is a long-term Framework that sets out how Ireland can move away from the current 'business as usual' pattern of development.

A number of key national policy objectives are identified throughout the NPF such as the following (in summary):

- **National Policy Objective 2a** states that a target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- **National Policy Objective 3a and National Policy Objective 3b** aim to deliver at least 40% of all new homes nationally, within the build-up of existing settlements and to deliver at least 50% of all new homes that are targeted in the five main Cities within their existing built-up footprints.
- **National Policy Objective 13** stipulates 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'*.
- **National Policy Objective 32** sets a target of 550,000 No. additional homes to 2040.
- **National Policy Objective 33** prioritises the provision of residential development at appropriate scales within sustainable locations.
- **National Policy Objective 35** notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights.

The NPF sets out that:

*'to effectively address the challenge of meeting the housing needs of a growing population in our key urban areas, it is clear that we need to build inwards and upwards rather than outwards.'* [Our Emphasis]

**TOC Comment:** The proposed scheme involves the development of an existing underutilised brownfield site within a mixed use area which will contribute towards compact growth in Dublin in line with the objectives of the NPF. We note that the NPF recognises that building inwards and upwards is important to effectively address the housing crisis. Therefore, we consider that as there is a significant importance placed in the NPF to develop high quality accommodation by increasing building heights in existing urban areas. The proposed development which ranges in height from 5 No. storeys to part 17 No. storeys is appropriate given the site's location in the Mixed Inner Core Area and its proximity to significant employment locations and public transport. We note that the subject site is less than 100 m southwest of the Stillorgan Luas stop and therefore the site



is ideally placed to benefit from and support the investment made in transport infrastructure in one the most accessible sites in Dublin.

#### 4.2 **Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)**

The *Urban Development and Building Heights Guidelines for Planning Authorities* were adopted in December 2018. The Guidelines set out that a key objective of the NPF is to significantly increase the building heights and overall density of developments.

The Minister's foreword to the *Heights Guidelines, 2018* acknowledges that Ireland's classic development models for city and town cores has tended to be dominated by employment and retail uses, surrounded by extensive and constantly expanding low-rise suburban residential areas which is an unsustainable model. There is an opportunity for our cities and towns to be developed differently. Urban centres could have much better use of land, facilitating well located and taller buildings, meeting the highest architectural and planning standards. The Guidelines are intended to set a new and more responsive policy and regulatory framework for planning the growth and development of cities and towns upwards rather than outwards.

The *Height Guidelines, 2018* denote that the:

*'Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, **by building up and consolidating the development of our existing urban areas.**'* [Our Emphasis]

The Guidelines also note that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured.

Chapter 2 of the Guidelines sets out the following Specific Planning Policy Requirement:

#### **Specific Planning Policy Requirement 1**

*'In accordance with Government policy to support increased building height and density **in locations with good public transport accessibility**, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and **shall not provide for blanket numerical limitations on building height.**'* [Our Emphasis]

**TOC Comment:** It is our professional planning opinion that the imposition of the 14 No. storey height restriction at the subject site would therefore be contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans.

Chapter 3 of the *Height Guidelines, 2018* expressly seeks increased building heights in urban locations:

*'In relation to the assessment of individual planning applications and appeals, it is Government policy that **building heights must be generally increased in appropriate urban locations**. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.'* [Our Emphasis]

The Guidelines further note 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:

1. ***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?***

**TOC Response:** As noted in Section 4.1, the proposed scheme involves the redevelopment of an existing underutilised brownfield site within the Sandyford Mixed Inner Core area which will contribute to delivering compact growth in urban centres. The scheme is therefore fully in accordance with the preferred approach of the National Planning Framework.

2. ***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?***

**TOC Response:** SPPR 1 within Chapter 2 of the Guidelines sets out that blanket numerical restrictions on building heights shall not be provided for in plans, in order to support building height and density in locations with good public transport accessibility and particularly in town/ city cores. As previously noted, the *Dún Laoghaire - Rathdown Development Plan 2016-2022* Appendix 15 (*Sandyford Urban Framework Plan 2016*) specifically set out a numerical limitation on height, with Policy SUFP 3 in the Urban Framework Plan and the associated mapping guiding development at the subject site to be 5 – 14 No. Storeys.

We reiterate that it is our professional planning opinion that imposing this height restriction at the subject site through the SUFP is contrary to Specific Planning Policy Requirement 1 of the *Height Guidelines, 2018* which notes that blanket numerical limitations on building height shall not be provided for through statutory plans. Therefore, we consider the heights proposed which range from five storeys to part 17 No. storeys to provide architectural interest across the site and to respond to the differing characteristics and contexts of site quadrants, are appropriate in order to accord with Government policy to increase building heights in sustainable locations.

3. **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?**

**TOC Response:** This Statement has clearly demonstrated that the heights policy of the *Sandyford Urban Framework Plan 2016*, which is an Appendix to the *Dun Laoghaire Rathdown County Development Plan 2016-2022* and restricts development at the subject site to 5 – 14 No. storeys in height is now outdated as a result of the progression of National Policy and implementing such an objective would be contrary to SPPR1 of the *Height Guidelines, 2018* as discussed above. We note that an LVIA, Daylight/Sunlight Analysis and Wind Assessment have been carried out in conjunction with the design of the subject development and demonstrate that the proposed development will not have an undue negative impact on its receiving environment.

### Specific Planning Policy Requirement 3

SPPR3 of the Building Height Guidelines sets out 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 criteria [below]; 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.'* [Our Emphasis]

We have demonstrated how the proposed development satisfies the specified criteria set out in SPPR3 of the Height Guidelines as follows:

Development Management Criteria	
At the Scale of the Relevant City/ Town	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <li><i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i></li> </ul>	<ul style="list-style-type: none"> <li>The application site is located less than 100 m to the south of the Stillorgan Luas stop with multiple bus routes serving the site along Blackthorn Drive. We note that the accessibility of the subject site via public transport has been extensively detailed in the Planning Report and Statement of Consistency Report prepared by Thornton O'Connor Town Planning and the Mobility Management Plan prepared by O'Connor Sutton Cronin Engineers submitted with this</li> </ul>

	Strategic Housing Development planning application to ABP.
<ul style="list-style-type: none"> <li>• <i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake landscape and visual assessment (LVIA), by a suitably qualified practitioner such as a chartered landscape architect.</i></li> </ul>	<ul style="list-style-type: none"> <li>• It has been detailed in the Architect’s Design Statement and Thornton O’Connor Town Planning documents how the development will be assimilated into its surrounding context. We note that the subject site is not located within an architecturally sensitive area and is not surrounded by any unique locational characteristics, having regard to its position between Carmanhall Road and Blackthorn Drive. It is considered that the single tower building (Block D) within the subject development that provides a maximum height of 17 No. storeys will afford visual interest to the Blackthorn Drive building frontage and will act as a wayfinding beacon for pedestrians that will traverse the public spaces provided in the subject lands to access Carmanhall Road and beyond from the Luas station.</li> <li>• An LVIA, Wind Assessment and Daylight /Sunlight Analysis have been carried out and are submitted in support of this application.</li> </ul>
<ul style="list-style-type: none"> <li>• <i>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</i></li> </ul>	<ul style="list-style-type: none"> <li>• The proposed development provides a high quality landscaped pedestrian thoroughfare between Carmanhall Road and Blackthorn Drive which will enhance connectivity and permeability within the surrounding area. The scheme provides for a number of pocket parks, courtyard and landscaped amenity areas as detailed within the accompanying Landscape Masterplan prepared by Bernard Seymour Landscape Architects.</li> <li>• The higher element (Block D) is provided towards the least sensitive locations within the subject site where it will have minimal impacts on surrounding properties, with the scale and massing stepping down towards the western edge of the site responding to the adjacent Rockbrook scheme. Block D will aid in the wayfinding of the scheme at this location and will complete the urban quarter. The high quality design including a palette of simple materials, will allow the scheme to successfully integrate with the surrounding area.</li> </ul>

Development Management Criteria	
At the scale of District/ Neighbourhood / Street	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <li><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i></li> </ul>	<ul style="list-style-type: none"> <li>The high quality design of the proposed development has regard to clear guidance provided in national planning policy which seeks the densification of brownfield sites in close proximity to significant employment locations and public transport such as the subject site. We submit that no significant and long term material impacts on residential amenity will occur as a result of the proposed development, having regard to the results of the Daylight /Sunlight Analysis, Wind Assessment and the LVIA. The high quality materials utilised in the scheme ensures that the development will make a positive contribution to the streetscape. The provision of a public pedestrian thoroughfare will encourage connectivity and permeability for the general public, which will create a vibrant sense of place.</li> <li>The multi-functional communal space at level 17 of Block D will provide panoramic views of the Dublin mountains and Irish Sea.</li> </ul>
<ul style="list-style-type: none"> <li><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></li> </ul>	<ul style="list-style-type: none"> <li>The high quality scheme provides adequate relief between the proposed 6 No. Blocks which range in height from 5 No. storeys to part 17 No. storeys in height. A comprehensive Architect's Design Statement has been prepared by Henry J Lyons and is submitted with this planning application which demonstrates the rationale for the design approach and how conscious efforts have been made to provide architecturally interesting forms and spaces.</li> </ul>
<ul style="list-style-type: none"> <li><i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favorably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)".</i></li> </ul>	<ul style="list-style-type: none"> <li>The scheme will provide active surveillance of the public and communal open spaces throughout the development including the provision of a creche and café at ground floor level to provide animated daytime uses. Furthermore, we submit that the scale of the development is appropriate to its location as set out within the accompanying Planning Report prepared by Thornton O'Connor Town Planning.</li> </ul>

	<ul style="list-style-type: none"> <li>We note that a Flood Risk Assessment has been carried out by RPS Consulting Engineers with due regard to the Flood Risk Management Guidelines.</li> </ul>
<ul style="list-style-type: none"> <li><i>The proposal makes a positive contribution to the improvements of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i></li> </ul>	<ul style="list-style-type: none"> <li>The high quality design of the scheme will ensure the development will be a legible and attractive addition to the area. As previously noted, the pedestrian access provided between Blackthorn Drive and Carmanhall Road and the extension of the Boulevard at Rockbrook into the subject lands provides a nodal point of pedestrian routes at the subject site. The enhanced permeability will contribute towards enhancing the legibility of the scheme within its context and is considered to be a Planning Gain for the wider Sandyford area.</li> </ul>
<ul style="list-style-type: none"> <li><i>The proposal positively contributes to the mix of uses and/ or building / dwelling typologies available in the neighbourhood.</i></li> </ul>	<ul style="list-style-type: none"> <li>As set out at Section 1.1 of this report, the proposed application seeks permission for a strategic housing development comprising 564 No. apartments with ancillary residents' facilities. In addition, it is proposed to provide a creche (354 sq m) and café (141 sq m). Having regard to the existing facilities and amenities in close proximity to the site it is clear that the provision of a café and creche will provide a sufficient quantum of supplementary uses to ensure the creation of sustainable communities with ease of access to services and facilities.</li> </ul>

Development Management Criteria	
At the Scale of the Site/ Building	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <li><i>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</i></li> </ul>	<ul style="list-style-type: none"> <li>We refer to the Daylight/Sunlight Analysis prepared by O'Connor Sutton Cronin Consulting Engineers and submitted with this application.</li> </ul> <p><u>Internal Daylight</u>  <i>The analysis confirms that across the entire development excellent levels of internal daylight are achieved. A 95.6% compliance rate is achieved across the entire development.</i></p> <p><i>Throughout the full development, comfortable and desirable spaces have been designed with</i></p>

	<p><i>floor to ceiling heights of a minimum of 2.6m for living rooms and minimum of 2.4m for bedrooms and extensive glazing to every room enabling deep daylight penetration and providing enhanced views to a beautiful landscaped courtyard area.</i></p> <p><u><i>Sunlight</i></u>  <i>Sunlight analysis has shown that at least 2 hours of sunlight is achieved on March 21st on at least 50% of the amenity spaces, thus complying with BRE Guidelines. An additional study was carried out to analyse the summer sunlight, with excellent sunlight levels being achieved.</i></p> <p><u><i>Impact to surrounding properties</i></u>  <i>The VSC analysis demonstrates that the proposed building has no daylight impact to adjacent properties when compared to the currently permitted scheme.</i></p> <p><i>The shadow analysis confirms that no further overshadowing is perceived to any of the surrounding properties when compared to the currently permitted scheme ABP Ref. PLo6D.301428.</i></p> <p><i>In conclusion, the steps taken by the project team during design have ensured that levels of daylight and sunlight within the development have been safeguarded and the impact to adjacent properties is negligible.</i></p>
<ul style="list-style-type: none"> <li><i>• Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guidelines. 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</i></li> </ul>	<ul style="list-style-type: none"> <li><i>• As noted above, the Daylight/Sunlight Assessment ultimately concludes that no material impacts will occur on neighbouring properties.</i></li> <li><i>• The report also notes that ‘careful consideration has been given to room layout design attributing store rooms and circulation areas to the back of rooms and living spaces to the front where the highest level of daylight is experienced’.</i></li> <li><i>• The report notes that ‘the excellent daylight and sunlight access can also be attributed to the sunlight reflection from the building facades that have been carefully designed with light</i></li> </ul>

securing comprehensive urban regeneration and an effective urban design and streetscape solution.	materials, thus creating comfortable and desirable spaces for the residents.'
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Development Management Criteria	
Site Specific Assessments	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <li>Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measurements 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.</li> </ul>	<ul style="list-style-type: none"> <li>A Wind Report has been prepared by B-Fluid and is submitted as Chapter 13 of the EIAR and demonstrates that the development is designed to be a high-quality environment for the scope of use intended of each areas/building (i.e. comfortable and pleasant for potential pedestrians), and the development does not introduce any critical impact on the surrounding areas.</li> </ul>
<ul style="list-style-type: none"> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>An Ecological Assessment has been prepared by Openfield Ecology and forms Chapter 7 part of the EIAR. The chapter states that:  <i>'Features on the site were assessed for their suitability for roosting bats. Due to the low ecological value of the treeline habitats, a lack of obvious roof cavities and a lack of mature trees with cracks and crevices, the features on the site were assessed as having low suitability for roosting bats (Hundt, 2012). A dedicated bat survey was not considered necessary.'</i></li> </ul>
<ul style="list-style-type: none"> <li>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<ul style="list-style-type: none"> <li>An assessment that the proposal maintains safe air navigation.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<ul style="list-style-type: none"> <li>An urban design statement including, as appropriate, impact on the historic built environment.</li> </ul>	<ul style="list-style-type: none"> <li>An Architectural Design Statement prepared by Henry J Lyons Architects has been submitted with the application. The principle of demolishing the remaining structures on site was established previously and the buildings are not considered to be of any historical or architectural merit.</li> </ul>
<ul style="list-style-type: none"> <li>Relevant environmental assessment requirements, including SEA, EIA, AA and</li> </ul>	<ul style="list-style-type: none"> <li>An AA Screening report prepared by Openfield Ecology and an EIAR which was prepared by a team of highly qualified</li> </ul>



<p><i>Ecological Impact Assessment, as appropriate.</i></p>	<p>experts and compiled by Thornton O’ Connor Town Planning is submitted with this planning application.</p>
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**TOC Comment:** Having regard to the response to each element of the Development Management Criteria outlined above, it is clear that the proposed development is in accordance with the policies and objectives of the *Building Height Guidelines*. The application proposes a development comprising 6 No. blocks ranging in height from 5 No. storeys to part 16 – part 17 No. storeys, over part-basement and part semi-basement which is considered to be appropriate within the surrounding context having regard to the location of the subject site within an existing Mixed Inner Core which is well served by public transport. We re-iterate that the subject site is located within minutes walking/cycling distance of various employment locations and services and facilities *inter alia*, Beacon Hospital, Salesforce, Chill Insurance and ICON.

We note that a 14 No. storey scheme was previously granted in 2018 however it is considered appropriate to propose additional height and density having regard to the introduction of the *National Planning Framework* and the *Height Guidelines* which encourages increased height and density on appropriate sites. It is considered that the design response provided strikes a balance between respecting the planning parameters of the extant scheme and ensuring the development potential of a strategically positioned underutilised plot is maximised without impacting the amenity of adjacent buildings.

**4.3 Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2018**

The *Department of Housing, Planning and Local Government* published the updated *Sustainable Urban Housing: Design Standards for New Apartments* in March 2018.

These Guidelines update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply and projected need for additional housing supply out to 2020, the Government’s *Rebuilding Ireland – Action Plan for Homelessness, 2016* and the *National Planning Framework – Ireland 2040*, published since the 2015 Guidelines. We note that the Apartment Guidelines take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

The subject site is considered to be located in a central and/or accessible urban location as set out in the Apartment Guidelines, which states the following:

***‘Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:***

- *Sites within walking distance (i.e. up to 15 minutes or 1,000 – 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*

- *Sites within reasonable walking distance (i.e up to 10 minutes or 800 – 1,000m) to/from **high capacity urban public transport stops** (such as DART or Luas).'*

**TOC Comment:** The subject site is located either within 15 minutes or 1,500 metres of numerous substantial employment locations including, *inter alia* the Beacon Hospital, Microsoft, Chill Insurance and ICON. In addition, the subject site is located less than 100 metres to the south of the Stillorgan Luas stop, therefore the subject site is categorised as a central and/or accessible urban location. The proposed development providing increased height and density is fully in accordance with the *Apartment Guidelines, 2018*.

#### 4.4 **Regional Spatial and Economic Strategy for the Eastern and Midlands Region**

The *Regional Spatial and Economic Strategy* (or RSES) for the East and Midlands Regional Assembly was published in early November 2018 and adopted on 3<sup>rd</sup> May 2019. From this document a number of core Regional Policy Objectives have emerged to work in conjunction with the National Planning Framework (NPF), and to guide all Local Authority future plans, projects and activities requiring consent of the Regional Assembly.

Under **RPO 4.3 'Consolidation and Re-intensification'** the following objective is stated:

***'Support the consolidation and re-intensification 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 coordinated with the delivery of key water infrastructure and public transport projects.'***  
[Our Emphasis]

**TOC Comment:** The subject development will provide 564 No. Build-to-Rent apartments with ancillary resident facilities, a creche and a café on brownfield site in an existing residential area in close proximity to employment locations and public transport. Therefore, the proposed development will result in the intensification of a brownfield site in a built up area in accordance with the RSES.

#### 4.5 **Dún Laoghaire - Rathdown County Development Plan 2016 - 2022**

In addition to Policy SUPF3 (height) of the *Sandyford Urban Framework Plan 2016* as discussed throughout this Material Contravention Statement, the Development Plan notes that development in the Dún Laoghaire – Rathdown functional area should:

*'continue to facilitate appropriate levels of sustainable development predicated on the delivery of high quality community, employment and recreational environments – allied to the promotion of sustainable transportation and travel patterns - but all the while protecting Dún Laoghaire – Rathdown's unique landscape, natural heritage and physical fabric to ensure the needs of those living and working in the County can thrive in a socially, economically, environmentally sustainable and equitable manner'*

**TOC Comment:** We submit that achieving the envisioned 'sustainable development' and ensuring the 'promotion of sustainable transportation and travel patterns' requires strategically located sites such as the subject site to seek to maximise density whilst ensuring that the achievement of high quality design is prioritised and the protection of

residential amenity is a fundamental tenet of that high quality design. We submit that the subject scheme has successfully achieved these objectives. We note that 14 No. storeys have been previously been granted at the subject site and in our opinion the provision of additional height in a slender profile at a location that is intended to aid in wayfinding through the subject scheme into the heart of Sandyford represents a more appropriate solution that will achieve the proper planning and sustainable development of the area.

## 5.0 ARCHITECTURAL RATIONAL UNDERPINNING BLOCK D HEIGHT

It is important to note that Section 3.2.1 of the *Sandyford Urban Framework Plan 2016* states that:

*'There is a presumption that development shall be constructed to the building height limits. However, it is essential that a building makes a positive contribution to the built form of the area and shall have particular regard to the need to minimise adverse impact on residential properties. Building height shall therefore, be determined by how it responds to its surrounding environment and be informed by:*

- *Location;*
- *The function of the building in informing the streetscape;*
- *Impact on open space and public realm, in particular shadow impact;*
- *Impact on adjoining properties; and*
- *Views into the area.'* [Our Emphasis].

Therefore, it is clear that the policy is seeking that the building height parameters set out in the SUFP are responded to but the policy further acknowledges that most importantly building height should be informed by its context and relationships (rather than a blanket approach to heights) with the focus being on providing a positive contribution to the built form of the area.

The Architect's Design Statement prepared by Henry J Lyons Architects details the rationale for increasing the height of Block D from an urban design perspective with key points abstracted below:

- Block D is located at an ideal spot for height at the intersection of two wide urban arteries and diagonally across the Stillorgan Luas stop, acting as an urban marker from different directions, reinforcing and contributing to a sense of place-making.
- Block D indicates the gateway to the residential quarter and the location of the transport interchange.
- At the end of Raphaela's Road it boldly announces the Sandyford Urban District as a modern, contemporary neighbourhood on approach from Stillorgan.
- It provides a focal point of urban activity at the end of the pedestrian link from Carmanhall Road / Corrig Road, assisting in the wayfinding strategy to mark the location of the transport interchange.
- The proposed block D height complements and re-signifies the unfinished Sentinel building. While still lower than the Sentinel, these "twin beacons" at either end of the pedestrian Boulevard mark the start and the end of the pedestrian journey to and from the Luas stop.
- The established context height including existing and proposed 14-storey buildings in the immediate vicinity would see a similar structure blend with in the background, losing an opportunity to make a bold statement to the Sandyford skyline.

- A 14 No. storey option analysed at early design stages was considered to be overly monotonous in height across the scheme, failing to avail of the opportunity to appropriately announce the main access point to the urban quarter.
- The addition of a communal rooftop multifunction room adds architectural interest to block D, reinforcing its urban presence in its most visible corner and provides panoramic views towards the Irish Sea and Dublin Mountains

The design team fully considered the provision of a 14 storey building at Block D to provide a building that was fully compliant with the *Sandyford Urban Framework Plan 2016*. However, it was considered that such a structure would have ignored the opportunity created by the context and positioning of Block D to add architectural interest to the scheme, improve views into the area and create a strong architectural presence to announce the development and wider urban block from the transport interchange.

## 6.0 CONCLUSION

According to Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, An Bord Pleanála may grant permission for a Strategic Housing Development where national policy takes precedence over the objectives of the Development Plan as prescribed in Section 37 (2)(b) of the *Planning and Development Act (as amended)*.

As noted throughout this Material Contravention Statement, the *Sandyford Urban Framework Plan 2016* (included as Appendix 15 to the *Dún Laoghaire - Rathdown Development Plan 2016 – 2022*) includes Policy 'SUPF 3' which states that '*it is Council policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3*'.

It is our professional planning opinion that as the *Sandyford Urban Framework Plan 2016* was prepared prior to the adoption and progression of national policy, the subsequent *Ireland 2040- National Planning Framework*, the *Urban Development and Building Heights Guidelines for Planning Authorities 2018* and the *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2018* take precedence over local level objectives. The proposed scheme is considered to represent a material contravention to the *Sandyford Urban Framework Plan 2016* with regard to height however it is our professional planning opinion that the increased height and associated density proposed as part of the subject scheme represents the principles of proper planning and sustainable development and is fully in accordance with National Policy which seeks to increase height and density in appropriate core urban areas.

An Bord Pleanála and Planning Authorities must have regard to the National Guidelines and and we note with particular reference to the Specific Planning Policy Requirements (SPPRs) set out in the *Urban Development and Building Heights Guidelines for Planning Authorities 2018*, these elements are mandatory. SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore the imposition of the height restriction at the subject site would be contrary to SPPR 1.

The subject site is suitably located to accommodate additional height in line with National Policy due to its central and accessible location (as set out in the *Apartment Guidelines, 2018*) in close proximity to numerous substantial employers located within easy walking and cycling distance from the site and within reasonable walking distance of the Luas of high capacity urban public transport stops. The design development of the building duly considered a building with a height of 14 No. storeys but this was ruled out as its monotonous presentation was not considered to provide an appropriate contextual response to the receiving environment.

Having regard to the reasons set out in this Material Contravention Statement for increased height it is our professional planning opinion that An Bord Pleanála should be favorably disposed to granting permission for the subject scheme in accordance with Section 37 (2)(b) of the *Planning and Development Act, 2000 (as amended)*.

