

# Material Contravention Statement

To accompany a planning application for

**Build to Rent (BTR)  
Residential Development**

At

**Cornelscourt Village,  
Old Bray Road,  
Cornelscourt,  
Dublin 18**

Submitted on Behalf of

**Cornel Living Limited**

**December 2021**

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## 1.0 INTRODUCTION

This statement accompanies a Planning Report and Statement of Consistency prepared to accompany an application to An Bord Pleanála for a Strategic Housing Development (SHD) made in accordance with section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended (the 2016 Act).

In summary, the proposed residential development comprises 412 no. apartment units (consisting 294 no. one-bed apartments, 111 no. two-bed apartments, and 7 no. three-bed apartment units) and 7 no. three bed house units. The proposed apartments are arranged in 5 no. Blocks which range in height from 4 no. storeys to 12 no. storeys over basement level. The proposed houses are two storey. The proposed development also provides a childcare facility (approximately 258 sqm) with capacity for in the order of 50-60 children to serve the needs of the proposed development. A café/retail unit is proposed fronting onto the Old Bray Road (total 264 sqm GFA).

This Statement has been prepared to address matters associated with the proposed development that might be construed as materially contravening relevant provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and particularly those provisions relating to building heights (Appendix 9 of the Development Plan) and car parking standards (Table 8.2.3 of the Development Plan). This statement also refers to other matters which may be considered to materially contravene the Draft Dun Laoghaire Rathdown County Development Plan 2022-2028 (the Draft Plan) on the basis that it may be adopted by the time this application is determined<sup>1</sup>.

This statement is prepared pursuant to section 8(1)(iv)(II) of the 2016 Act that that requires an application which materially contravenes a development plan or local area plan to contain a statement as to why permission should be granted by having regard 'to a consideration specified in section 37(2)(b) of the Act of 2000'.

It is noted that an element of a proposed development may contravene a policy or objective of a statutory land use plan but may not be determined to represent a 'material contravention' of the plan. This is a matter of professional planning judgement. This Statement includes a number of matters that are considered to contravene provisions of the relevant plans, primarily to comply with Ministerial Guidelines published since the adoption of the relevant plans, and could be determined to 'materially contravene' the relevant provisions of the plans. As such, an abundance of caution approach has been taken to the identification of the provisions referenced and addressed in this Statement.

This Statement provides a supporting rationale for the Board to grant permission, pursuant to its statutory powers, notwithstanding the possible material contravention of these policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and the Draft Dun Laoghaire Rathdown County

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<sup>1</sup> The Dun Laoghaire-Rathdown County Council Draft County Development Plan, 2022-2028 (the Draft Plan) went on public display on 12 January 2021. Material Amendments to the Draft Plan were put on public display on the 11 November 2021, and it is expected that a new Plan will be made January 2022. Assuming the Plan is made in January, the new Plan will have effect from a date in March 2022 and accordingly may be in place at the time of determining this application

Development Plan 2022-2028<sup>2</sup> should that plan be adopted and in effect in advance of the Board's determination of the application.

## **2.0 RELEVANT LEGISLATIVE PROVISIONS**

### **2.1 Planning and Development (Housing) and Residential Tenancies Act, 2016**

In the event that a proposed development would materially contravene the relevant provisions of a development plan or local area plan (other than in relation to the zoning of the land), Section 8(1)(iv)(II) of the 2016 Act requires that the applicant should include a statement as to why permission should nonetheless be granted having regard to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended (the 2000 Act).

Section 9(3)(b) provides that where specific planning policy requirements are contained in guidelines issued by the Minister (i.e., Section 28 Guidelines) then those requirements will apply (to the extent that they are different to any provision of the Development Plan) instead of the relevant provisions of the Development Plan.

Section 9(6) of the 2016 Act provides that, save for cases where the proposed development contravenes materially the development plan or local area plan insofar as the zoning of the land is concerned, the Board may decide to grant permission for a proposed strategic housing development on foot of an application under Section 4 even where the proposed development (or a part of it) materially contravenes the development plan or local area plan in issue. This is subject to s.9(6)(c), which provides:

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

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

### **2.2 Planning and Development Act, 2000 (as amended)**

Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) [the 2000 Act] provides that the Board might only grant permission for a material contravention where it considers that:

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

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

*(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory*

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<sup>2</sup> For the purposes of this Statement, it has been assumed that that the Material Amendments will be incorporated into the Draft Plan. Accordingly, anywhere the Draft Plan is referenced it includes all Material Amendments put on display in November 2021. For ease of reference, modifications to the original Draft Plan text have been indicated by red text.



*obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

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

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

### 3.0 PLANNING POLICY CONTEXT

The subject site is located within the administrative area of Dun Laoghaire County Council for which the current statutory plan is the **Dun Laoghaire Rathdown Development Plan 2016-2022** (the current Development Plan).

Cornelscourt is identified as a ‘Secondary Centre’ in the Development Plan Core Strategy and sits at the second tier of the settlement hierarchy below the ‘Major Centre’ settlements of Dun Laoghaire and Dundrum.

The site is predominantly zoned Objective ‘A’ ‘to protect and/or improve residential amenity’. Residential use is permitted in principle under this land use zoning. ‘Childcare Service’, ‘Shop Neighbourhood’, ‘Restaurant’, and ‘Tea Room/Café’ uses are open to consideration under the zoning.

Policy RES3 of the Development Plan seeks to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the relative national Guidance.

The Advisory Note at the beginning of Chapter 8 of the Development Plan acknowledges that the ‘Specific Planning Policy Requirements’ set out in the DoECLG ‘Sustainable Urban Housing – Design Standards for New Apartments’ 2015 take precedence over the Dún Laoghaire-Rathdown standards and guidance. Specifically, Section 8.2.3.3 (i) [Design Standards], (ii) [Dual Aspect], (v) [Internal Storage], (vii) [Minimum Apartment Floor Areas] and (viii) [Public, Communal and Private Open Spaces – Standards] are all referenced in the Advisory Note as being superseded by the 2015 Guidelines.

The 2015 Apartment Guidelines have been superseded by the standards and guidance contained in ‘*The Sustainable Urban Housing: Design Standards for New Apartments*’ 2020 (Apartment Guidelines). Accordingly, it is considered that the Development Plan clearly provides that the apartment development standards set out in Section 8.2.3.3 have been superseded by the Apartment Guidelines in so far as they relate to design standards, dual aspect, internal storage, minimum apartment floor areas and public, communal, and private open space.

The **Draft Dun Laoghaire Rathdown Development Plan 2022-2028** (the Draft Plan) went on public display on 12 January 2021 with Material Amendments published 11 November 2021, and it is anticipated that the Draft Plan may be adopted and in effect by the time that this application is determined.

The zoning context of the subject site remains consistent with the current Development Plan, with the majority of the site is zoned Objective A. Many policies and objectives of the remain consistent with the current Development Plan. However, it is noted that the Draft Plan has been updated to be consistent with

more recent national planning policy and guidance and in particular has been reviewed and updated to take into account the National Planning Framework (NPF), the Regional Spatial and Economic Strategy (RSES), the Urban Development and Building Heights – Guidelines for Planning Authorities 2018 (Building Height Guidelines) and the Apartment Guidelines.

The Draft Plan makes explicit reference to BTR schemes, such as that proposed, and Policy Objective PHP27 seeks to facilitate the provision of Build-to-Rent at suitable locations across the County and accord with the provisions of Sustainable Urban Housing: Design Standards for New Apartments 2018.

It is considered that there are two aspects of the proposed development which might be construed as materially contravening relevant provisions of the current **Development Plan**, relating to building height and car parking standards.

There are other aspects of proposed development, primarily relating to apartment development standards where there is sufficient ambiguity which may result in the Board considering aspects of the proposed development may contravene some provisions of the current Development Plan. While it is not considered that these represent a material contravention, an abundance of caution approach has been adopted in the identification of the provisions referenced and addressed in this Statement should the Board considered them to be material deviations. In summary these matters relate to apartment development standards relating to:

- Aspect
- Unit Mix;
- Storage Provision;
- Apartment Sizes/Floor Areas;
- Private Amenity Space;
- Public / Communal Open Space Provision;
- Separation Distances between Blocks;

In addition, policies of the **Draft Plan** relating car parking, separation distances and storage provision conflict with other stated policy objectives in respect of BTR schemes and compliance with the Apartment Guidelines generally.

The Development Plan and Draft Plan provisions in relation to each of these matters are outlined below.

### 3.1 Building Heights

Policy UD6 of the current **Development Plan** provides that *'it is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County'*.

The Building Height Strategy, included at Appendix 9 of the Development Plan, does not specify any maximum buildings heights. The Height Strategy identifies cumulative control areas already subject to various forms of height controls. The Strategy provides policy for the balance of the area which are considered *'residual suburban areas'* and outside the cumulative control areas. Section 4.8 of Height strategy provides that:

*'Areas covered by this policy will include, for example, the overtly suburban areas of Kilmacud, Mount Merrion, Booterstown, Ballinteer, Foxrock and so on. A general recommended height of two storeys will apply. An additional floor of occupied roofspace above this height may also be acceptable but only within the terms laid out in this document.'*

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

*This maximum height (3-4 storeys) for certain developments clearly cannot apply in every circumstance. There will be situations where a minor modification up or down in height could be considered. The factors that may allow for this are known as 'Upward or Downward Modifiers'. ..... The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two.'*

The Building Height Strategy could be interpreted to limit the development height at the subject site, which is located within an established commercial core, to a maximum of 6 no. storeys (3-4 storeys with an upward modifier of a possible 2 storeys). The proposed development provides for building heights ranging from 4 to 12 no. storeys and therefore could be considered to constitute a material contravention.

It is noted that the **Draft Plan** removes maximum building heights and moves to a performance-based approach consistent with national policy and guidance. Accordingly, it is considered that the proposed building height is not a material contravention of the Draft Plan.

These matters are dealt with and justified in detail in Section 4.2.1 of this Report.

### 3.2 Car Parking

Section 8.2.4.5 of the current **Development Plan** sets out car parking standards to provide a guide on the number of required off-street parking spaces acceptable for new development. The Development Plan provides that *'the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport'*.

Tables 8.2.3 and 8.2.4 of the Development Plan sets out parking provision for residential and non-residential development respectively and the relevant standards have been reproduced at Table 3.1 below.

**Table 3.1 Development Plan Car Parking Standards**

<b>Table 8.2.3: Residential Land Use - Car Parking Standards</b>	
<b>Land Use</b>	<b>Standards</b>
Residential Dwelling	1 space per 1-bed unit and per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location)
Apartments, Flats, Sheltered housing	1 space per 1-bed unit 1.5 spaces per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location)

**Table 8.2.4: Non Residential Land Uses Maximum Standards**

Land Use	Designated Areas Along Public Transport Corridors
Cafes, Restaurants, Fast foods (including such uses in Hotels etc.	1 space per 15 sq.m. gross floor area
Childcare Services	1 space per 1 staff member (including set down)
Retail – Food (Supermarkets)	1 space per 20 sq.m. gross floor area
Retail - Comparison	1 space per 50 sq.m. gross floor area

With regard to residential car parking standards, the Development Plan provides that 'Table 8.2.3 shall be generally regarded as 'standard' parking provision'.

Reduced car parking standards for any development (residential and non-residential) is provided for in the Development Plan and may be acceptable dependant on:

- *The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.*
- *The proximity of the proposed development to public transport.*
- *The precise nature and characteristics of the proposed development.*
- *Appropriate mix of land uses within and surrounding the proposed development.*
- *The availability of on-street parking controls in the immediate area.*
- *The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.*
- *Other agreed special circumstances where it can be justified on sustainability grounds.*

Application of the standards stated in Table 8.2.3 would result in a total parking allocation of 439 no. car parking spaces for the residential element of the proposed development.

It is noted that Table 8.2.4 provides maximum car parking standards for non-residential uses. Section 8.2.4.5 notes that the application of maximum standards for non-residential land uses to be a key measures in influencing the travel mode choice for all journeys.

The proposed development provides 238 no. car parking spaces at basement level, together with 1 no. mobility impaired space, 2 no. set down spaces and a loading bay at surface level. This quantum has been determined by reference to the car parking provisions of the Apartment Guidelines, the accessibility of the location, the nature of the proposed development, and car parking demand surveys. The proposed development provides for reduced car parking to the maximum standards provided for in the Development Plan, subject to specified criteria which have been met in the proposed development. Notwithstanding, given the Development Plan states that Table 8.2.3 represents standard parking provision for residential development, it is considered that the proposed development may represent a material contravention of the current Development Plan.

The **Draft Plan** provides a slight reduction on the car parking standards. Table 12.6 of the Development Plan sets out parking zones and standards. The subject site is located within Zone 2 on Map T2 due to its location adjacent to the N11 Quality Bus Corridor (QBC) to be replaced with CBC (Core Bus Corridor) 13 and 15. The relevant Draft Plan car parking standards are reproduced at Table 3.2 below

**Table 3.2 Draft Development Plan Car Parking Standards**

<b>Table 12.6: Car Parking Zones &amp; Standards</b>		
<b>Land Use</b>	<b>Criterion</b>	<b>Zone 2 - Standard</b>
<b>Houses:</b> 3 bed or more	Unit	2
<b>Apartments:</b> Apt 1 bed	Unit	1
Apt 2 Bed	Unit	1
Apt 3 bed +	Unit	2
<b>Childcare</b>	GFA	1 per 60
<b>Retail Conv</b> > 100sqm	GFA	1 per 40
<b>Retail Comp</b>	GFA	1 per 100
<b>Restaurant, Café, Bar, Lounge</b> > 100sqm	GFA	1 per 50

The Draft Plan provides that the standards shall apply except where reduced provision may be acceptable subject to certain criteria including proximity to public transport services, characteristics of the development, range of services available in the immediate area. The Standards provided in Table 12.6 of the Draft Plan would result in a requirement for 433 no. spaces for the residential element alone.

The Draft Plan acknowledges that reduced ranges may be provided for BTR schemes, stating that *'where a Built to Rent scheme avails of lower car parking based on the nature of the use a condition should be attached to any grant of permission to state that planning permission shall be sought for a change of tenure to another tenure model following the period specified in the covenant'*.

Material Amendments to the Draft Plan include the requirement for *'Residential developments of more than 50 units should have at least one loading bay and there shall be a ratio of not less than 1 loading bay per 100 units in larger developments. Loading bays shall be situated so as to minimise traffic hazard, reduce distance to carry goods and encourage its use for home deliveries. This standard may be relaxed if the planning authority consider it is appropriate based on the location and the nature/design of both the street and the residential development'*.

The subject site is located immediately adjacent to a high-capacity public transport corridor, within an established village with a range of services and facilities. The immediate context, allied with the BTR nature of the development, lends itself to reduced parking provision consistent with the criteria identified in the Draft Plan. Notwithstanding, it is considered the level of parking proposed is significantly below the standards stated and therefore may be considered a material contravention of the Draft Plan.

With respect to loading bays, the proposed development incorporates one loading bay proximate to the proposed retail/café use and two set down spaces proximate to the residential reception area and childcare

facility. It is considered that the quantum of loading bay/set down areas is appropriate for the nature and scale of the proposed development and are well positioned to serve the proposed development. Accordingly, it is considered appropriate circumstance for the standard to be relaxed.

These matters are dealt with and justified in detail in Section 4.2.2 of this Report.

### 3.3 Apartment Standards & BTR

As outlined above, the Advisory Note at the beginning of Chapter 8 of the current **Development Plan** acknowledges that certain apartment development standards set out in Section 8.2.3.3 have been superseded by the Apartment Guidelines in so far as they relate to design standards, dual aspect, internal storage, minimum apartment floor areas and public, communal, and private open space.

Notwithstanding, an abundance of caution approach has been adopted for this Material Contravention Statement and while many of the aspects identified in the Advisory Note are considered to be superseded by the Apartment Guidelines (marked with an \*), they have been included in this Statement in the event that the Board should consider the development to may still represent a material contravention of those standards as originally stated. Other development standards relating to unit mix, not expressly referenced in the Advisory Note, has been included also.

**Dual Aspect\*:** Section 8.2.3.3 (ii) of the Development Plan provides that all apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. The proposed development provides 54.1% dual aspect apartments, in excess of the minimum 50% requirement for suburban or intermediate locations under the Apartment Guidelines.

**Internal Storage\*:** Section 8.2.3.3 (v) relates to internal storage and requires one-bedroom units to have a minimum of 3sqm, two-bed a minimum of 7sqm and three-bed 9sqm. The minimum standards for one and three-bed units are consistent with the Apartment Guidelines, however the minimum standard for two-bed apartment is higher at 7sqm compared to the Apartment Guideline standard of 5-6sqm (3 person or 4 person unit respectively). The proposed development is consistent with the Apartment Guideline requirements for internal storage.

**Minimum Floor Areas\*:** Section 8.2.3.3 (vii) provides minimum apartment floor areas of 55sqm for a one-bed unit, 85-90sqm for a two-bed unit, and 100sqm for a three-bed unit. These standards significantly exceed the Apartment Guidelines requirements which provide minimum floor areas of 45sqm for a one-bed unit, 63-73sqm for a two-bed unit (3 person or 4 person unit respectively) and 90sqm for a three-bed unit. All apartments have been designed to meet, and generally exceed, minimum floor areas provided for in the Apartment Guidelines.

**Private Amenity Space\*:** Section 8.2.3.3 (viii) requires that each apartment shall have direct (balcony) access to its own minimum area of private open space in the form of a balcony or patio area and refers to the minimum balcony sizes provided in Table 8.2.5. Table 8.2.5 requires a minimum of 6sqm for one-bed units, 8sqm for two-bed units and 10sqm for three bed units. Again, these standards significantly exceed the Apartment Standards which provide minimum private amenity space of 4sqm for one-bed units, 6-7sqm for two-bed units (3 person or 4 person unit respectively) and 9sqm for three bed units. All apartments have been designed to meet private amenity space standards as provided for in the Apartment Guidelines, notwithstanding dispensations in the Guidelines for BTR Schemes.

**Public and Communal Open Space\*:** Section 8.2.3.3 (viii) also refers to public and communal open space, referring to the requirements of Sections 8.2.8.2 and 8.2.8.3 (and therefore reasonably considered to be

superseded by the Apartment Guidelines as per the Advisory Note). Section 8.2.8.2 states that Public/Communal Open Space shall be provided at a rate of 15 sq. m- 20 sq. m. per person (at a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms). However, of note, Section 8.2.8.3 goes on to require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space irrespective of occupancy parameters. The proposed development does not meet the occupancy parameters (equal to 12,570sqm or 58.6% of the site area) but significantly exceeds the minimum standard of 10%.

**Unit Mix:** Section 8.2.3.3 (iii) relates to mix of units and provides that schemes in excess of 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m. The proposed development provides 70% one-bed units, 26.5% two bed units and 3.5% units which is not consistent with the Development Plan. The proposed development has been designed to be fully consistent with the provisions of the Apartment Guidelines which provided that housing mix standards shall not apply to BTR schemes.

Policy Objective PHP27 of the **Draft Plan** provides that *'it is a Policy Objective to facilitate the provision of Build-to-Rent ~~and Shared Accommodation~~ in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2018~~20~~.....'*

Section 12.3.6 of the Draft Plan requires that all proposed BTR accommodation must comply with SPPR 7 and SPPR 8 as set out within the Design Standards for New Apartments, 2020 (and any amending SPPR as appropriate) and provides

*'Where any derogations in standards including standards relating to **unit mix**, open space, car parking and storage are availed of, a condition should be attached to any grant of permission to state that planning permission must be sought for a change of tenure to another tenure model following the period specified in the covenant.'*

However, Section 12.3.6 goes on to state that BTR accommodation must comply with all apartment standards set out in Section 12.3.5 (which includes minimum internal storage spaces, a requirement for the majority of units to exceed minimum floor standards by 10%, and a maximum of 12 units per core) and on-site car parking must comply with the requirements set out in Section 12.4.5.

Material Amendments to the Draft Plan have clarified in Section 12.3.5 that the requirement to exceed minimum floor standards by 10% and the minimum of 12 units per core do not apply to BTR schemes in accordance with SPPR 8. However, it is noted that SPPR 8 of the Apartment Guidelines explicitly provides that other standards shall not apply to BTR schemes including restrictions on dwelling mix, internal storage and car parking.

Table 12.1 of the Draft Plan provides that for the existing built-up area, schemes of 50+ units Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios, and a minimum 20% 3+ bedroom units. There is no reference to any dispensation for BTR schemes as per SPPR 8 in Table 12.1. However, it is noted that the Material Amendments to the Draft Plan have included a reference to a derogation in respect of mix in Section 12.3.6. On this basis, it is considered that the proposed development, which provides 70% one-bed units, 26.5% two bed units and 3.5% units, is consistent with the Draft Plan which provides for a derogation in accordance with SPPR8(i).

Section 12.3.5 includes a range of apartment standards. Section 12.3.5.3 provides for minimum internal storage standards consistent with the requirements of the Apartment Guidelines. No express provision is made in Section 12.3.5 for part of this allocation to be accommodated externally to the unit as per the Apartment Guidelines.

Section 12.3.5.3 of the Draft Plan goes on to state that in addition to this internal requirement, that Apartment schemes should also provide external storage for bulky items outside individual units (i.e., at ground or basement level). Table 12.3b, introduced with the proposed Material Amendments, provides external storage standards which requires 4m<sup>3</sup> for one bed apartment; 6m-8m<sup>3</sup> for two bed apartments (3 or 4 person respectively) and 10m<sup>3</sup> for three bed apartments.

For 11 no. units in the proposed development there is a small shortfall in the total storage space provided within the unit. For these units, additional designated storage in excess of the shortfall is provided at basement level. This approach is consistent with SPPR 8 (ii) which provides that flexibility shall apply in relation to the provision of a proportion of the storage space the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.

Further additional storage, in excess of the area required to serve units with a shortfall in internal storage, is available at basement level for use by other residents for the storage of bulky goods. While this additional storage area does not comply with the minimum requirements outlined in Table 12.3b, it is considered more than adequate to serve the needs of the proposed development. It is considered that the level of additional external storage required under Table 12.3b is onerous and not a requirements of the Apartment Guidelines.

The Draft Plan car parking standards provided for in Section 12.4.5 of the Draft Plan have been outlined in Section 3.2 above.

It is considered that there is conflicting, or not clearly stated, policies within the Draft Plan insofar as they relate the application of SPPR 8 for BTR Schemes in relation to internal storage and car parking standards.

These matters are dealt with and justified in detail in Section 4.2.3 of this Report.

### 3.4 Separation Distances

Section 8.2.3.3(iv) of the current **Development Plan** requires that *'all proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in such cases. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable [emphasis added].*

Separation distances between the principal facades of the buildings are all in excess of 22m. There are certain locations, generally between the gables of the principal apartment buildings where distances of less than 22m are proposed. The proposed development has been carefully designed to minimise direct overlooking, ensure high levels of daylight and sunlight penetration and to ensure that it is not visually overbearing. Accordingly, it is considered that the limited occurrence of reduced separation distances between proposed blocks is acceptable given the urban location and as provided for under Section 8.2.3.3(iv).



Section 12.3.5.2 of the **Draft Plan** reiterates the policy of the current Development Plan and requires that a minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys and that in certain circumstance reduced separation distances may be acceptable. The Draft Plan also provides that in all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

These matters are dealt with and justified in detail in Section 4.2.4 of this Report.

#### **4.0 STATEMENT IN SUPPORT OF MATERIAL CONTRAVENTION**

With regard to the requirements of Section 37(2)(b) of the 2000 Act, it is considered that this proposed Strategic Housing Development of 419 no. residential units and associated development is of strategic importance.

It is also considered that proposed development is consistent with Section 28 Guidelines including the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, DEHLG (2009), the Sustainable Urban Housing: Design Standards for New Apartments (2020), and the Development and Building Heights – Guidelines for Planning Authorities (2018), consistent with the requirements of Section 37(2)(b)(iii).

A reasoned justification is set out below providing: (a) a rationale in support of the proposed development being of strategic or national importance; and, (b) the requirements Section 37(2)(b) of the 2000 Act with specific reference to the requirements of the section 28 Guidelines relevant to the aspects of the proposed development which may be considered to a material contravention of the Dun Laoghaire Rathdown Development Plan 2016-2022 and/or potentially the Draft Dun Laoghaire Rathdown County Development Plan 2022-2028 when adopted.

##### **4.1 Section 37(2)(b)(i) of the 2000 Act: Strategic or National Importance**

The term 'strategic or national importance' is not expressly defined in the 2000 nor 2016 Acts. The proposed development exceeds 100 units on zoned residential lands, the proposal accords with the definition for 'Strategic Housing Development' under these Acts. The long title of the 2016 Act states that the Acts is '*to facilitate the implementation of the document entitled "Rebuilding Ireland - Action Plan for Housing and Homelessness" that was published by the Government on 19 July 2016....*'.

The **National Planning Framework (NPF)** acknowledges the critical role that Dublin plays in the country's competitiveness. It therefore supports Dublin's growth (jobs and population) and anticipates the city and suburbs to accommodate an extra 235,000 - 293,000 people by 2040. Section 6.6 'Housing' of the NPF states that between 2018 and 2040 an average of 25,000 new dwellings will need to be provided per year if the target of 550,000 new units by 2040 is to be achieved, as per National Policy Objective 32.

To support and manage Dublin's growth, the NPF is seeking that the city needs to accommodate a greater proportion of the growth it generates within its footprint than was the case heretofore and that housing choice, transport mobility and quality of life are key issues in the future growth of the city. The NPF therefore sets a target of at least 50% of all new homes targeted for Dublin City and suburbs are delivered within its existing built-up footprint.

A key objective of the NPF is to '*see that greatly increased levels of residential development in our urban centres and significant increases in the buildings heights and 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*'. The NPF contains a number of directly relevant national policy objectives to ensure the delivery of compact urban growth. These include:

- National Policy Objectives (NPO) 2(a) relating to growth in our cities;
- NPO 3(a)/(b)/(c) relating to brownfield redevelopment targets;
- NPO 4 relating to attractive, well-designed liveable neighbourhoods;
- NPO 5 relating to sufficient scale and quality of urban development; and
- NPO 6 relating to increased residential population and employment in urban areas.

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

The proposed development will contribute positively towards the achievement of this targeted growth whilst promoting compact growth and urban consolidation objectives through the intensification of an accessible brownfield infill site, located within the commercial core of an established suburban village, that is well served by existing public transport. Accordingly, the application site is considered highly suitable for high-density residential development purposes.

Furthermore, the strategic importance of the delivery of purpose-built BTR residential units to address housing shortages in Dublin is consistent with the provisions of **Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness** particularly Pillars 3 (Build More Homes) and 4 (Improve the Rental Sector) insofar as it will contribute towards achieving an annual strategic housing delivery target of 25,000 homes per year for the period 2016 to 2021, and improving the range and quantity of rental homes available in Dublin.

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

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

The Economic and Social Research Institute (ESRI) published a research paper entitled **Structural Housing Demand at County Level** in December 2020. As outlined in the DHLGH Ministerial Letter to Local Authorities dated 18 December 2020, based in the ESRI findings and other factors affecting existing demand, there is a total projected new household demand for almost 31,000 new households per annum every year from 2020 to 2040.

The Ministerial Letter goes on to state that *'there is a more pressing need to increase national housing supply to meet existing, unmet housing demand, to the greatest extent possible in the shortest time possible, while also accommodating projected national housing demand. Factoring in existing demand together with future*

*projected demand, will require annual average national demand for just over 33,000 new households per annum, to be met during the period 2020 to 2031' [emphasis added].*

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

The growth and settlement strategy of the **Regional Spatial and Economic Strategy (RSES)** describes the need for compact and sustainable development in accordance with the NPF to accommodate projected population growth in the Region. It is projected that the population of the region will grow by between 237,500 and 290,000 persons between 2016 and 2026 and that the population of the region will reach 2,668,000 to 274,5000 by 2031.

The subject site is located within the Dublin Metropolitan Area, for which the RSES includes a detailed planning and investment framework as set out in the Dublin Metropolitan Area Strategic Plan (MASP). Central to the overall vision of the MASP is the consolidation of Dublin city and suburbs. In this respect, compact growth and accelerated housing delivery is identified as a guiding principle. The MASP seeks to *promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport'.*

The MASP acknowledges that strategic sites, other than those outlined in the Plan, will come forward during the lifetime of the MASP through the ongoing development and intensification of brownfield and infill opportunities. The subject site is considered to be such an infill opportunity that is suitable for a higher density BTR scheme of modern new homes, on a brownfield site that is well served by public transport provision and local service provision. This is in accordance with the principles and vision of the Metropolitan Area Strategic Plan (MASP).

Information from the Census 2016 indicates that the delivery of new housing has not kept pace with population growth. Between the 2011 Census and the 2016 Census the Irish population increased by 173,613 persons, from 4,588,252 to 4,761,865, representing a population growth of 3.8%. During this time, the total housing stock increased by just 8,800 no. units, from 1,994,845 to 2,003,645 no. units, representing a 0.4% increase in housing stock during this time.

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

It is evident that despite national policy to accelerate housing delivery, new housing has not been provided in tandem with recorded population growth and that substantial residential development needs to occur to meet national population targets. It is therefore considered of strategic national importance that suitable

and sustainable residential development is facilitated where it accords with national and regional level policies and Guidelines.

It is submitted that the proposed BTR Residential development is consistent with the strategic and national policy objectives of the NPF and RSES / MASP that promote compact residential development at urban locations well integrated with public transportation and sustainable modes, close to employment and recreational opportunities, at a sustainable density which contributes to the viability of services and public transport. It is submitted that the proposed development is of strategic importance in the delivery of additional housing and will specifically relieve demand pressure on the available supply of rental accommodation in Dublin City and suburbs.

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

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

#### **4.2 Section 37(2)(b)(iii) of the 2000 Act: Compliance with RSES, Specific Planning Policy Requirements (SPPRs) contained in relevant Section 28 Planning Guidance**

National and regional planning policy of relevance to the density, form and layout of the proposed development have been identified and addressed in Sections 5.1 and 5.2 of the Statement of Consistency submitted as part of this request, and includes references and statements of compliance with the following:

- National Planning Framework (NPF) – Project Ireland 2040
- Housing for All – A New Housing Plan for Ireland (Housing for All)
- Region Spatial and Economic Strategy (RSES) for the Midlands and Eastern Region, 2019-2031
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') 2009
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights – Guidelines for Planning Authorities (2018)

The **National Planning Framework** (NPF) is the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040. The key emphasis of the NPF is to ensure balanced regional growth, the promotion of compact development and the need to avoid urban sprawl. The National Planning Framework places an emphasis on the development of lands linked to existing infrastructure to ensure the sustainable development of Ireland's towns and cities.

Both the NPF and the **Action Plan for Housing and Homelessness** emphasise the pressing need for new housing, with these documents referring to the provision of 25,000 no. new units per annum nationally to meet future population growth and current demand. The more recently published **Housing for All** restates the failure to provide enough homes to buy or to rent in the private sector and identifies an average national need for 33,000 homes to be constructed per annum until 2030. As is discussed in Section 3.1 above, this housing target has not been achieved in 2018, 2019 and 2020 falls substantially short of national

requirements. The current proposal of 419 no. units is of a scale that will meaningfully contribute to achieving the goals of the NPF, the Action Plan for Homelessness and the RSES.

The **Regional Spatial and Economic Strategy** (RSES) for the Eastern and Midland Region is underpinned by the Key Principle of Healthy Placemaking *'to promote people's quality of life through the creation of healthy and attractive places to live, work, visit, invest and study in.'* Furthermore, the integration of transport and land use is promoted, as well as the better use of under-utilised land within the existing built-up urban footprint, focused on a sequential approach to development.

Cornelscourt forms part of the Dublin Metropolitan Area (DMA) in the RSES and is within the scope of the Dublin Metropolitan Area Strategic Plan (MASP). The MASP identifies the opportunity to focus growth along existing and proposed high quality public transport corridors and nodes on the expanding public transport network. The MASP focuses on the phased and sequential delivery of a steady stream of sites to meet demand including and provides for additional capacity for increased residential densities being realised throughout the metropolitan area by means of ongoing infill, re-intensification and development. Specifically, RPO 5.5 provides:

*Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.* [Emphasis added]

**Sustainable Residential Development in Urban Areas Guidelines, 2009** (SRDUA Guidelines) contain specific policies and objectives in relation to the scale and location of new residential development, the need for high quality design of residential areas and the use and development of infill, greenfield and brownfield sites.

The **Sustainable Urban Housing: Design Standards for New Apartments 2020** (Apartment Guidelines) builds upon and updates the 2015 guidelines based on current and predicted future housing requirements in Ireland. The Guidelines seek to ensure apartment living is an increasingly attractive and desirable housing option for a range of household types and tenures, reflecting contemporary household formation and housing demand patterns and trends, particularly in urban areas.

The **Urban Development and Building Heights – Guidelines for Planning Authorities 2018** (Building Height Guidelines) emphasise the need for urban consolidation, intensification and densification of both brownfield and greenfield development land.

The proposed development has been designed in accordance with the overriding objectives of the NPF, RPGs and Ministerial Guidelines, to provide high quality housing at a central location within Cornelscourt. The scheme has been designed to respect the existing character of the area and to enhance pedestrian and cyclist permeability and connectivity within Cornelscourt. The BTR proposal meets and exceeds the relevant development standards and Ministerial Guidelines and will make a positive contribution to the housing stock in the region.

Specific measures within national, regional and Ministerial Guidelines which are directly relevant to each aspect of the Development Plan that the proposed development may contravene have been considered below.

#### 4.2.1 Building Height

Government planning policy seeks to increase residential development generally to facilitate the consolidation and sustainable expansion of the established settlements.

The **NPF** advocate a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance-based standards to ensure well-designed high-quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.

National Policy Objective 13 of the NPF requires planning and related standards, including height, to be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth:

*'In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.'* [Emphasis added]

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

Section 9.2 of the **RSES** notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are adaptive for people's full life cycle to meet their housing needs today and into the future.

The **Building Heights Guidelines** outline that generic maximum height limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the NPF and instead continue an unsustainable pattern of development whereby cities and towns continue to grow outwards rather than consolidating and strengthening the existing built-up area. Furthermore, the Guidelines provide that blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes.

On this basis the Guidelines outline wider and strategic policy considerations and a more performance criteria driven approach that planning authorities should apply alongside their statutory development plans in securing the strategic outcomes of the National Planning Framework and in particular compact urban growth. In this respect **SPPR 1** provides:

*'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.* [Emphasis added]

Section 3.1 of the Guidelines include development management principles for buildings taller than prevailing building heights in urban areas. Section 3.2 of the Urban Development and Building Height Guidance state that *'In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the*

*following criteria...'. In this regard, a range of criterion under a macro level (at the scale of the relevant city/town); intermediate level (at the scale of district/ neighbourhood/ street) and at a micro level (at the scale of the site/building) need to be addressed where proposed heights exceed those specified in Development Plans or LAP's. Accordingly, **SPPR 3** of the Guidelines provides 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 above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

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

Appendix 9 of the **Dun Laoghaire Rathdown Development Plan 2016-2022** provides maximum building heights for residual suburban areas, with upward and downward modifiers capped at 2 storeys, which do not allow for the increase in building heights at appropriate locations, such as the proposed development site as provided for under SPPR 1 of the Building Height Guidelines.

It is noted that the **Draft Dun Laoghaire Rathdown Development Plan 2022-2028** removed maximum building heights, to align with national guidance, and moves towards performance-based criteria. Furthermore, Policy Objective BHS 1 of the Draft Plan provides:

*'It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and **Cornelscourt**, within the Sandymount UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NP0 35, SPPR 1& 3).....' [Emphasis added]*

Notwithstanding, given the proposed development exceeds the maximum building heights specified in the current Development Plan it is considered appropriate the proposed development is assessed in accordance with the requirements of the Building Height Guidelines. In this respect, Table 4.1 below provides a comprehensive assessment of the proposed development in the context of development management criteria set out in Section 3.2 of the Guidelines and referenced in SPPR 3(A)(1).

**Table 4.1 Response to Qualification Criteria for Additional Height**

<b>1. At the scale of the relevant city/town</b>	
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>	The subject site benefits from excellent public transport accessibility levels including Dublin Bus and Go Ahead operated services which are easily accessible from the subject site and provide high quality links to the City Centre, Dun Laoghaire, Newcastle, Bray, Tallaght and Heuston Station. Carrickmines LUAS Stop is the most accessible LUAS stop to the proposed development, located approx. 1.8km to the

	south of the site and providing access to Sandyford, Dundrum and the City Centre.
<p><i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</i></p>	<p>The subject site is located along the N11 which is the main public transport route within the County. The scale of the N11 and the critical mass it serves enables it to be an appropriate location to encourage higher densities, and increased heights in accordance with sustainable development patterns.</p> <p>The proposed development is designed in a manner which is respectful of its broader urban context and of the design details and fabric that sustain it. Whilst the higher rise elements of the scheme clearly contrast with the immediate surrounding built context, it forms one of a series of higher rise elements already built, permitted or planned along the Stillorgan Dual Carriageway, signalling through its landmark scale, the location of Cornelscourt village on this main route into Dublin city.</p> <p>A Landscape Visual Impact Assessment (LVIA) has been undertaken by Mitchell + Associates, Landscape Architects, as part of the Environmental Impact Assessment of the subject site (see Chapter 12 of the Environmental Impact Assessment Report (EIAR) submitted here with). The Non Technical Summary (NTS) of the LVIA summarises its findings and notes the following:</p> <p><i>The design approach taken is both appropriate and entirely logical in the existing context, in that it proposes the location of the required higher rise elements close to the large scale N11. This will have two main positive attributes, namely, (1) it provides a landmark element adjacent to the N11 signifying Cornelscourt as a place (one of a number of such built and proposed 'events' along the N11 corridor) and (2) it provides a designed separation or 'bulwark' between the village area and the road.</i></p> <p><i>The proposed design incorporates reinforcement of the village functions, primarily through the provision of a building which specifically addresses the disused, 'derelict' gap site in the existing street (along the Old Bray Road) and which will provide opportunities for complementary commercial and social facilities. This building is an appropriately scaled new building within the village core which supports and confirms the status and viability of the village. The design also allows for a designed gradation from high rise at the road, down to lower scaled buildings at the village and approaching the existing adjacent residential</i></p>



	<p><i>properties. This stepping down nearer to the existing residential properties, successfully reduces the potential negative effects which could have accrued in respect of proximity and over-bearing.</i></p> <p><i>The design drawings and reports, together with the prepared photomontages indicate that the proposed development will create some significant landscape and visual impacts upon the existing landscape context. However, the design successfully mitigates the majority of any resultant negative effects, whilst providing many positive effects, particularly in respect of the broader landscape character of the area and the improved social and cultural aspects provided by the proposed scheme</i></p>
<p><i>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</i></p>	<p>Careful consideration has been given to the successful integration of the scheme into the existing character and topography of the site and area. The additional height is only proposed along the N11; ascending in height the development will establish a distinctive identity along the N11 Corridor and provide a visual landmark. Elsewhere in the site the development's height is intentionally sensitive at locations adjacent to the existing Willow Grove and the cottages along Old Bray Road.</p> <p>The proposal offers the potential to complete street frontage along Old Bray Road. The addition of a café/retail unit at this location will deliver activity at street level and will encourage pedestrian footfall both towards the N11, via the new development, and to Cornelscourt village from the proposed scheme and beyond.</p> <p>Please refer to the following documents that set out in detail how the proposed development addresses this criterion:</p> <ul style="list-style-type: none"> <li>• Architectural Design Report prepared by HJL Architects</li> <li>• Landscape Design and Access Statement prepared by Cameo &amp; Partners; and,</li> <li>• LVIA included at Chapter 12 of the EIAR</li> </ul>
<p><b>2. At the scale of district/ neighbourhood/ street</b></p>	
<p><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i></p>	<p>The site is located between two defining contexts: the N11 Corridor to the north and the village of Cornelscourt to the south.</p>

	<p>The scale and massing of Buildings D and E have been carefully considered to provide an appropriate and sympathetic interface between the proposed scheme and existing dwellings of Old Bray Road and Willow Grove. By maintaining a wide separation distance between these larger buildings and the existing properties, a linear amenity space is formed with housing along its eastern edge. To the east of the boundary, two storey terraced dwellings have been situated to present an appropriate transitional scale towards the houses of Willow Grove.</p> <p>Buildings A, B, and C, address the more urban condition onto the N11 through an increase in height and change in style of architecture. Buildings A, B, and C range from 6 to 12 storeys. The heights ascend in multiples of 3 to establish a strong, distinctive identity along the N11 Corridor. This busy corridor provides a positive opportunity to increase density while not negatively impacting on the existing character of the village.</p> <p>Please refer to the following documents that set out in detail how the proposed development addresses this criterion:</p> <ul style="list-style-type: none"> <li>• Architectural Design Report prepared by HJL Architects</li> <li>• Landscape Design and Access Statement prepared by Cameo &amp; Partners,</li> <li>• LVIA included at Chapter 12 of the EIAR</li> </ul>
<p><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></p>	<p>The proportionality and massing of the blocks are well considered to avoid long uninterrupted walls of buildings. The scheme offers great variety in height respond to the transitional context between the N11 and Cornelscourt Village.</p> <p>Buildings A, B, and C are laid out as finger buildings presenting to the N11 and range in height from 5 to 12 storeys. The heights ascend in multiples of 3 to establish a strong, distinctive identity along the N11 Corridor.</p> <p>Part of Building A steps down to 5 storeys to appropriately integrate with the scale and massing of the established village core. The lower elements are cranked to further reduce its massing when viewed from the N11 corridor. The proposed design solution seeks to break up the mass of Building A and resolve the competing site conditions, creating a carefully considered building that straddles the urban N11 and suburban village contexts.</p> <p>The Architectural Design Report and the Public Realm and Landscape Design and Access Statement address the</p>

	<p>durability and quality of the intended materials and finishes of the proposed buildings and the public realm.</p>
<p><i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).</i></p>	<p>One of the key concepts to the development is the creation of a clearly defined hierarchy of public, semi-public, and private spaces which provide legibility, permeability, and connectivity and make it easy for residents and visitors to find their way around and enjoy the significant open spaces contained within the scheme.</p> <p>The proposed layout has been developed to encourage permeability within and through the site, providing pedestrian and bicycle path routes. The site provides for future potential pedestrian linkages to the surrounding area, connecting to the N11 and Willow Grove. These linkages could significantly improve the permeability of the site and immediate area.</p> <p>With regard to the Flood Management Guidelines (November 2009), a Site-Specific Flood Risk Assessment, prepared by DBFL Consulting Engineers accompanies this application. This report concludes that the suite is located in Flood Zone C and the proposed development is appropriate for this flood zone category. The sequential approach outlined in Planning System and Flood Risk Management Guidelines has been adhered to and that the 'Avoid' principal has been achieved.</p>
<p><i>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i></p>	<p>The submitted Architectural Design Report sets out the rationale for the varied scale, massing and height of the constituent buildings is consistent with and complimentary with the surrounding urban context.</p> <p>The development utilises a strategic site along the N11, improving the streetscape and sense of place of the area. The scale of the proposed development and its massing is consistent with, and complimentary to, the surrounding urban context along the N11 and appropriately addresses more urban scale of Cornelscourt Village to provide a responsive interface from an urban design perspective.</p> <p>Please refer to the following documents that set out in detail how the proposed development addresses this criterion:</p> <ul style="list-style-type: none"> <li>• Architectural Design Report prepared by HJL Architects</li> <li>• Landscape Design and Access Statement prepared by Cameo &amp; Partners,</li> <li>• LVIA included at Chapter 12 of the EIAR</li> </ul>

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

The proposed Specific BTR residential development will contribute towards meeting annual strategic housing delivery targets whilst improving the range and quantity of rental dwellings available in Dublin.

The proposal will introduce a new housing typology in the locality that will complement and enhance the existing mix and type of residential development within Cornelscourt which is predominantly characterised by two-storey, semidetached housing.

The proposed development provides a mix of 1, 2 and 3 bed apartments together with terraced houses. The build-to-rent model, and the proposed housing mix responds to the national demographic profile and trends and seeks reflect and future forecast market demands. In addition, the proposed development provides a childcare facility and café/retail use which will contribute to the mix of uses available to future residents and the established community of Cornelscourt.

### **3. At the scale of the site/building**

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

The design process was an iterative process whereby revisions were rigorously tested in respect of visual impact, and micro-climatic effects including wind and daylight and sunlight assessments.

Appropriate separation distances between Buildings A, B and C seek to increase natural daylight to the apartments and ensure the creation of attractive open space. The courtyard spaces are open at both ends to minimise visual mass along the N11 Corridor.

The articulation of the Building D and E resolves the unique geometries of the site and the aspiration of a large and welcoming central garden. The height of Building D has been carefully adjusted to increase daylighting into the central garden and appropriately respond to the surrounding context and building forms and heights found within the village of Cornelscourt.

*Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2:*

A Daylight and Sunlight Report, prepared by 3D Design Bureau (3DDB), accompanies the application, prepared in accordance with the BRE and all relevant guidance.

With regard to internal amenity, the analysis determined an approximate compliance rate of ~97% of rooms that are in

<p><i>2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.</i></p>	<p>excess of the prescribed guidelines as set out in the Report for average daylight factors (ADF).</p>
<p><i>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration.</i></p>	<p>As noted above, the analysis determined a approximate compliance rate of ~97% of rooms that were in excess of the prescribed guidelines for ADF. The analysis undertaken demonstrates that the vast majority of spaces comfortably exceed the relevant values. Substandard daylighting performance was avoided wherever viable and practical by maximising glazing, adjusting position of windows, amendments to internal layouts and offsetting/repositioning balcony structures to maximise natural light availability.</p> <p>In terms of compensatory measures, all units are in excess of minimum apartment sizes and benefit from a balcony, which in some cases have impacted on the ability of the LKD to achieve the target values. All units have access to an internal amenity space from within the respective blocks. The proposed amenity spaces, and in particular the designated communal open space all benefit from excellent levels of sunlight. Furthermore, the generous level of communal amenity space provision will ensure a high level of amenity for future residents within the scheme.</p> <p>The Report includes an assessment of the wider landscape setting, including the areas specifically identified for communal open space, for the levels of sunlight achieved across the scheme. All of the amenity areas assessed meet the BRE Guidelines requirements, receiving significant levels of sunlight on March 21<sup>st</sup>. The landscape areas, taken as a whole, achieved sunlight availability of 90.3% of the area receiving more than two hours of daylight on March 21<sup>st</sup>, significantly more than the BRE minimum of 50%.</p> <p>The site represents an infill suburban consolidation site located within an established village proximate to a high-quality public transport corridor. The physical and policy context of the site also mandates a sustainable level of development. It is submitted that the overall level of compliance achieved on the site, both in terms of existing future impacts, is very high and the level of impact envisaged is appropriate and acceptable given the sites context.</p>

With reference to SPPR 3(A)(2) of the Building Height Guidelines, it has been demonstrated under section 3.1 (above) that the proposed development is of strategic importance and accords with national policy included in the NPF.

It is noted that the Board's Direction, in respect of previous scheme on the subject site (ABP Ref. 306225-19), which proposed similar height and layout of blocks to the N11, considered *'the Board was satisfied that the elevations of proposed Block A and Block B would be acceptable in terms of appearance and scale and would in terms of massing represent an appropriate sense of enclosure to the N11 corridor and would not seriously injure the visual amenities of adjoining properties or the visual amenities of the wider area'*.

It is submitted that the sustainable concentration and intensification of infill, brownfield and underutilised lands with Dublin suburbs, is consistent with the strategic and national policy parameters set out in the NPF.

The subject site is located along the N11 which is the main public transport route within the County. The scale of the N11 enables it to be an appropriate location to encourage higher densities, and increased heights in accordance with sustainable development patterns. The height, scale and massing of the proposed development seeks to make sustainable use of the subject site whilst carefully protecting the character of the area and surrounding residential amenity.

It is submitted that the proposed development meets the requirements of SPPR3 and accordingly is consistent with the objectives of the Building Height Guidelines to maximise the opportunity of a suburban, accessible site at sustainable densities necessary to facilitate the compact growth of the urban area in accordance with national planning policy guidance. It is submitted that the proposed development should be granted having regard to guidelines issued under section 28 of the Act.

#### **4.2.2 Car Parking**

The **NPF** consider that *'general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc.'*. In this respect, National Policy Objective 13 requires car parking, together with other standards, to be *'based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth'*.

The **RSES** consider that planning at local level should prioritise walking, cycling and public transport by maximising the number of people living within walking and cycle distance of their neighbouring or district centres, public transport services and other local level services such as schools. While accessibility by car does need to be provided for, it should be provided in a manner which complements with alternative modes including walking, cycling and public transport. In this respect, the provision and management of car parking should be carefully considered.

The **Apartments Guidelines** expressly considers car parking and provides that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

The Apartment Guidelines provide a benchmark guideline for apartments in relatively peripheral or less accessible urban locations of one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required. The subject site is more appropriately considered an intermediate urban location, due to its location proximate to a public transport corridor and within the urban centre of Cornelscourt. Section 4.2.1 of the Guidelines provide that:

*'In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning*

*authorities **must** consider a reduced overall car parking standard and apply an appropriate maximum car parking standard'* [Emphasis added].

With specific reference to BTR schemes, **SPPR 8(iii)** provides that:

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

A detailed assessment of the level of car parking has been provided in the Parking Management Strategy prepared by DBFL Consulting Engineers and submitted herewith.

The level of car parking provision has been determined having regard to car availability, parking demand surveys, precedents for similar developments, together with national policy objectives to promote sustainable travel patterns. The document sets out proximity of the site, and access to, existing and proposed public transport infrastructure. The N11 is a QBC with high frequency of bus services and is proposed for upgrade to a spine road for the BusConnects upgrades to the city bus infrastructure. A parking ratio of 0.57 (excluding set down spaces at surface level) is proposed to serve the residential element of the scheme. A generous provision of secure and accessible bicycle is a key component of the transportation offering at the development.

In addition, this application is supported by a Mobility Management Plan, prepared by DBFL, which seeks to guide the delivery and management of several coordinated initiatives which ultimately seek to encourage sustainable travel practices for all journeys to and from the proposed development. In terms of mobility management, BTR offers greater advantage over the conventional rental apartments due to it being managed by a highly skilled management company with a focus on modes of travelling by walking, cycling and public transport.

It is submitted that the proposed development meets the requirements of SPPR8(iii) and accordingly is consistent with the objective of the Apartment Guidelines to minimise and reduce car parking provision in order to facilitate sustainable residential densities and promote sustainable travel patterns, ultimately supporting commitments to climate action. It is submitted that the proposed development should be granted having regard to guidelines issued under section 28 of the Act.

#### **4.2.3 Apartment Standards & BTR**

The **Apartment Guidelines** build upon and update the 2015 guidelines based on current and predicted future housing requirements in Ireland. The Guidelines seek to ensure apartment living is an increasingly attractive and desirable housing option for a range of household types and tenures, reflecting contemporary household formation and housing demand patterns and trends, particularly in urban areas. The Apartment Guidelines introduce the concept of the 'Build-to-Rent' sector, larger-scale apartment developments that are designed and constructed specifically for the needs of the rental sector.

The Guidelines outline that housing BTR schemes have a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. They can provide a viable long term housing solution to households where home-ownership may not be a priority, such people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy.

The Apartment Guidelines contain qualitative and quantitative standards for the design of apartments and related facilities including storage areas, open spaces and communal facilities. SPPR 8 of the Apartment Guidelines provides distinct planning criteria applicable to BTR development, as follows:

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

- (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;*
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;*
- (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;*
- (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*
- (v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.' [Emphasis added]*

With respect to the current **Development Plan**, it is considered that Sections 8.2.3.3 (ii) [Dual Aspect], (iii) [Dwelling Mix], (v) [Internal Storage], (vii) [Minimum Apartment Floor Areas] and (viii) [Public, Communal and Private Open Spaces – Standards] are not consistent with the Apartment Guidelines, and specifically SPPR 8 insofar as it relates to BTR schemes. In this respect:

- **Aspect** – Sections 8.2.3.3 (ii) of the Development Plan requires 70% of units to be dual aspect. The proposed development complies with SPPR 4 which requires 50% of apartments to be dual aspect at suburban or intermediate locations. In this respect, some 54.1% of the apartments are dual aspect. No single aspect units are north facing. Further details are provided the Dual Aspect Analysis Report and Housing Quality Assessment accompanying this application.
- **Unit Mix** – Section 8.2.3.3 (iii) relates to mix of units and provides that schemes in excess of 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m. The proposed development provides 70% one-bed units, 26.5% two bed units and 3.5% units. The unit mix is weighted towards one-bedroom units, which comprise the majority of the proposed apartments. This is considered typical of and reflective of the nature of the development as a purpose built BTR scheme. In this regard the provisions of SPPR 8 (i) are noted which provides there shall be no restrictions on dwelling mix.
- **Storage Provision** - Section 8.2.3.3 (v) includes a minimum storage space standard of 7sqm for two-bed apartments (compared to the Apartment Guideline standard of 5-6sqm for a 3 person or 4 person unit respectively). All individual apartments are provided with internal storage generally in accordance with the requirements of Appendix 1 of the Guidelines. There are a small number of apartments which fall marginally short of the requirements of Appendix 1. Section 3.3 of the Apartment Guidelines



provides for such scenarios and states that that *'where secure, allocated ground or basement level storage is provided, it may be used to satisfy up to half of the minimum storage requirement for individual apartment units, but shall not serve to reduce the minimum floor area required to be provided within each individual apartment unit, as set out in these guidelines'* [emphasis added]. Furthermore, SPPR 8 (ii) specifically provides for flexibility on the proportion of storage provided within individual BTR units.

In this respect, a total of 11 no. units do not meet the Appendix 1 requirements within the apartment. All 11 no units benefit from additional, assigned, storage at basement level well in excess of the shortfall. The affected units have been identified on the Housing Quality Assessment and the assigned storage areas identified on the floor plans.

- **Apartment Sizes / Floor Areas** - Section 8.2.3.3 (vii) provides minimum apartment floor areas which significantly exceed the Apartment Guidelines requirements. All proposed apartments are in accordance with the minimum size requirements of the Guidelines – SPPR3 and Appendix 1 (see Housing Quality Assessment for further details of compliance). Furthermore, the proposed development has been designed to provide a high level of residential amenity for future residents and accordingly some 85% of units exceed the minimum standards by 8.8%.
- **Private Amenity Space:** Section 8.2.3.3 (viii) provides minimum private amenity space standards which significantly exceed the corresponding Apartment Guidelines requirements. Notwithstanding the flexibility allowed for under SPPR 8(ii), all apartments benefit from private open space in the form of a balcony on upper floor and terrace are at ground floor level. All private amenity spaces meet or exceed the area standard set out in Appendix 1 of the Apartment Guidelines. All balconies have a minimum depth of 1.5m and all main living areas have access to a balcony.
- **Communal Amenity Space:** Section 8.2.8.2 (i) requires Open Space provision of 15 to 20sq.m per person, which based on the specified occupancy assumptions would require some 12,570sqm or almost 59% of the site area. the Development Plan goes on to state that there is an absolute default of 10% of site area. Section 8.2.8.2 of the Development Plan defines 'public' open space for compliance with open space standards as *'all areas of open space within a new development (be that public (taken in charge), communal, semi-private or otherwise) that is accessible by all residents/ employees of the development and in certain cases may be accessible by the wider general public.*

It is noted that Section 4.19 of the SRDUA Guidelines notes the difficulties associated with using occupational rates in the quantitative calculation of open space standards. Section 4.20 recognises that in order to ensure adequate safeguards are in place and to avoid over-development that public open space should generally be provided at a minimum rate of 10% of the total site area in the case of large infill sites or brownfield sites, such as the application site.

The minimum required areas for public communal amenity space are set out in Appendix 1 of the Apartment Guidelines. Based on Appendix 1, the minimum requirement for communal open space for the proposed development is 2,372sqm. The proposed development provides some 5,482sqm (779sqm internally and 4,703sqm externally), which is almost 22% of the total site area and over twice the minimum Apartment Guidelines requirement.

Further details of compliance with the Apartment Guidelines is provided in Section 5.1.2 of the Planning Report & Compliance Statement accompanying this application.

Policy Objective PHP27 of the **Draft Plan** provides that *'it is a Policy Objective to facilitate the provision of Build-to-Rent and Shared Accommodation in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2018'*.

However, Section 12.3.6 goes on to state that BTR accommodation must comply with all apartment standards set out in Section 12.3.5 (which includes minimum internal and external storage spaces) and on-site car parking must comply with the requirements set out in Section 12.4.5.

Consistent with Section 37(2)(b)(iii) of the Act, it is considered that there are conflicting or unclear objectives in the Draft Plan insofar as they relate to BTR development and the application of SPPR 8 and accordingly the Board can grant a material contravention of the Draft Plan (should it be adopted at time of making the determination).

Furthermore, in a recent High Court Judgement, McDonald J restated the clear statutory obligation under section 28(1C) in respect of SPPRs contained in section 28 Guidelines:

*"Section 28(1C) imposes a very clear mandatory requirement that, where specific planning policy requirements are specified in ministerial guidelines, they must be complied with. It is not sufficient merely to have regard to them (which is a relevant requirement in relation to other aspects of the guidelines)."*<sup>3</sup>

Having regard to SPPR 8 and the standards contained at Annex 1 of the Apartment Guidelines it has been demonstrated that:

- The proportion of proposed 1-bed units exceeds the maximum requirement of 30% and does not meet the minimum requirement of 20% 3-beds + as stated in Table 12.1 of the Draft Plan. It is noted that Material Alternations to the Draft Plan refer to derogations for unit mix in Section 12.3.6. In this respect, SPPR 8(i) is explicit that no restrictions shall apply on the dwelling mix provided in a BTR scheme. Accordingly, the proposed mix is consistent with the unit mix requirements as specifically provided for BTR schemes in the Apartment Guidelines.
- All individual apartments are provided with internal storage generally in accordance with the requirements of Appendix 1 of the Guidelines. As outlined above, there are 11 no. of apartments which fall marginally short of the requirements of Appendix 1. Section 3.3 of the Apartment Guidelines provides that *'Where secure, allocated ground or basement level storage is provided, it may be used to satisfy up to half of the minimum storage requirement for individual apartment units, but shall not serve to reduce the minimum floor area required to be provided within each individual apartment unit, as set out in these guidelines'* [emphasis added].

All 11 no. units benefit from additional, assigned, storage at basement level well in excess of the shortfall. In all cases the apartments have in excess of 50% of the storage requirement internally within the unit. Accordingly, the proposed mix is consistent with the storage requirements as provided for in the Apartment Guidelines.

- Table 12.3b, introduced with the proposed Material Amendments, provides specific external storage standards which are not provided for under the Apartment Guidelines. It is submitted that the required provision of additional external storage space is an onerous requirement that could potentially have significant impacts on the site layout of a scheme and its ability to meet other critical development standards. Such a requirement would put increasing pressure on schemes to deliver

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<sup>3</sup> O'Neill v An Bord Pleanála [2020] IEHC 356, para 145.

on other qualitative aspects such as attractive and functional open space provision, car parking and cycle parking provision.

Section 3.32 of the Apartment Guidelines recognises the need for external bulky storage rooms which may be used for the storage of bicycles and other equipment and provides that planning authorities should encourage the provision of such space in addition to minimum apartment storage. As outlined above, Section 3.33 of the Apartment Guidelines outlines that external storage may be provided in lieu of a portion of internal storage space in order to facilitate flexibility in apartment design. In this respect, it is clear that the Apartment Guidelines adopt a flexible approach to external storage space rather than prescriptive minimum standards which must be adhered to in all instances.

In this respect, the proposed development has provided additional storage areas at basement level, consistent with the requirements of the Apartment Guidelines. External storage space, in excess of any space allocated to units with a shortfall in internal space, will be available for use by future residents who require space for the storage of bulky goods. Allocation of these additional storage spaces will be overseen by the Management Company. It is considered that the level of external storage space provided is appropriate given the majority of units benefit from the full internal storage requirement, the significantly level of secure bicycle parking proposed and level of flexibility advocated in the Apartment Guidelines.

- The proposed development does not meet the standard car parking requirements for residential units identified in Table 12.6 of the Draft Plan. As outlined in Section 4.2.2 above, with specific reference to BTR schemes, SPPR 8(iii) provides that *'there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services'*. As outlined above, the proposed level of car parking provision is consistent with the Apartment Guidelines objective to reduce car parking provision and supporting climate action.

The proposed apartments are fully compliant with all the standards set out in the Apartment Guidelines and avail where appropriate of certain BTR dispensations provided by SPPR 8 of the same Guidelines, as set out above. Accordingly, it is submitted that the proposed development can be granted having regard to guidelines issued under section 28 of the Act.

#### 4.2.4 Separation Distances

Section 8.2.3.3(iv) of the **Development Plan** (also restated in Section 12.3.5.2 of the **Draft Plan**) requires a minimum clearance distance of circa 22 metres, in general, between opposing windows in the case of apartments up to three storeys in height. It also provides that in the case of taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. However, in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. It goes on to state that in all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

The wording of section 8.2.3.3(iv) of the current Development Plan (and the Draft Plan) refers to the internal relationships of constituent blocks of a proposed development rather than relationships between new development and existing development. In this regard, the expectation of privacy of the occupation within the proposed scheme is different to the expectation of privacy of an adjoining neighbour. Notwithstanding, the use of the word 'circa' in front of the 22 numerical value makes it clear that the 22m separation distance is not an absolute value that must be adhered to in all instances. It is rather intended as a guideline that will be subject to tolerances.

Separation distances between the principal facades of the buildings are all in excess of 22m (see Figure 4.1 below and reproduced at A3 size at Appendix A). Appropriate separation distances between Buildings A, B and C seek to increase natural daylight to the apartments and ensure the creation of attractive open spaces between them. Buildings D and E respond to the unique geometries of the site and aspirations to create a large central garden and appropriate frontage onto existing village. The orientation of Buildings D and E seek to minimise direct overlooking and generally ensure separation distances in excess of 22m between the principal facades.

There are certain locations, generally between the gables of the principal apartment blocks (Buildings C and D and Buildings A and E) where distances of less than 22m are proposed. While these facades include windows, the extent of the gable is limited, and the layout of the buildings have been carefully designed to minimise the impacts of overlooking. Similarly, the separation distance between opposing windows of Building D and the proposed two storey houses varies between 16m and 18.3m.

**Figure 4.1 Indicative Separation Distance between Blocks**



It is submitted that the levels of separation achieved internally within the proposed scheme between constituent blocks are consistent with the advice given in Section 2.23 of the Apartment Guidelines that recognise that the NPF explicitly '*signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high-quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.*' [Emphasis added]

In this regard the daylight / sunlight performance of the scheme has been tested specifically for the natural light and sunlight penetration to the intervening communal spaces that separates constituent blocks. The results have shown that all of the designated communal open spaces will receive good levels of natural lighting to ensure these spaces will be attractive and functional spaces that offers a high level of amenity to residents in terms of their potential to meet the active or passive recreational needs of residents of the scheme.

Furthermore, the building height assessment (see Table 4.1 above) and LVIA Assessment (Chapter 12 of the EIAR) consider that the proposed development has been carefully designed to successfully mitigate impacts which could have accrued in respect of proximity and overbearing. These performance-based assessments support the contention that the very limited deviance from the guideline 22m separation distance between blocks is not of material consequence and is necessary in order to ensure the sustainable and efficient use of land. The development is consistent with national policy objectives for urban consolidation, sustainable land use close to urban centres and public transportation corridors, and national policy on housing delivery and high-quality outcomes.

## 5.0 CONCLUSION REVIEW

This statement seeks to address matters what may be considered to represent a material contravention of the Dun Laoghaire County Development Plan 2016-2022 and the Draft Dun Laoghaire Rathdown County Development Plan 2022-2028 (should it be adopted at time of determining the application), in accordance with Section 8(1)(iv)(II) of the 2016 Act.

With regard to the requirements of Section 37(2)(b) of the 2000 Act, it is submitted that this proposed Strategic Housing Development of 419 no. BTR dwellings units, on land zoned Objective A '*to protect and/or improve residential amenity,*' is of strategic importance. The provision of a high-density BTR residential development is consistent with the strategic and national policy set out in the National Planning Framework, the Regional Spatial and Economic Strategy for the Midlands and Eastern Region and the Dublin Metropolitan Area Strategic Plan.

The proposed BTR model can deliver new housing at a significantly greater scale and at a quicker pace of development than that associated with regular private market apartment schemes. In this regard, Section 5.7 of the Apartment Guidelines acknowledges that a BTR schemes becomes available to the rental sector over a much shorter timescale upon completion of the development. Accelerated housing construction through BTR, will make a significant contribution to the scale of increased urban housing delivery as identified in Housing for All and the NPF. In this respect, it is submitted that the proposed development is of strategic importance in the delivery of additional housing and will specifically relieve demand pressure on the available supply of rental accommodation in this part of the Dublin City area.

With regard to 37(2)(b)(iii), the proposed development should be granted having regard to guidelines issued under section 28 of the Act.

The Urban Development and Building Heights Guidelines for Planning Authorities issued in December 2018 after the adoption of the County Plan, advocate a move towards a more performance criteria driven approach and away from generic maximum heights as provided for under the Dun Laoghaire Rathdown Development Plan 2016-2022. It has been demonstrated that the proposed development accords with all the relevant qualification criteria set out in the Building Heights Guidelines, and the objective to deliver compact, sustainable urban growth.

Furthermore, the Sustainable Urban Housing: Design Standards for New Apartments, issued 2018 and updated and reissued in December 2020, provides that well located developments, proximate to public transport links and accessible to town centres and employment areas must be considered for reduced overall car parking standards. Specifically, the Guidelines provide that BTR schemes, such as the proposed development, shall have a default of minimal or significantly reduced car parking provision. In this regard, it is considered that the proposed level of car parking is fully consistent with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments 2020.

All apartments have been designed to be fully consistent with the standards in the Apartment Guidelines Sustainable Urban Housing: Design Standards for New Apartments 2020, including aspect, unit mix, internal storage areas, minimum private open space, minimum floor areas and number of units per core. Furthermore, it is considered that the proposed development has been designed to ensure all principal facades between apartment blocks exceed the circa 22m requirement set out in the Development Plan and Draft Plan. It is considered the limited deviance from the 22m guideline is consistent with national policies for a more performance-based assessments in order to achieve urban consolidation and sustainable use of urban land close to public transportation corridors.

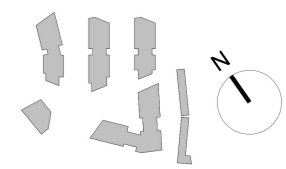
Accordingly, it is submitted to the Board that the proposed development satisfies the requirements of Section 37(2)(b) of the 2000 Act, and that the Board can grant permission for the proposed development having regard to those provisions.

**APPENDIX A: INDICATIVE SEPARATION DISTANCES BETWEEN BLOCKS**





ALL DIMENSIONS TO BE CHECKED ON SITE  
 NO DIMENSIONS TO BE SCALED FROM THIS DRAWING  
 DRAWING IS TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS DRAWINGS



REV DATE DESCRIPTION  
 STATUS CODE DESCRIPTION  
**ISSUED FOR PLANNING APPROVAL**

CLIENT  
 Cornel Living  
 PROJECT  
 Cornelscourt Residential Development, Cabinteely, Dublin 18  
 DRAWING  
**TENANT AMENITY - FIRST FLOOR**

PROJECT NUMBER 95558	DATE 10/14/21
SCALE @ A0 1:200	DRAWN/CHECKED RDI/GOS
STATUS CODE A1	DRAWING NUMBER COR-HLL-SW-01-DR-A-1501
REVISION	

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