

STRATEGIC HOUSING DEVELOPMENT
PLANNING APPLICATION
MATERIAL CONTRAVENTION STATEMENT
FOR ALTERATIONS TO SHORELINE GA01
LANDS AT BALDOYLE, DUBLIN 13

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**Brady Shipman
Martin**

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The Shoreline Partnership

DATE
June 2021

SHORELINE GA01 LANDS BALDOYLE SHD

Material Contravention Statement

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1 INTRODUCTION

This document seeks to address the issue of material contraventions of the Fingal County Development Plan 2017-2023 (Development Plan), and the Baldoyle-Stapolin Local Area Plan 2013 (Local Area Plan), as extended, as required under Section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016. This Statement provides a rationale for An Bord Pleanála, as the consenting authority, to conclude that there is justification for material contravention in relation to Section 12.10 of the Development Plan and Sections 4D.2 and 4D.4 of the Local Area Plan.

Section 9 (6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 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 having regard to the considerations specified in section 37(2)(b) of the Act of 2000.

The subject site is located at Baldoyle-Stapolin, Dublin 13 approximately 10km north east of the city centre. While the site is on the edge of the urban extent of Dublin City it is within the administrative area of Fingal County Council (FCC) adjacent to the Dublin City Council administrative boundary at Clongriffin to the west.

The proposed development will consist of alterations to the permitted development, as permitted under FCC Reg. Ref. 16A/0412, ABP Reg. Ref. ABP-248970 (as amended by F20A/0258 and F21A/0046) of 544 no. residential units (385 no. apartments and 159 no. houses), retail and a crèche, to the development of 882 no. new residential dwellings (747 no. apartments, 135 no. houses), residential tenant amenity, retail, crèche, parking, and public realm, over a total site area of c. 9.1 ha, and site development area of c. 8.89 ha. Landscaping will include extensive communal amenity areas, and significant public open space provision. A full description is set out in the Statutory Notices.

This Statement provides a justification for the proposed material contraventions of the above referenced statutory planning documents, in relation to the Local Area Plan: (i) building height, (ii) density; and in relation to the Development Plan (iii) parking provision.

(i) Building height

- Section 4D.4 of the Local Area Plan identifies building heights for the Local Area Plan (LAP) lands and identifies building heights in the range of 2-5 storeys with 'punctuation nodes' for development in this location. The *Urban Development and Building Heights – Guidelines for Planning Authorities* (December 2018) establish the principle for the re-examination of height limits and should be considered over the Local Area Plan height limits on a site specific contextual basis.

(ii) Density

- Section 4D.2 of the Local Area Plan sets out a general minimum net density of 35-50 units / ha across the entire site of the Local Area Plan. The *Sustainable Urban Housing, Design Standards for New Apartments* (2020) establish the principle for the re-examination of density and should be considered over the Local Area Plan densities on a site specific contextual basis.

(iii) Parking Provision

- Section 12.10 of the Development Plan identifies parking standards for residential development. The *Sustainable Urban Housing, Design Standards for New Apartments* (2020) establish the principle for the re-examination of car parking provision and should be considered over the Development Plan parking standards on a site specific contextual basis.

(iv) Unit Mix

- Objective RS 2 of the Baldoyle- Stapolin LAP 2013 states that *'no more than 5% of units in any application or over the whole development, shall be one bedroom units'*. *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities'* (December 2020) contains SPPRs in relation to dwelling mix requirements, SPPR 1 of which takes precedence over any conflicting policies and objectives of Development Plans.

It is considered therefore, as is set out in this report and the supporting planning application documentation, that sufficient justification exists for An Bord Pleanála to grant permission for the proposed development notwithstanding the proposed material contraventions of the Local Area Plan in relation to height density and unit mix, and the proposed material contravention of the Fingal County Development Plan in relation to parking provision, having regard to the considerations specified in section 37(2)(b) of the Act of 2000

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

Under Section 8(1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement:

“(I) *setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and*

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

Section 9 (6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 confirms that An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan or Local Area 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*** [Our Emphasis]

The proposed material contravention relates only to building height, density, and parking provision, as the zoning of the site permits residential development and associated Local Centre land uses. There is no material contravention in relation to the zoning of the land, which is for residential use.

3 PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

As outlined in Section 2 above, the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended) sets out at Section 9 (6)(c), that ‘*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 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) 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]*

It follows from the foregoing that it must be established that the proposed development is of “strategic” or “national importance” and that one of the other criteria under (ii), (iii) or (iv) are met. It is considered, in the case of this development that the scheme can be considered under Criteria (iii) and (iv).

The Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) state that the Specific Planning Policy Requirements (SPPR) contained within the Guidance document take precedence over the Development Plan. In this case, 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 a restriction at the subject site would be contrary to SPPR 1. This sets the basis for An Bord Pleanála to consider the proposed development and the proposed heights in respect of the guidance set out in the Guidelines and in particular SPPR3, as set out in Section 5.2.4 below.

Equally the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020) contains SPPRs in relation

to dwelling mix requirements, SPPR 1 and SPPR 8 (i), which takes precedence over any conflicting policies and objectives of Development Plans.

As set out in the following sections of this Statement, the proposed site is considered in light of relevant National Policy and Section 28 Guidelines and is considered to comply with the requirements of both the Guidelines and Section 37 (2) of the Planning and Development Act 2000, and as such An Bord Pleanála should grant permission even if it is of the view that a material contravention has occurred.

4 SITE CONTEXT

The subject site is located at Baldoyle-Stapolin, Dublin 13 approximately 10km north east of the city centre. While the site is on the edge of the urban extent of Dublin City it is within the administrative area of Fingal County Council (FCC) adjacent to the Dublin City Council administrative boundary at Clongriffin to the west.

The subject lands are primarily undeveloped, with the exception of a network of access roads traversing the lands. The majority of the lands are subject to a current planning permission for extensive development.

The lands are bound by the Dublin-Belfast / DART train line to the west. The site is also bound by existing residential areas to the south and east, referred to as Myrtle and the Red Arches respectively. Immediately north and east are future Growth Areas of the Local Area Plan, specifically Growth Area 2 and Growth Area 3. Further to the north and north east is an area designated as 'high amenity' comprising partially of agricultural fields and areas associated with the Baldoyle Estuary. FCC will deliver 'Baldoyle Racecourse' Regional Park as part of Development Plan and Local Area Plan objectives at this location. The Baldoyle Estuary is further east beyond the R106 Coast Road.



Figure 4.1: subject site in the local context with wider land holding in context (Source: Google Maps, 2021).



Figure 4.2: subject site in the wider urban context (Source: Google Maps, 2021).

5 JUSTIFICATION FOR MATERIAL CONTRAVENTION

5.1 Proposed Material Contraventions

The alteration permission to the development as proposed is considered to materially contravene the following plans:

- Baldoyle- Stapolin Local Area Plan (LAP) 2013 with regards to height and density parameters set out in the Plan.
- Fingal County Development Plan 2107-2023 with regard to parking provision for apartments as set out.

In respect of the proposed height and density of the development whereby a number of the proposed residential blocks exceed the specific height limitations as set out in Section 4D.4 of the Local Area Plan, and the overall density exceeds the specific densities set out in Section 4D.2 of this LAP, and similarly in respect of the proposed parking provision which reduces parking over that set out in the Fingal Development Plan at Section 12.10, Section 37(2)(b)(iii) of the Act of 2000 is relevant.

As this Statement demonstrates, the proposed development is consistent with the relevant national planning policies, regional spatial and economic strategy and Section 28 guidelines, including the National Planning Framework (2018), the Urban Development & Building Height Guidelines (December, 2018) and the *Sustainable Urban Housing, Design Standards for New Apartments* (2020).

5.1.1 Height

The Local Area Plan Height Strategy, in Section 4D.4, identifies a range of upper limits for building heights with opportunity for ‘Punctuation Nodes’ of increased height, for residential development in this location. However it is submitted that the rationale for increased height at this location goes beyond the specific height limits set out in the LAP and should be considered in the context of the wider government policies and guidance, and the site context. The *Urban Development and Building Heights* Guidelines establish the principle for the re-examination of height limits and should now be considered over the LAP height limits on a site specific contextual basis.

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

To implement these objectives the Guidelines include a number of Specific Planning Policy Requirements (SPPRs). SPPR1 is of particular relevance stating:

*SPPR1: 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].*

The below table outlines a breakdown of the proposed building heights within the proposed development by block and considers them against the LAP heights:

Block	Proposed Storeys	Local Area Plan Limits	Above LAP Height Limits
A1	6-8	3-5*	✓
A2	4-7	3-5	✓
A3	4-7	2-5	✓
B1	3-5	3-4	X
B2	3-5	3-4	X
B3	2*	2-4	X
B4	2	2-4*	X
C1	2	2-4	X
C1A	4-6	2-4	✓
C2	2-3	2-4*	X
C2A	4-5	2-4	✓
C3	2-3	2-4	X
D1	6-9	3-6	✓
D2	6-8	3-5	✓
D3	5-15	3-5	✓

*Punctuation Node



Figure 4.1: Proposed height strategy for lands at GA01. (Source: HJL, 2021).

While the proposed development incorporates buildings with a range of heights, the maximum heights on some of the blocks (as identified above) exceed the height limits for residential development as set out in the Baldoyle-Stapolin LAP, as per Fig. 4D.2 Building Heights (see below).



Figure 4.2: Baldoye Stapolin LAP Building Heights Fig. 4D.2 (Source: FCC)

It is acknowledged that any development above the LAP heights as set out above, may be considered to be a material contravention. The proposed development includes for blocks A1, A2, A3, C1a, C2a, D1, D2, D3, that exceed the height limits as set out in the Local Area Plan.

The proposed development, in exceeding the height limit as set out in the Local Area Plan, and responding to the *Urban Development & Building Height Guidelines*, achieves a significant quantum of residential development on a strategically located site in Dublin, proximate to a high quality public transport route.

It is considered that as such numerical heights, such as those set out in the Local Area Plan, should not apply and the site should be considered on a site specific basis. This is considered in detail in Section 5.2.4 which considers the proposed development, and its increased heights, against the objectives of the Guidelines and in particular against SPPR3.

The Guidelines identify that areas that should be considered for increased height include:

- *Proximity to high quality public transport connectivity, particularly key public transport interchanges or nodes;*
 - The proposed development is located immediately adjacent to Clongriffin Dart Station and provides direct linkage to it.

- *The potential contribution of locations to the development of new homes, economic growth and regeneration in line with the compact urban growth principles as set out in the National Planning Framework and Project Ireland- 2040;*
 - The subject lands are zoned residential development. The emphasis of the Development Plan is to continue to consolidate the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.
- *The resilience of locations from a public access and egress perspective in the event of major weather or emergency or other incidents;*
 - The lands are readily accessible connecting back to adjacent neighbourhoods through a network of roads and pathways, in addition to the DART rail line.
- *The ecological and environmental sensitivities of the receiving environment; and*
 - The residentially zoned lands subject of this proposal sit within a context of established and emerging residential neighbourhoods, and have been assessed within this application through an EIAR and NIS.
- *The visual, functional, environmental and cumulative impacts of increased building height.*
 - This site is considered in the context of relevant nearby precedent development which exceeds height guidelines and has been recently granted permission for development, as set out further in Section 5.2.6 of this Statement, as addressed in the LVIA Chapter of the EIAR.

5.1.2 Density

With regards to density, the LAP in Section 4D.2 sets out a general minimum net density of **35-50 units / ha across the entire site**, subject to appropriate design and amenity standards in the LAP area. A Preferred Density strategy is set out in Figure 4D.1 of the LAP where density varies between medium and higher density, within a range of 38-80+ units/hectare. The subject application seeks a density of 99 units/ha overall.

Density is a key consideration within this development strategy, and was specifically raised by An Bord Pleanála in their Pre-Application Opinion. The proposed density of 99 u/ha is of an appropriate scale and form which responds to existing housing and the emerging development of the area. The LAP states that lower density area dwellings will predominantly consist of semi-detached and terraced houses, while in higher density areas there will be a larger proportion of townhouse, duplex and apartment units.

The below table outlines a breakdown of the proposed densities within the proposed development by block and considers them against the LAP densities:

Block	Proposed Density	Local Area Plan Densities	Above LAP Densities
A	180	50-80+	X
B	49	38-42	✓
C	57	38-42	✓
D	180	50-80+	X

Objective RS 6 of the LAP states: *Achieve a residential density in keeping with a compact urban form which reflects the character and function of the locality, having regard to the need to make the most efficient use of land and transport investment.*

As outlined in the table above the proposed alterations to the permitted scheme results in an general increase in density, in line with the LAP Densities, with the exception of the B and C Blocks which, with a proposed density of 49 and 57, are above the LAP Densities for this area of the site of 38-42 units per hectare.

Both the A and C Blocks are considered to be in line with the LAP, given the LAP for these areas, indicates a density of 50-80+, noting the + symbol which essentially permits density above the 50-80 and the density in these blocks is 180.

The LAP states that it is crucial that the LAP: *avoids the characteristics of a large suburban housing estate and instead continues the creation of an urban place, taking its cue from development already completed.*

Objective RS 6 *Achieve a residential density in keeping with a compact urban form which reflects the character and function of the locality, having regard to the need to make the most efficient use of land and transport investment.*

Objective RS 7 *Seek to achieve the densities provided for in the Preferred Density Masterplan Figure 4D.1 in order to ensure the population catchment and critical mass necessary to support more services, justify existing and future investment in high quality public transport and community facilities and to generate the conditions for lively streets and open spaces. In any event, a minimum of 38 dwellings per hectare (net density) shall be required in each residential block.*

Objective RS 8 *Require, generally, a minimum net residential density of 50 units per hectare within the proposed village centre and along the northern boundary with Racecourse Park subject to appropriate design and amenity standards. This will be reflected within the village centre by the provision of between 120 – 190 residential units.*

Objective RS 9 *Ensure the development of sustainable residential communities through the promotion of innovative, high quality building design and layouts*

that prioritise non-car based movement and provide for a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities.

Within the Fingal Development Plan, the emphasis is to continue to consolidate the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.



Figure 4.3: Baldoye Stapolin LAP Preferred Density Masterplan Fig. 4D.1 (Source: FCC, 2019.)

We note, Objective SS01 aims to: *Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance.*

The development strategy for the subject lands seeks to utilise existing infrastructure such as roads and public transport in an area which has been designated to be consolidated within Dublin's North Fringe.

Baldoye is considered a 'Consolidation Areas within the Gateway' as per Fingal's Core Strategy and Settlement Strategy policy. The policy approach in these areas is *'to gain maximum benefit from existing transport, social, and community infrastructure through the continued consolidation of the city and its suburbs.*

Future development will happen in a planned and efficient manner utilising opportunities to achieve increased densities where appropriate.’ [Our emphasis.]

Further Objective SS16 seeks to: *Examine the possibility of achieving higher densities in urban areas adjoining Dublin City where such an approach would be in keeping with the character and form of existing residential communities, or would otherwise be appropriate in the context of the site.*

5.1.3 Car Parking Provision

The *Urban Development and Building Height Guidelines* seek to minimise car-parking in accessible locations and to maximise a modal shift to public transport due to proximity to public transport routes, in particular the DART and Dublin Bus at this location.

Car parking provision for the house units is in line with the FCC Requirement of 2 spaces per unit while the parking provision for apartment units are in line with Government Guidelines as per *Sustainable Urban Housing, Design Standards for New Apartment (2020)*.

The proposed development provides for 711 no. residents’ car parking spaces associated with the 882 no. residential units (an overall provision of 0.54 no. spaces per unit for the apartments units, and 2 no. spaces per unit for the houses). This includes for 74 no. parking spaces for visitor use.

In addition high-quality cycle parking and associated facilities are provided in the proposed development with a total of 1,617 provided. Residents parking is provided in secure locations in addition to visitor spaces located throughout the landscaped open space in the scheme providing easy access for visitors to apartment occupiers. Bicycle parking provision is also in line with Government Guidelines as set out above, exceeding Fingal Development Plan requirements.

The proposed residential development will promote sustainable travel patterns due to its location, layout, design and proximity to the public transport and cycle networks. These will be complemented with a Mobility Management Plan and the appointment of a Mobility Manager to promote sustainable travel patterns by residents.

The proposed residential development is located such that it will not have any traffic impact on the existing residential development in the area. The access and internal layout is designed in accordance with DMURS and includes for good permeability and will promote and facilitate sustainable travel patterns as part of the overall development.

5.1.4 Unit Mix

Objective RS2 of the Baldoyle-Stapolin LAP 2013 sets out the requirements in relation the mix of dwellings provided as part of new developments, stating: -

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Ensure that one bedroom dwellings are kept to a minimum within the development and are provided only to facilitate choice for the homebuyer. In any event, no more than 5% of units in any application or over the whole development, shall be one bedroom units.

The unit mix proposed as part of this alteration application is as follows:

Apartments:

- | | |
|-----------|-----|
| • Studios | 5 % |
| • 1 beds | 28% |
| • 2 beds | 59% |
| • 3 beds | 8 % |

Total Development Mix:

- | | |
|-----------|-----|
| • Studios | 4 % |
| • 1 beds | 24% |
| • 2 beds | 50% |
| • 3 beds | 18% |
| • 4 beds | 4 % |

We note however that ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020) contains a “Specific Planning Policy Requirement” in relation to dwelling mix requirements, SPPR 1 , which takes precedence over any conflicting policies and objectives of Development Plans or Local Area Plans.

SPPR 1 of the Apartment Guidelines (2020), states as follows:

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

As such, given the proposed alteration application is subject to the provisions of the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020)* the scheme is compliant with SPPR 1 as required taking precedence over the Local Area Plan and as such the inclusion of 28% of 1-bed apartments or 24% 1 beds as part of the overall scheme mix is acceptable.

5.2 Context for Material Contraventions

The following sections set out the context for the justification of the scheme in terms of meeting the requirements of Section 37 (2) (b) (i) and (iii) and (iv) by considering the proposed scheme in the context of both National and Local Planning Policy and Guidelines.

5.2.1 Rebuilding Ireland – Action Plan for Housing and Homelessness

Rebuilding Ireland is the Government's Action Plan for Housing and Homelessness, launched in 2016. The Plan's aim is to accelerate housing supply by addressing the needs of homeless people and families in emergency accommodation, accelerate the provision of social housing, deliver more housing, utilise vacant homes and improve the rental sector.

Under the Rebuilding Ireland Programme, Local Infrastructure Housing Activation Fund (LIHAF), of €6.1 million, has been allocated to Fingal County Council in respect of Baldoyle & Stapolin. The Local Infrastructure Housing Activation Fund (LIHAF) is a key element of Pillar 3 of Rebuilding Ireland: An Action Plan for Housing & Homelessness. The objective of the fund is to provide public off-site infrastructure to relieve critical infrastructure blockages. This will enable the accelerated delivery of housing on key development sites in Dublin and in urban areas of high demand for housing.

In respect of Baldoyle-Stapolin the LIHAF descriptions states:

*This is a **Major Urban Housing Development Site**. This proposal includes four elements and will release lands identified in the Baldoyle Local Area Plan 2013 for the delivery of approximately 800 residential units. The proposal includes a Ramp to provide pedestrian and cyclist access to Clongriffin Train Station & attenuation areas (constructed wetland), a regional park and a 'Hole in Wall' staggered junction upgrade works which facilitates the full delivery potential for housing in the Stapolin LAP lands, Portmarnock LAP lands & wider North City Fringe area.*

This proposal includes four elements and will release lands identified in the Baldoyle Local Area Plan 2013 for the delivery of approximately 800 residential units.

The proposed public infrastructure included in this funding include key elements of the permitted development, which this alteration application seeks to further optimise:-

- A ramp to provide pedestrian and cyclist access to Clongriffin TrainStation
- Attenuation areas (constructed wetland),
- A regional park
- 'Hole in Wall' staggered junction upgrade works.

Given the importance of the LIHAF Funding which identifies these lands a Major Urban Housing Development Site [their emphasis] it is considered that this is a strategic project of national importance.

5.2.2 National Planning Framework

The National Planning Framework (NPF) identifies that by 2040 it is expected that an additional one million people will live in Ireland, and an additional two-thirds of a million people will work here. These are huge increases: more people will be travelling to work, school and universities, more buildings will be needed to accommodate them, clean water will be needed for homes, farms and industry, more and better care facilities will be required for the elderly.

One of the key objectives of the NPF relates to compact growth. The plan seeks to carefully manage the sustainable growth of compact cities, towns and villages and to add value and create more attractive places in which people can live and work. The NPF identifies that activating '*strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development*' as a top priority.

With regards to Dublin the NPF identifies that the city needs to '*accommodate a greater proportion of the growth it generates within its metropolitan boundaries and to offer improved housing choice*'.

National Policy Objective 4 in this regards states:

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

National Policy Objective 11 in this regards states:

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

National Policy Objective 13 in this regards states:

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.

The NPF requires homes to be located in places that can support sustainable development. This includes places that are accessible to a range of local services, can encourage the use of public transport, walking and cycling, and help tackle climate change. The proposed development is also responding to the existing strong demand in the area and in a location that is highly accessible to both existing local facilities and public transport routes to the City Centre and as such development as proposed with height and density in exceedance of the Local Area Plan.

5.2.3 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

The aim of these guidelines is to set out the key planning principles which should guide the delivery of residential development in urban areas. The Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the Guidelines are accompanied by a Design Manual discussed in the section below which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.

The Guidelines reinforce that planning authorities ‘*should promote increased residential densities in appropriate locations, including city and larger town centres*’ and that ‘*firm emphasis must be placed by planning authorities on the importance of qualitative standards in relation to design and layout in order to ensure that the highest quality of residential environment is achieved*’.

These qualitative standards have been brought through in the Design Manual as referenced above, the County Development Plan and in the Sustainable Urban Housing: Design Standards for New Apartments which have guided the design approach of the scheme. This is set out in detail in the accompanying Design Statement prepared by HJL Architects.

In identifying appropriate locations for increased density the Guidelines note that City and town centres offer ‘*the greatest potential for the creation of sustainable*

patterns of development' and of which in particular brownfield sites should be promoted.

Having regard to the above the Core Strategy of the Development Plan promotes the continued consolidation of the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.

To maximise the return on public transport investment the Guidelines identify that it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities – on lands within existing or planned transport corridors- this includes 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.

This underutilised residentially zoned site is located adjacent an existing DART station, bus route, and will be serviced in the future by an upgraded BusConnects route.



Fig. 5.1: Local Public Transport Connections, Source: CS Traffic Impact Assessment Report (submitted with this application)

5.2.4 Sustainable Urban Housing: Design Standards for New Apartments (2020)

The Sustainable Urban Housing Design Standards for New Apartments were approved by the Minister for Housing, Planning and Local Government and published in March 2018, and recently updated in December 2020 (in respect of Shared Accommodation only). The guidelines update previous guidance from 2015 and note that this is done so *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, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.*

The Guidelines note that the NPF projects a need for a minimum of 550,000 new homes, at least half of which are targeted for provision in Ireland's five cities and of particular relevance to this site it notes a shift in Government policy towards securing more compact and sustainable urban development, to enable people to live nearer to where jobs and services are located, which requires at least half of new homes within Ireland's cities to be provided within the current built-up area of each, i.e. on sites within the existing urban 'envelope'.

The Guidelines have been updated, from the previous 2015 Guidelines, to amend and address new areas including:

- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;
- Make better provision for building refurbishment and small-scale urban infill schemes;
- Address the emerging 'build to rent' and 'shared accommodation' sectors; and
- Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.

The subject site represents a significant development on highly accessible residentially zoned lands at the Northern Fringe of Dublin City and as such represents a project that is fully supported by these Guidelines.

The Guidelines identify Central/Accessible Urban Locations which are suited to higher density development. The subject site falls within this category as it is a '*Site within reasonable walking distance to/from high capacity urban public transport stops*'. As highlighted elsewhere in this Report it is anticipated that Clongriffin will be served by Bus connects Core Route Corridor.

Another key update in the 2020 Guidelines is the ability to reduce car parking standards. The Guidelines identify that *'in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances'*.

The scheme as proposed includes for car parking at a rate of 0.54 per unit for apartments which is justified given the site's accessibility to public transport and employment zones.

With regards to cycle parking, the proposed scheme exceeds the standards as set out in the Fingal County Development Plan and is in line with Section 4.15 of the Guidelines as this is a suggested standard and not an SPPR. The Transport Impact Assessment provides a justification for this level of cycle parking.

5.2.5 Urban Development & Building Heights Guidelines for Planning Authorities (2018)

The *Urban Development & Building Heights Guidelines for Planning Authorities* identify that as reflected in *'the National Planning Framework 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'* and that *'securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities'*.

The Guidelines reference NPO 13 (from the NPF) which 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'*.

The Guidelines recognise that in meeting the challenge set out above, new approaches to urban planning and development are required and that securing an effective mix of uses within urban centres is critical. The overall objective of the Guidelines is to give tangible effect to government policy which supports increased building height and density in locations with good public transport accessibility. The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out

and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála.

As such the proposed scheme, as set out in this SHD Application to An Bord Pleanála, has set out to achieve greater height and density above current Development Plan / Local Area Plan height strategy. The site's suitability for this approach is further set out below, as considered against the Guidelines and in its design approach as set out in the HJL Architecture Design Statement that accompanies this application.

This is considered with regards to the subject site below.

Site Location

The *Urban Development and Building Heights* Guidelines identify that '*locations with the potential for comprehensive urban development or redevelopment (e.g. brownfield former industrial districts, dockland locations, etc) should be identified where, for example, a cluster of higher buildings can be accommodated as a new neighbourhood or urban district or precinct.*'

The subject site, at a size of c. 8.89 ha development area, is residentially zoned lands, which given its scale, can accommodate elements of increased height. The approach to the site has been to provide a height strategy which responds to the existing and emerging context, and using height as a way of both meeting existing scale considerations, and as a landmark to the central point of the scheme.

The proposed development seeks a general uplift on the heights set out in the Local Area Plan, primarily relating to the proposed apartment development at Stapolin Square. Here, general heights in the order of 4-8 storeys are proposed, with a 9-storey building proposed proximate to Clongriffin Station, and a 15-storey building proposed at the prominent junction of Stapolin Square and Longfield Road, creating a marker building at the entrance to the public plaza proposed at Stapolin Square.

The Guidelines reference '*a cluster of higher buildings can be accommodated as a new neighbourhood or urban district*'. This site at Baldoyle-Stapolin adjacent to Clongriffin Dart Station, can be considered in this regard with other permitted large scale development nearby at Clongriffin, west of the rail line.

Additionally the Guidelines identify that areas that should be considered include:

- *Proximity to high quality public transport connectivity, particularly key public transport interchanges or nodes;*
- *The potential contribution of locations to the development of new homes, economic growth and regeneration in line with the compact urban growth principles as set out in the National Planning Framework and Project Ireland- 2040;*

- *The resilience of locations from a public access and egress perspective in the event of major weather or emergency or other incidents;*
- *The ecological and environmental sensitivities of the receiving environment; and*
- *The visual, functional, environmental and cumulative impacts of increased building height.*

Site Context

The subject lands are located immediately adjacent to a high frequency public transport rail station providing direct connection into Dublin City and onwards to the wider Dublin Area. Clongriffin is also served by Dublin Bus No. 15. It is also planned that Clongriffin will be served by a future upgraded BusConnects route (Core Bus Corridor Route No. 1¹).

The site is within short walking distance of the Baldoyle Industrial Estate providing a large amount of employment and commercial activity and proximate to Dublin Airport.

As discussed in Section 5.2.6 of this Report, the recently permitted Clongriffin SHD applications serve to inform the scale of the proposed development. The proposed development will provide a transition between the existing residential areas to the south and east, and the large scale permitted development to the west at Clongriffin. As such the proposal responds to the site's context and scale ensuring no negative impacts on existing or future residents.

This proposed development, in combination with the recent Planning Application Consultation Request (ABP-308743-20) and forthcoming Planning Applications relating to the remainder of the lands in the ownership of the Applicant (GA03), considers the wider landholding as a whole. The height strategy has been prepared in such a way that allows a comprehensive response to the site and its context (see enclosed HJL Architects Design Statement).

Development Management Principles and Criteria

Section 3.2 of the *Urban Development & Building Heights* Guidelines provides guidance for Planning Authorities/An Bord Pleanála in considering development proposals for buildings taller than prevailing building heights in pursuit of the Guidelines.

¹ <https://busconnects.ie/media/1816/01-clongriffin-to-city-centre-preferred-route-180220-fa-web.pdf>

These are considered, in relation to the proposed development, as follows:

Baldoyle Scheme	
Principles	
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?	Yes, the scheme provides for a high quality residential development on a site zoned for residential use, subject to a LAP and proximate to high frequency public transport. The scheme, as altered, delivers 882 residential units, an increase of 437 over the existing permitted scheme in addition to other retail, amenities for the local residents including gym and medical uses.
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?	Yes- the proposed development is fully in line with Development Plan and Local Area Plan objectives for the delivery of residential development on these lands, with the exception of Local Area Plan objectives in relation to height and density, and with Fingal Development Plan in respect of parking provision, which are clearly set out in this Report.
Where the relevant development plan, local area plan or planning scheme 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	Yes, the Local Area Plan was adopted prior to the publication of the Urban Development & Building Height Guidelines and as such, sets numerical height caps now which the Guidelines are superseded by these Guidelines recommend against the inclusion of, and permits the consideration of proposed schemes against criteria set out in SPPR3. However the subject site is located within an area identified for consolidation as it is within the urban extent of Dublin but is restricted currently in relation to height. These objectives are evident in the NPF, RSES and Fingal Development Plan.
Criteria	
City/Town Scale	
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport	Yes, the site at Baldoyle is in a highly accessible location, immediately adjacent to an existing rail station, at just 200m walking distance to an existing bus route and will be serviced in the future by an upgraded BusConnects route.

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.	<p>The scheme has been prepared as part of a wider strategy for the landholding. This strategy responds to the local context providing a coherent strategy and response to the setting and key sensitivities.</p> <p>A Landscape and Visual Assessment has been prepared by Chris Kennett at Kennett Consulting Ltd. and forms part of the EIAR enclosed with this Planning Application.</p>
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.	<p>As outlined above the approach to height both responds to the existing context and provides for a new context in appropriate areas of the site. This approach is achievable on this site due to the scale of this site and a comprehensive response to the landholding. It integrates with both existing and permitted developments. The streetscape and buildings have been arranged to enhance the sense of connection to the village centre and the surrounding parks.</p>
District/ Neighbourhood/ Street Scale	
The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape	<p>Yes, it is considered that this proposed scheme contributes in both placemaking and to the wider neighbourhood of Baldoyle and Clongriffin.</p> <p>The scheme is creating the eastern side of the new urban centre at the North Fringe. In addition to the high quality residential uses and the extensive public open space, the scheme includes medical services, café, gym and retail uses which will contribute to the locality.</p>
The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.	<p>The proposed development incorporates a variety of building forms, heights, and façade treatments, creating diversity yet presenting a unified approach to built form at this location, ensuring a variety in appearance within the streetscape.</p>
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	<p>It is considered that this proposed scheme contributes in both placemaking and to the wider neighbourhood of Baldoyle and Clongriffin. The additional height is appropriately located on the site at Stapolin Square acting as a key landmark within the site. The sense of</p>

while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).	enclosure created is in proportion to the streets and open spaces.
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 proposed development includes a carefully considered movement strategy. This includes a series of new roads, footpaths and cycle paths through the site. Thus contributing to the wider area by providing access routes to the cycle path network, the coastal route and the train station.
The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.	In keeping with the objectives and policies for the site it is proposed to provide for additional uses to meet residents’ needs. The scheme provides for both a mix of unit types and a mix of uses ensuring the community has much needed services at the local centre.
Site/Building Scale	
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.	As outlined previously the buildings range in height from 2 to 15 storeys in order to both respond to the existing context and to ensure minimal impact on daylight or sunlight quality on future residents. The design entails a variation in height and massing at key locations to ensure public and private open spaces are not compromised. Detailed analysis of this consideration have been carried out by the design team. Stapolin Square is set out in such a way to allow sunlight penetrate through voids into courtyards and reduces overshadowing to public realm due to building mass breakup. The south and east of the site in particular are low rise in nature in response to LAP strategy and existing residential properties.
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 (2 nd Edition or BS 8206-2:2008 – ‘Lighting for Buildings- Part 2: Code of Practice for Daylighting’.	A Daylight and Sunlight Report, prepared by OCSC, is included in this SHD Planning Application to An Bord Pleanála. This report considers the proposed development and considers it appropriately and reasonably against the relevant quantitative standards, providing for justification for the proposed levels of daylight and sunlight achieved. It concludes that the proposed development will be a high quality

	scheme with well-lit units and sunlight external spaces.
Specific Assessments (<i>which may be required and these may include</i>)	
Specific impact assessment of the micro-climatic effects such as downdraft. 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.	A Wind Impact Assessment, prepared by B-Fluid, is included in this Planning Application. It has been prepared as an iterative process throughout the design process identifying where any problem areas exist and what mitigation is required to address them. This mitigation has been incorporated into the architectural and landscape design as submitted.
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.	The proposed development involves the development in apartment blocks ranging in height from two-storeys to six-storeys in the vicinity of a SPA. It should be noted that the buildings are within an existing suburban environment with existing apartments (5 storeys) between the proposed development and the SPA. In addition there are 6 storey buildings to the west, in the vicinity of Clongriffin Railway Station. The proposed development is in keeping with the heights of buildings in the vicinity of the proposed development and would not generate a particular risk in relation bird or bat strikes. The buildings to be constructed of both concrete based material as well as glass and would be clearly visible to bird and bat species. During the wintering bird assessment no significant flight lines for qualifying interests of the Baldoyle SPA were observed in the vicinity of the proposed development. During the bat assessment no bats were observed on site. As a result, impacts on bats, flight lines or qualifying interests of the SPA would not be expected.
An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.	The scheme as proposed is not considered to impact any such links or channels.
An assessment that the proposal maintains safe air navigation.	As the site is not located within any identified flight paths, it is considered that safe air navigation is maintained and

	as such no assessment, as identified in SPPR3 was considered to be required.
An urban design statement including, as appropriate, impact on the historic built environment	This is considered in both the EIAR in the Cultural Heritage & Archaeology Report in respect of the built environment but also in the HJL Design Statement in regards to proposed build form and materials.
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	<p>As the site is over 500 units an EIAR accompanies this SHD Planning Application.</p> <p>Additionally an AA Screening Report and a Natura Impact Statement is included with the application.</p> <p>The proposed alterations were considered in respect of the SEA for both the LAP and the Development Plan and it was not considered to have any adverse effects.</p>

The Guidelines in relation to these state that:

Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28 (1C) of the Planning and Development Act 2000 (as amended).

SPPR 3 in this regard states:

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.*

As is outlined in this report and the other documentation accompanying this application, the subject site, is a prime example of the type of site anticipated in the Guidelines that can achieve increased building height and resulting increased density, without impacting negatively on the surrounding environment as considered against the criteria set out in SPPR3.

5.2.6 Fingal County Development Plan 2016-2022

The emphasis of the Fingal Development Plan is to continue to consolidate the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.

We note, Objective SS01 aims to: *Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance.*

The development strategy of the subject lands seeks to utilise existing infrastructure such as roads and public transport in an area which has been designated to be consolidated within Dublin's North Fringe.

Baldoyle is considered a 'Consolidation Areas within the Gateway'. The policy approach in these areas is *'to gain maximum benefit from existing transport, social, and community infrastructure through the continued consolidation of the city and its suburbs. Future development will happen in a planned and efficient manner utilising opportunities to achieve increased densities where appropriate.'* [Our emphasis.]

Further Objective SS16 aims: *Examine the possibility of achieving higher densities in urban areas adjoining Dublin City where such an approach would be in keeping with the character and form of existing residential communities, or would otherwise be appropriate in the context of the site.*

5.2.7 Clongriffin SHD Precedents

The precedent for increased height for residential development can be seen in close proximity to the subject lands. Increased residential density and height was approved by An Bord Pleanála, in the adjacent Dublin City Council area, to the west at Clongriffin under SHD Reg. Ref 305316 and SHD Reg. Ref. 305319. The subject lands share the rationale for increased residential density and height due to its excellent accessibility and the characteristics of its specific location.

An Bord Pleanála (ABP) granted both SHD applications west of the DART line on the 18th December 2019. Both applications were prepared together and formed a masterplan approach to much of the remaining undeveloped lands.

- SHD 1: primarily consisted of buildings 6-7 storeys in height but also include 17 storeys at Block 17 and 15 storeys at Block 26 of the Belmayne - Clongriffin LAP.
- SHD 2 consisted of buildings primarily 2 – 8 storeys in height.

(see Planning Report accompanying this SHD Planning Application for further detail)

Blocks 17 and 26 were significantly higher than the other permitted buildings. The LAP identifies Block 17 as a location where a higher building is desirable, although it specifies heights of between 10 and 14 storeys. Precedent for a higher building was set under ABP 248713, Reg. Ref. 3634/16 which permitted a 16 storey building with 139 apartments on this block.

In relation to Block 26 which stands at the edge of the North Fringe area beside the railway line, Mayne River and the greenbelt to the north. The Inspector states: *Its suitability for a taller building is established by its situation position beside those open lands and at the intersection of two local routes through the North Fringe: Marrsfield Avenue and Station Street. The design submitted in the current proposal for a 15 storey building there is of a sufficient quality for its prominence. It would improve the legibility of the area and establish a clear boundary with the rural lands beyond.*

The Inspector considered the proposed maximum heights (17 storeys at Block 17 and 15 storeys at Block 26) as acceptable despite contravening Section 16.7.2 of the Dublin City Development Plan and objective UD07 of the Clongriffin-Belmayne Local Area Plan 2012-2018 (extended to 2023). Further he notes the taller buildings *'would also improve the overall density of residential development in a district centre on a public transport corridor. Any contravention of the development or local area plan would therefore be justified by the guidelines on building height issued in 2018, in particular SPPR 1 and 3.'*

In summary, the Inspector stated that the contravention of the above referenced policy was justified *because of the positive contribution that the higher buildings would make to the development at a sustainable density in a district centre on a public transport corridor and to standard of urban design that would be achieved for this emerging part of the city.*

It is considered that this *'pattern of development, and permissions granted, in the area'* as per Section 37(2) (b) (iv) of the Planning and Development Act 2000 (as amended) is considered relevant in terms of consideration of the proposed alterations to the permitted scheme.

As such the proposed scheme, as set out in this SHD Planning Application to ABP, has set out to achieve greater height and density above current Development Plan and LAP permitted levels. The sites suitability for this approach is further set out below, as considered against the Guidelines and in its design approach as set out in the HJL Design Statement that accompanies this Planning Application.

6 STATEMENT IN RELATION TO MATERIAL CONTRAVENTION

It is set out in this application that the subject site is capable of readily accommodating the additional height and density as proposed here without giving rise to any significant adverse planning impacts in terms of daylight, sunlight, overlooking, visual impact or intensity of development, and with reduced parking provision as set out without compromising on residential amenity.

Notwithstanding this, it is noted that the exceedance of the Baldoyle-Stapolin Local Area Plan 2013 height, density and unit mix parameters, and reduction of parking provision as required under the Fingal County Development Plan constitutes a material contravention. As required in legislation, it is submitted that this can be justified under Section 37(2) (b) (iii) and (iv) of the Planning and Development Act 2000 (as amended) where the Board may determine under this section, to grant a permission even if the proposed development contravenes materially the LAP / Development Plan relating to the area of the planning authority to whose decision the appeal relates.

(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]*

It follows from the foregoing that it must be established that the proposed development is of “strategic” or “national importance” and that one of the other criteria under (ii), (iii) or (iv) are met. It is considered, in the case of this development that the scheme can be considered under Criteria (iii) and (iv) as set out in Section 5.

This is in line with the NPF and the recently adopted *Urban Development and Building Height Guidelines*. The realisation of the objectives of this national guidance necessitates facilitating residential development to a height greater than 3 – 5 storeys, a subsequent increase in the density of development. Greater unit mix and a reduced car parking provision for apartments. On the basis of the above provisions, we submit that the Board can grant permission for the subject development at the heights and density proposed.

Having regard to sections 37(2)(b)(i),(iii) and (iv) of the Planning and Development Act 2000 (as amended) and the following objectives with County, Regional and National guidance:

- *The objectives of Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, inc. LIHAF Funding secured under Rebuilding Ireland Infrastructure Funds for elements of the permitted development.*
- *Objectives 3a, 3b, 10, 11 and 35 of the National Planning Framework,*
- *Section 5.8 of the 2009 Guidelines for Sustainable Residential Developments in Urban Areas issued in 2009*
- *Section 2.4 and SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in December 2020.*
- *SPPR1 and SPPR3 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018,*
- *Objective RPO 4.3 of the Regional Social and Economic Strategy for the Eastern and Midlands Region 2019-2031, and*
- *Objectives SS01 and SS15 of the County Development Plan,*

All of which support denser residential development consisting of apartments on public transport corridors within the built up area of Dublin and its suburbs, as is proposed in this case. It is submitted that despite contravention of certain objectives of the Local Area Plan for the area and of Fingal County Development Plan, the proposed development is consistent with the ultimate aims and objectives of the Development Plan and wider region and national strategies and guidelines.

The proposed development is in line with the National Planning Framework, the *Urban Development & Building Heights Guidelines*, and the *Sustainable Urban Housing Design Standards for New Apartments*. The realisation of the objectives of this national guidance necessitates facilitating residential development to a

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Material Contravention Statement

height and density in appropriate locations, with corresponding parking provision. On the basis of the above provisions, we submit that the Board can grant permission for the subject development as proposed.