



Material Contravention Statement

Proposed Strategic Housing Development at (The Meadows)
Bessborough, Ballinure, Blackrock, Cork

Estuary View Enterprises 2020 Limited

March 2022

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01. Introduction

1.1 PURPOSE OF STATEMENT

HW Planning has been appointed by Estuary View Enterprises 2020 Limited to prepare this statement to address aspects of the proposed Strategic Housing Development in relation to Phase 1 'The Meadows' at Bessborough, Ballinure, Blackrock, Cork that may be considered to materially contravene certain non-land use policies and objectives of the Cork City Development Plan 2015 - 2021 (CCDP).

The proposed development materially contravenes policies, objectives and standards contained in the CCDP in respect of Part V, Plot Ratio, Building Height and Tall Buildings, Unit Mix, Unit Size, Dual Aspect, Floor to Ceiling Heights and Stair Cores.

The Planning and Development (Housing) and Residential Tenancies Act, 2016 ("the 2016 Act"), empowers An Bord Pleanála to grant permission for a strategic housing development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land. In these circumstances, the provisions of Section 9(6) of the 2016 Act are relevant:

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

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

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

In circumstances where: (i) the Board has the power to decide to grant permission for a proposed SHD where the proposed development contravenes the development plan or local area plan; (ii) the proposed Phase 1 'The Meadows' SHD does not contravene the development plan or local area plan in relation to the zoning of land; then (iii) the provisions of section 37(2)(b) of the Planning and Development Act 2000 ("the 2000 Act") are relevant to the Board's consideration of this planning application. In this respect, subsection 37(2) states:

(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development

contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

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

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

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

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

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

Section 8(1)(iv)(II) of the 2016 Act specifies that, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

A response to the relevant criteria above is provided in Section 03 of this report and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed Phase 1 'The Meadows' SHD, thereby enabling the Board to decide to grant permission, notwithstanding the material contravention of the subject policies, objectives and standards of the CCDP.

This statement addresses the material contraventions of certain policies, objectives and standards contained in CCDP and sets out the reasons why the Board should nonetheless grant permission, having regard to the provisions of section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

1.2 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The development will consist of the construction of a residential development of 280 no. residential apartment units with supporting tenant amenity facilities, café, crèche, and all ancillary site development works. The proposed development includes 280 no. apartments to be provided as follows: Block A (6 no. studio apartments, 14 no. 1-bedroom, 34 no. 2-bedroom & 1 no. 3-bedroom over 1-6 storeys), Block B (37 no. 1-bedroom & 49 no. 2-bedroom over 6-10 storeys), Block C (31 no. 1-bedroom, 36 no. 2-bedroom & 6 no. 3-bedroom over 5-9 storeys) and Block D (30 no. 1-bedroom, 31 no. 2-bedroom & 5 no. 3-bedroom over 6-7 storeys).

The proposal includes a new pedestrian/cycle bridge over the adjoining Passage West Greenway to the east, connecting into the existing down ramp from Mahon providing direct access to the greenway and wider areas.

The proposed development provides for outdoor amenity areas, landscaping, under-podium and street car parking, bicycle parking, bin stores, 2 no. substations one of which is single storey free standing , a single storey carpark access building, public lighting, roof mounted solar panels, wastewater infrastructure including new inlet sewer to the Bessborough Wastewater Pumping Station to the west, surface water attenuation, water utility services and all ancillary site development works. Vehicular access to the proposed development will be provided via the existing access road off the Bessboro Road. The proposed development is situated within the wider curtilage of Bessborough House which is a Protected Structure (Reference: RPS 490).

An Environmental Impact Assessment Report and a Natura Impact Statement have been prepared in respect of the proposed development.

1.3 LAND USE ZONING OBJECTIVE



Figure 1.1 Zoning Map

As Figure 1.1 identifies, the CCDP zoning objective for the lands to the north and east of the Bessborough Estate is 'Residential, Local Services & Institutions'. This area is also designated as an 'Area of High Landscape Value' (hatched area in insert map). The specific zoning objective ZO4 for 'Residential, Local Services & Institutions' is:

To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3.

In relation to development within 'Areas of High Landscape Value' Objective 10.4 of the CCDP indicates that:

Development will be considered only where it safeguards to the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures, and landmarks; and the ecological and habitat value of the landscape.

The narrow linear leg of the red-line to the southwest falls within the 'Bessboro House Landscape Preservation Zone SE4'. This part of the red line relates to existing underground services only which will be subject to upgrades.

In the Council Submission on the Section 5 Consultation, dated 15/10/21, Section 3.2.11 noted that:

The majority of the site is zoned ZO 4 Residential, Local Services and Institutional ... Paragraph 15.10 of the plan states that the provision and protection of residential uses and residential amenity is a central objective of this zoning.

With Section 3.4.2 noting the report of the Senior Planner with Planning Policy, dated 8th October 2021, which states that:

from a strategic planning perspective, the proposed development can be supported in principle under the residential zoning objective given the proposed use.

Section 3.4.2 concludes that:

In this regard, it is considered that while the principle of the development complies with the zoning objectives of the Cork City Development Plan, the development must be assessed in terms of design, conservation and heritage.

1.4 MATERIAL CONTRAVENTIONS OF THE CORK CITY DEVELOPMENT PLAN 2015 - 2021

It is considered that the proposed SHD may materially contravene policies, objectives and standards of the CCDP in relation to Social Housing under Part V, Plot Ratio, Building Height and Tall Buildings, Unit Mix, Unit Size, Dual Aspect, Floor to Ceiling Heights and Stair Cores. This statement sets out the how the Board can grant a permission for the proposed strategic housing development having regard to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

Section 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended) directs that An Bord Pleanála can only grant permission for a development that materially contravenes the development plan where "the proposed development is of strategic or national importance". This is demonstrated at Section 3.1 of this statement. Furthermore, the material contraventions referred to above are discussed in detail in Section 3 with regard to the relevant policies and objectives of the CCDP and the manner in which Section 37(2)(b)(ii), (iii) or (iv) considerations apply.

1.4.1 Parking Provision

Aside from the items listed above, in the context of parking provision, Figure 16.1 and Table 16.8 of the CCDP provide guidance on car parking. The subject development is located in Parking Zone 3, where a maximum of 1 car parking space plus 0.25 spaces for visitor parking is specified for 1-2 bedroom residential units, and 2 car parking spaces plus 0.25 spaces for visitor parking is set out for 3 bedroom and larger units.

In addition, in relation to the creche, the CCDP stipulates a maximum of 1 no. parking place is required per 6 no. students. In the context of the subject application where provision is made for a 35 no. child place creche, this sets out a maximum requirement for 5 no. car parking spaces. Alongside this the proposed café, with a floor area of 101.3 sq. m., on the CCDP standard of 1 space per 20 sq. m, would also trigger a maximum requirement for 5 no. car parking spaces.

However, Section 16.107 states that *“These standards are maximums in order to constrain car trip generation and promote patronage of “green” modes of transport.”*. There are no minimum requirements.

The proposed development will provide a total of 102 no. parking spaces, 98 no. of which are for resident use with an additional 4 no. creche drop-off spaces. This represents a 0.35 resident car parking ratio per unit. An Bord Pleanála (ABP) have recently granted permission for development at the Former Ford Factory site in Cork’s South Docks (ABP Ref: ABP-309059-20) with a similar parking ratio of 0.39 car parking spaces per unit. The ABP Inspector in their assessment of the scheme was of the opinion that *‘Reduced levels of car parking are provided in line with emerging policy for the area, as a measure to encourage modal shift.’*

The proposed quantum of car parking in the subject application, is not therefore, considered a material contravention of the CCDP. The ABP Inspector noted in relation to a recent application on an adjacent Bessborough site (ABP-308790-20) that:

Given the site’s location close to existing and planned public transport services at Mahon and to employment and retail services at Mahon, coupled with its relative proximity to Blackrock and Cork City I consider that the rate of car parking provision can be justified in this instance as a means of encouraging use of sustainable transport modes.

1.4.2 Density

Section 16.40 Residential Density of the CCDP provides minimum standards for density, stating that:

Densities of greater than 50 dwellings per hectare will normally require a mix of houses and apartments. Densities higher than this baseline level will be appropriate in other types of location:

- » *Along bus routes densities should be to a minimum density of 50 dwellings per hectare (subject to constraints imposed by the character of the surrounding area);*
- » *At larger development sites (>0.5 hectares in size, the size of a residential block) capable of generating and accommodating their own character;*
- » *Major development areas and mixed use areas (including the central areas, District, Neighbourhood and Local centres).*

The proposed development, consisting of 280 no. units in a 2.29ha site, of which 1.53ha is developable, has a density 122.2 units per ha (overall) and 183 units per ha (developable area). The subject development site, being >0.5 ha, is categorized in Section 16.40 of the CDP as a larger development, capable of generating and accommodating its own character, where higher densities are appropriate.

It is also located within a minute walk of the 215/215A/219 bus route with a combined peak time frequency of 10 minutes. Bessborough Estate is also within an 5 minute walk of the 202/202A bus route, with a 10 minute peak time frequency. Furthermore, it is set to benefit from proximity to the planned Light Rail Transit as set out in the Cork Metropolitan Area Transport Strategy (CMATS). The site is therefore, in line with the type of location identified in Section 16.40 of the CCDP as appropriate for higher densities. Alongside this the site is situated adjacent to the Mahon District Centre, a further criterium listed in Section 16.40 which renders higher densities appropriate.

In 2018 the ABP Inspector in granting permission for a net density of 137 no. units per ha at nearby Jacob's Island (ABP Ref: ABP-301991-18) stated that:

Given the location of the development in the context of the facilities, services and employment opportunities of Mahon and Cork City Centre, the combination of high density and extremely low density residential development in the vicinity, I am satisfied that the applicant has satisfactorily increased residential density to an acceptable and sustainable level.

More recently the ABP Inspector, in granting permission for a net density of 275 no. units per ha on the Former Ford Site (ABP Ref: APB-309059-20) stated that:

the provision of higher density development on such brownfield docklands sites is supported at national, regional and local planning policy level and transport infrastructure proposals set out in CMATS are predicated on consolidation of development along public transport corridors.

We consider both these comments apply equally to the subject application. Given the above, the proposed density is therefore not considered a material contravention of the CCDP.

02. Policy background

2.1 NATIONAL POLICY

The key National Policies of relevance to the proposed development are.

- Project Ireland 2040: National Planning Framework;
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009);
- Sustainable Urban Housing: Design Standards for New Apartments (2020); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

2.1.1 Project Ireland 2040: National Planning Framework

One of the principle goals of the NPF is to deliver compact growth through the activation of strategic areas and achieving effective density and consolidation. Promoting the compact growth approach rather than a continued sprawl of urban development, is listed as one of the NPF's key priorities and will be achieved by future developments complying with the following National Policy Objectives:

National policy Objective 2A - A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

National Policy Objective 3B - Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

National Policy Objective 3c - Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

National Policy Objective 4 - Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 6 - Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

National Policy Objective 8 - Ensure that the targeted pattern of population growth of Ireland's cities to 2040 is in accordance with the targets set out in Table 4.1.

City	Population 2016	Population Growth to 2040 ²⁷		Minimum Target Population 2040
		% Range	People	
Dublin - City and Suburbs	1,173,000	20-25%	235,000 - 293,000	1,408,000
Cork - City and Suburbs	209,000	50-60%	105,000 - 125,000	314,000
Limerick - City and Suburbs	94,000	50-60%	47,000 - 56,000	141,000
Galway - City and Suburbs	80,000	50-60%	40,000 - 48,000	120,000
Waterford - City and Suburbs	54,000	50-60%	27,000 - 32,000	81,000

Figure 2.1 Extract of Table 4.1 Targeted Pattern of City Population Growth contained within the NPF

National Policy Objective 11 - *In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*

National Policy Objective 13 - *In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.*

National Policy Objective 32 - *To target the delivery of 550,000 additional households to 2040.*

National Policy Objective 33 - *To prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.*

National Policy Objective 35 - *Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

Key Future Growth Enablers for Cork include.

- *Progressing the sustainable development of new greenfield areas for housing, especially those on public transport corridors, such as Monard; and*
- *Identifying infill and regeneration opportunities to intensify housing development in inner city and inner suburban areas, supported by public realm and urban amenity projects.*

2.1.2 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009)

The Sustainable Residential Development in Urban Areas, 2009 (SRDUA) provides statutory guidelines which will assist planning authorities, developers, architects and designers in delivering

high quality residential development. The objective of the document is to produce high quality and crucially sustainable developments.

Section 4.2 of the Guidelines sets out the following in relation to density, efficient use of land and public open space provision in institutional lands:

In institutional lands and 'windfall' sites which are often characterised by a large private or institutional building set in substantial open lands and which in some cases may be accessible as an amenity to the wider community, any proposals for higher density residential development must take into account the objective of retaining the "open character" of these lands, while at the same time ensuring that an efficient use is made of the land. In these cases, a minimum requirement of 20% of site area should be specified; however, this should be assessed in the context of the quality and provision of existing or proposed open space in the wider area. Whilst the quantum of open space may be increased vis-à-vis other sites, the amount of residential yield should be no less than would be achieved on any comparable residential site. Increasing densities in selected parts of the site subject to the safeguards expressed elsewhere may be necessary to achieve this.

2.1.3 Sustainable Urban Housing: Design Standards for New Apartments, 2020

The Guidelines refer to the need to significantly increase supply as a key pillar of the overarching Rebuilding Ireland Housing Action Plan. Urban Areas are identified as the most suitable locations for apartments and are divided into 3 categories:

1. Central and/or Accessible Urban Locations,
2. Intermediate Urban Locations; and
3. Peripheral and/ or Less Accessible Urban Locations.

Section 2.4 of the Guidelines define Central and/or Accessible Urban Locations' as:

- Sites within walking distance (i.e., up to 15 minutes or 1,000- 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e., up to 10 minutes or 800- 1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e., up to 5 minutes or 400-500m) to/ from high frequency (i.e., min 10-minute peak hour frequency) urban bus services.

These definitions are meant to be interpreted as typical rather than 'exhaustive' and the Guidelines indicate that the full range of locations "will require local assessment that further considers these and other relevant planning factors".

The Phase 1 'The Meadows' site is located in what can be defined as an 'Accessible Urban' location based on Category 1 and 3 of the apartment Guidelines as it is within easy walking distance of significant employment hubs in the form of the Mahon District Centre, which includes Mahon Point and Mahon Retail Park, City Gate and numerous other business parks and industrial estates.

The subject site is less than 100m from a bus stop served by the 215/215A/219 bus services which have a combined peak time frequency of 10 minutes. Bessborough Estate is also within a

5 minutes' walk of a bus stop served by the 202/202A services, which have a peak period frequency of 10 minutes.

The high capacity Light Rail Transit (LRT) public transport corridor from Mahon to Ballincollig via Centre Park Road, as put forward in the CMATS, will provide an additional mode of travel for future residents.

The Inspector in assessing the Former Ford Factory site in Cork's South Docks (ABP Ref: ABP-309059-20) noted that such accessible locations, close to employment, urban amenities, parks and the waterfront are particularly suited to apartments:

“Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.”

The Guidelines indicate that such areas are suitable for higher density apartment developments where the quantum of car parking can be *“minimised, substantially reduced or wholly eliminated”*.

Specific space standards contained within the Apartment Guidelines are referenced throughout this document.

2.1.4 Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)

The Building Height Guidelines have arisen from a recognition that the ambitious targets contained within the NPF, particularly in relation to accommodating 50% of future growth within the existing footprint of our cities, will not be met unless developments of greater height and scale are supported. The guidelines therefore actively seek increased levels of residential development in our urban centres through increased height and density.

Section 2.2 of the Guidelines outline that:

“At the same time, to meet the needs of a growing population without growing our urban areas outwards requires more focus in planning policy and implementation terms on reusing previously developed ‘brownfield’ land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements.”

Furthermore, SPPR 1 supports the redevelopment of underutilised sites and specifies:

“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 heights 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 heights.”

The Development Management Criteria contained within Section 3.0 of the Guidelines is discussed in further detail at Section 3.1.3 of this statement.

2.2 REGIONAL POLICY

The Regional Spatial Economic Strategy: Southern Region (Cork Metropolitan Area Strategic Plan) (2020) represents the relevant regional policy pertaining to the subject site.

2.2.1 Regional Spatial Economic Strategy: Southern Region (Cork Metropolitan Area Strategic Plan) (2020)

The purpose of the Regional Spatial and Economic Strategies (RSES) is to support implementation of the National Planning Framework while facilitating choices that reflect the differing needs of the regions. The strategies are proposed in the context of a renewed focus on “Regional Parity” in the NPF, being promoted to address anti-competitive pressures on Dublin by offering more sustainable choices and options for people, businesses and communities that can positively influence more sustainable patterns of living and working which benefit our entire society and make our economy more equitable and resilient.

Some of the key specific aims include:

- *Cork City and suburbs population increasing by 115,000 additional people (an increase of more than 55%) from a population of 209,000 in 2016 to 324,000 by the year 2040.*

Regional Planning Objective (RPO) 10 for the Southern Region aims to achieve Compact Growth in Metropolitan Area by.

“a) Prioritise housing and employment development in locations within and contiguous to existing city footprints where it can be served by public transport, walking and cycling.”

The RSES identifies the delivery of sustainable regeneration and growth (particularly compact growth) through effective sustainable transport, spatial land use planning and the delivery of sustainable higher densities.

RPO 151 - Integration of Land Use and Transport states the following principles of land use and transport integration will guide development:

“a) For urban-generated development, the development of lands, within or contiguous with the existing urban areas will be prioritised over development in less accessible locations.

b) Residential development will be carried out sequentially, whereby lands which are, or will be, most accessible by walking, cycling and public transport—including infill and brownfield sites are prioritised.”

RPO 165 - Higher Densities states that:

“Local Authorities, through appropriate Development Plan policies shall ensure the consolidation of development at higher densities within existing urban centres and provision of permeability (improved for existing areas and included in any new development), with a focus on locations where it can be demonstrated that such development supports the use of walking, cycling and public transport.”

The RSES places a significant emphasis on quality placemaking and the creation of new sustainable neighborhoods. RPO 176 - 10 minute City and Town Concepts aims to:

*“attain sustainable compact settlements whereby, a range of community facilities and services are accessible in short walking and cycle timeframes from homes or are accessible by high quality public transport services by connecting people to larger scaled settlements **delivering these services**”.*

Mahon is situated within the Cork Metropolitan Area Strategic Plan (MASP) region. Cork MASP Policy Objective 1 states the following overall objective.

“To strengthen the role of the Cork Metropolitan Area as an international location of scale, a complement to Dublin and a primary driver of economic and population growth in the Southern Region.

*B (ii) the continued regeneration, consolidation and infrastructure led growth of the city centre, Cork City Docklands, Tivoli and **suburban areas**”*

Cork MASP Policy Objective 7 states.

*“Identify and deliver strategic locations for increased residential and employment use at public transport interchange locations relating to the proposed Light Rail Transit Route, Suburban Rail and the strategic bus network, where high levels of accessibility by public transport can be achieved. Seek sustainable higher densities where practicable at public transport **nodal points.**”*

Section 3.2 of the Cork MASP refers to the Guiding Principles for the future of the area including the following:

Compact Sustainable Growth - Promote consolidation of Cork City and suburbs, refocus on the development of brownfield and infill lands to achieve a target of a minimum 50% of all new homes within the existing built-up footprint in Cork and 30% in other metropolitan settlements.

Integrated Transport and Land Use - Target growth along high quality public transport corridors and nodes linked to the delivery of key public transport projects under the development of a Cork Metropolitan Area Transport Strategy (CMATS).

Accelerate Housing Delivery - Activate strategic residential development areas and support the steady supply of sites to accelerate housing supply..... to achieve higher densities in the urban built up areas, supported by better services and public transport.

Better alignment of growth - Target ‘catch up’ investment to support employment, infrastructure and amenity provision and/or sustainable transport links in metropolitan towns and suburban areas that have experienced high levels of population growth but are reliant on other areas for employment and/or services.

Section 5.0 identifies strategic housing and regeneration locations within the Cork Metropolitan area. Achieving NPF growth targets will require in depth consideration for new locations. Mahon is identified as a strategic housing location along the potential light rail corridor. Below are the RSES objectives and infrastructure priorities for the Mahon region:

- Potential Residential Yield: 1021 units
- New public transport bridge and route linking via Bessboro to Mahon.
- Expansion and upgrading of amenity areas and walking/ cycling routes.

- Investment in retrofitting infrastructure and services (physical, social and recreational) to improve quality of life for communities.

2.3 LOCAL PLANNING POLICY

2.3.1 Cork City Development Plan 2015 -2021

The Cork City Development Plan is Cork City Council's main strategic planning policy document intended to guide the development of the city up to 2021. The subject application will be determined prior to the adoption of the Draft Cork City Development Plan 2022-2028 in August 2022 therefore the Cork City Development Plan 2015-2022 is the relevant local planning policy pertaining to the subject application. The ZO 4 zoning objective was discussed at Section 1.3 of this report. The vision for Cork over the lifetime of the Plan and beyond is to deliver:

The main goals outlined in the Core Strategy of the Plan are to:

- *Increase population and households to create a compact sustainable city;*
- *Achieve a higher quality of life, promote social inclusion and make the city an attractive and healthy place to live, work, visit and invest in; and*
- *Promote sustainable modes of transport and integration of land use and transportation.*

The Core Strategy directs that key development areas within the city will be developed based on the strategies contained within the Development Plan or relevant Local Area Plans. The Mahon Local Area Plan, 2014 (LAP) has expired therefore it does not have any statutory powers.

The Cork City Development Plan (CCDP) identifies South Mahon as a 'Key Development Area'. Section 2.8 of the CCDP outlines the development strategy for these areas:

'The key development areas, which are mainly 'brownfield' land, will be developed for a range of uses based on strategies in the Plan or which have been developed in local area plans. They are becoming available for development because of the decline of low density uses such as traditional industries in Docklands and elsewhere and their replacement by more intensive employment and residential uses. These areas will accommodate the majority of growth and development within the city and they are selected based on their potential to accommodate growth and to be served by sustainable modes of transport.'

The CCDP zoning objective for the lands to the north and east of the Bessborough Estate is 'Residential, Local Services & Institutions'. This area is also designated as an 'Area of High Landscape Value'. The specific zoning objective ZO4 for 'Residential, Local Services & Institutions' is

'To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3.'

In relation to development within 'Areas of High Landscape Value' Objective 10.4 of the CCDP indicates that

'Development will be considered only where it safeguards to the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High

Landscape Value and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures, and landmarks; and the ecological and habitat value of the landscape.

The narrow linear leg of the red-line to the southwest falls within the 'Bessboro House Landscape Preservation Zone SE4'. This part of the red line relates to existing underground services only which will be subject to upgrades.

03. Material Contravention

3.1 Relevant Policies and Objectives

The proposed development may materially contravene policies, objectives and standards of the Cork City Development Plan 2015 - 2021 in respect of Social Housing under Part V, Plot Ratio, Building Height and Tall Buildings, Unit Mix, Unit Size and Stair Cores. In circumstances where the Phase 1 'The Meadows' SHD constitutes a material contravention of the Development Plan, the planning policy context and justification for deciding to grant permission in circumstances of such a material contravention are outlined, as required under the relevant criteria under Section 37(2)(b) of the 2000 Act, as amended.

For ease of reference, the relevant policies, objectives and standards of the Cork City Development Plan 2015 -2021, which the proposed development may materially contravene are outlined in the following sections, with details provided regarding the manner in which Section 37(2)(b)(ii), (iii) or (iv) considerations apply.

Section 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended) directs that An Bord Pleanála can only grant permission for a development that materially contravenes the development plan where *"the proposed development is of strategic or national importance"*.

Part 2, Section 3 of the Planning and Development Tenancies Act, 2016 (as amended) provides the definition of a Strategic Housing Development as:

the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses'

The proposed development comprises 280 no. residential units on largely ZO4 'Residential, Local Services & Institutions' lands therefore it is strategic in nature by definition. The 1.53 ha subject site is located adjacent to the Mahon District Centre and within South Mahon, which is identified as a strategic housing location in Section 5.0 the RSES and a 'Key Development Area' in the CCDP.

It should be noted throughout that Section 28(1) of the Planning and Development Act, 2000 (as amended) directs that:

"The minister may, at any time, issue guidelines to planning authorities regarding any of their functions under this Act and planning authorities shall have regard to those guidelines in the performance of their functions"

This is of particular significant to the National Planning Framework, Height Guidelines 2018 and Apartment Guidelines 2020 which were adopted subsequent to the CCP. This material contravention statement will address the inconsistencies of the proposed development against the CCDP under the relative topics.

3.1.1 Social Housing under Part V

Objective 6.3 of the CCDP states:

“To require that 14% of units on all land zoned for residential uses (or for a mix of residential and other uses) to be reserved for the purpose of social housing and specialised housing needs. Each application subject to Part V requirements will be considered on an individual basis to the prior agreement of the Local Authority.”

Our client proposes to fulfill their Part V obligations through the transfer of 28 no. apartment units to Cork City Council, 10% of the overall development. Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

In addition to Section 37(2)(b)(i) previously discussed in this report, the provisions of Section 37 (2)(b)(iii) and (iv) of the Planning and Development Act, 2000 (as amended) are also appropriate in this instance.

Section (iii) of the Act states that:

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

New provisions relating to Part V as required by Section 94(4) and Section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended were adopted under the Urban Regeneration and Housing Act, 2015 and were formally enacted on 1st September 2015, superseding the adoption of the Cork City Development Plan 2015 – 2021 which came into effect on the 20th April 2015.

In addition to the above, Section 3 of the Housing Circular 28/2021 on Affordable Housing Act, 2021 – Amendments to Part V of the Planning and Development Act, 2000 (as amended) states that:

The increase in the Part V contribution from ‘up to 10%’ for social housing purposes to a mandatory 20%, of which at least half must be for social housing purposes and the balance can be applied to affordable and/or cost rental housing purposes, will immediately affect only new grants of planning permission in respect of sites purchased before 1 September 2015 or after 31 July 2021.’

As the subject lands were acquired by Estuary View Enterprises 2020 Limited, between 1 September 2015 and 31 July 2021, in accordance with the current legislation, 10% of the proposed units is the required Part V contribution in accordance with current legislation. Overall, the proposed development will provide 12 no. one bed and 16 no. two bed units therefore 28 no. Part V units are proposed. Further detail on the Part V proposal is contained within the Part V Methodology Report prepared by HW Planning.

In addition, we refer to Section (iv) which states that:

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

In relation to an adjacent Strategic Housing Development comprising 179 no. units which was refused by An Bord Pleanála (ABP Ref. 308790-20 refers) in 2021, the development proposed a Part V contribution representing 10% of the overall scheme. Cork City Council indicated that they had no objection in relation to the Part V provision.

Given the Development Plan has been superseded by legislation the contravention of Objective 6.3 is justified notwithstanding the contravention of the development plan, having specific regard to Section 37(2)(b)(iii) and (iv) of the Act.

3.1.2 Plot Ratio

Table 16.1 of the Development Plan provides an indicative plot ratio standard of 1.0 – 1.75 for suburban key development areas. Based on the developable site area (1.53 ha) the plot ratio of the proposed scheme is 2.27.

3.1.2.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

Sections 37(2)(b)(ii), (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are of relevance in this contravention of the Development Plan. Plot ratio is a measure to assist the assessment of development and should not be considered in isolation. The CCDP while noting that ‘*plot ratio provides a useful indicator*’ recognises the limitations of plot ratio calculations stating that:

16.16 Plot ratio is secondary to other built form and planning considerations and should not be used to justify a particular built form as qualitative standards (such as scale, building height, enclosure ratio, space provision and quality, street widths, etc.) will be overriding considerations. A key assessment of proposals is their context and fitting in with the existing pattern of development. In some cases higher plot ratios may be permitted e.g.:

- *Adjoining major public transport termini and nodes along rapid transit corridors where an appropriate mix of commercial and residential is proposed;*
- *To maintain townscape and building elevation profiles*

The subject site is located within a Strategic Development Area, adjacent to an existing high frequency public transport service and will benefit from future public transport provision in the form of the LRT, therefore, we consider, that the CCDP makes provision for higher densities at the subject site. It is evident from the above that the objectives pertaining to plot ratio conflict with the vision of Cork City Council, and furthermore they contradict with the aim to increase and promote suitable densities by imposing restraints on developments. This is further evident when considering Objective 6.9 - Housing Density of the CCDP which aims:

“to promote suitable densities to meet the needs outlined in the core strategy as set out in Chapter 16 Development Management.

And Section 16.41 states that:

“Within the city minimum residential density in Suburban areas should be 35-50 dwellings per hectare. Densities of greater than 50 dwellings per hectare will normally require a mix of houses and apartments. Densities higher than this baseline level will be appropriate in other types of location:

- *Along bus routes densities should be to a minimum density of 50 dwellings per hectare (subject to constraints imposed by the character of the surrounding area);*
- *At larger development sites (>0.5 hectares in size, the size of a residential block) capable of generating and accommodating their own character;*
- *Major development areas and mixed use areas (including the central areas, District, Neighbourhood and Local centres).*

The subject scheme proposes an overall density of 122 no. units per hectare and 183 no. units per hectare in relation to the developable area having regard to the guidance of the CCDP, being both adjacent to a high frequency bus route and a larger site of >0.5 hectares. It is clear that there is no correlation between the vision for a higher density on this accessible site and the indicative plot ratio envisaged for suburban key development areas the in the CCDP. Therefore, that Section 37(2)(b)(ii) is applicable to the consideration of plot ratio.

The 2009 SRDUA Guidelines specifically refer to density consideration in former institutional lands, such as the Bessborough Estate, where it concludes that increasing densities in selected parts of such sites may be necessary to safeguard the ‘open character’ of the overall lands:

In institutional lands and ‘windfall’ sites which are often characterised by a large private or institutional building set in substantial open lands and which in some cases may be accessible as an amenity to the wider community, any proposals for higher density residential development must take into account the objective of retaining the “open character” of these lands, while at the same time ensuring that an efficient use is made of the land...Increasing densities in selected parts of the site subject to the safeguards expressed elsewhere may be necessary to achieve this.

The subject application, forms part of an overall masterplan for the development of the area. An Historic Landscape Assessment Report was prepared by Forestbird Design which identified the appropriate development capacity of different areas within the former Bessborough Estate. Due to landscape sensitivities, the proposed plot ratio of Phase 2 ‘The Farm’ is 0.35 across the 4.28 ha developable area. However, to ensure the efficient use of zoned lands, the proposed plot ratio for Phase 1 ‘The Meadows’, considered to have more development potential, is 2.14 across the 1.53 ha developable area.

This is in line with the SRDUA guidance for development of former institutional lands where it recognises that increasing densities across selected parts of the former institutional lands may be necessary to preserve the ‘open character’ of the overall lands. The overall plot ratio for the proposed Phase 1 and Phase 2 development is 0.7, broadly in line with the indicative plot ratio standard of 1.0 – 1.75 as set out in Table 16.1 of the CCDP, when the sensitivity of the subject site is taken into consideration.

Alongside this the RSES identifies Mahon as a strategic housing location along the potential light rail corridor. It also considers that higher densities should be sought at such strategic locations as stated in the Cork MASP Policy Objective 7:

Identify and deliver strategic locations for increased residential and employment use at public transport interchange locations relating to the proposed Light Rail Transit Route, Suburban Rail and the strategic bus network, where high levels of accessibility by public transport can be achieved. Seek sustainable higher densities where practicable at public transport nodal points.

On the basis of both of the above we consider that Section 37(2)(b)(iii) is applicable to the consideration of plot ratio.

Plot ratio as prescribed within the CCDP is intended as an 'indicative' guide rather than a maximum ceiling. An Bord Pleanála has recently granted permission at the Former Ford Factory in Cork's South Docks (ABP Ref: ABP-309059-20) where the scheme with a net plot ratio of 2.89 exceeded the indicative plot ratio set out in the CCDP of 1.5 – 2.5. The Inspector in granting permission for the scheme was of the opinion that the higher density:

is supported at national, regional and local planning policy level and transport infrastructure proposals set out in CMATS are predicated on consolidation of development along public transport corridors.

The permitted scheme exceeded the indicative plot ratio set out in the CCDP with its location within a future public transport corridor as identified in CMATS taken into consideration. This consideration similarly applies to the subject site. We consider therefore that Section 37(2)(b)(iv) is applicable to the consideration of plot ratio.

A key aim of the application is to deliver an urban residential development that effectively uses the available urban lands as an appropriate response to national and regional policies while safeguarding the sensitivities and landscape asset of the site.

It should also be noted that there is a direct correlation between height and plot ratio. A justification for the height of the proposed development is provided at Section 3.1.3 of this report. The Design Team have considered the material merits of the proposed development and consider that the scheme is consistent with the aims of the NPF.

3.1.3 Building Height and Tall Buildings

Objective 16.7 – Tall Building Locations of the CCDP states that:

“The City Council will aim to protect the special character of Cork City which have been identified as having potential for tall buildings. These are South Docklands & South Mahon. (Locations are indicated on Zoning and Objective Maps in Volume 2.

Section 16.25 of the CCDP provides the following building height categories:

- *Low-rise buildings (1-3 storeys in height);*
- *Medium-rise buildings (less than 32metres in height, 4-9 stories approximately). Buildings which are taller than the general building height in any area will be considered “taller” even where they are less than 10 storeys; and*
- *Tall buildings (32 metres or higher, the approximate equivalent of a 10 storey building with a commercial ground floor and residential in the remaining floors).*

The CCDP sets out a building height strategy for suburban areas in Section 16.27 and 16.28. The site is within the Mahon Key Development Area and is over 0.5 ha in area. In such areas building

heights of 3-5 storeys and in 'exceptional circumstances' heights of up to 23 metres (approximately 6-7 storey equivalent) are permissible.

The proposed building heights in Phase 1 'The Meadows' range between 1-10 storeys. It should be noted that only one block in the scheme in the north-eastern corner reaches 10 storeys. As noted the site is within the Mahon Key Development Area and it has been established under ABP-308790-20 and Cork City Council Reference 20/39702 / ABP 309560-21 that there is no objection in principle to heights of 7-8 storeys at this location. The general scale of the proposed development is consistent with, and indeed less than this is some areas. However, the 10 storey element of Building B with a height of 34.85m, exceeds the provision of the plan and is classed in Section 16.25 of the CCDP as a 'Tall Building' and therefore the proposed height is considered to materially contravene Objective 16.7 of the Development Plan.

3.1.3.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

We consider that Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are of relevance in this context.

The National Planning Framework discourages the use numerical limitations in determining appropriate heights. This is reflected in NPO 13 which states that:

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

The Height Guidelines also refer to the traditional building heights in our urban areas which have been limited and generally low rise in terms of height. The need to secure compact and sustainable urban growth forms will require the reuse of brownfield infill sites that are located in well serviced urban locations and are served by good public transport links. As such SPPR1 stipulates that:

"In accordance with Government policy to support increased building height 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 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.

The vision of the NPF incorporates the principle of compact growth in our town and cities through the activation of strategic areas by increased height and densities therefore reducing the occurrence of urban sprawl. In this respect the NPF has a specific objective (No. 35) to:

Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

The proposed height of the development has been designed having regard to the site specific characteristics, technical assessments such as daylight and sunlight and wind micro-climate and the guidance contained within national and regional planning policy that seeks increased heights and densities on strategically located sites that are served by existing infrastructure.

There is significant investment in infrastructure planned in the South Mahon areas as set out in the Cork Metropolitan Area Transport Strategy (CMATS) 2040. CMATS has been published in the context of the National Planning Framework which envisages that Cork will become the fastest growing city region in Ireland in the coming years. This projected population and associated economic growth will result in a significant increase in the demand for travel. This demand needs to be managed and planned for carefully to safeguard and enhance Cork's attractiveness to live, work, visit and invest in.

A key deliverable of CMATS is a Light Rail Transit (LRT) from Ballincollig to Mahon via Centre Park Road. The LRT will be preceded by a high frequency bus service in the short term. The LTR will serve the Mahon with a number of indicative stops identified, one of which is in proximity to the subject site. The planned development of the LTR therefore underpins the development of a high density scheme on the subject lands.

The Building Height Guidelines have arisen from a recognition that the ambitious targets contained within the NPF, particularly in relation to accommodating 50% of future growth within the existing footprint of our cities, will not be met unless developments of greater height and scale are supported by the Planning Authorities. The Building Height Guidelines, 2018 supersede the adoption of the Cork City Development Plan which was adopted in 2015, as such we refer to Section 37(2)(b)(iii) of the Act in this instance. SPPR3 of the Guidelines state that:

It is a specific planning policy requirement that where...an applicant for planning permission sets out how a development proposal complies with the criteria above; and...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.

Development Management Criteria Assessment

At the scale of the relevant city/town

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

- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection

The site is well served by a number of high frequency bus routes including the 202/202A, 215/215A and 219 which provide connections to Cork City Centre, CUH and CIT. The connectivity of the site is outlined in the accompanying connectivity map. In addition, an east-west Light Rail Transit (LRT) public transport corridor from Mahon, through the city centre to Ballincollig will result in the creation of a high frequency public transport hub in this vicinity (c. 5 no. minute frequency).

Chapter 4 of the submitted Environmental Impact Assessment Report (EIAR) includes a Landscape/Townscape and Visual Assessment by Macroworks. The review of baseline conditions confirms the following in respect of the Phase 1 'The Meadows' site:

of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.

This manmade, modified landscape is also marked by some low-level dilapidation and dumping, while along the road aligning this area there is regular evidence of anti-social behaviour (e.g., much broken glass, evidence of past fires etc)...

Within this Phase 1 'The Meadows' area there are no known Protected Structures, National Monuments or ecological and/or conservation designations. Overall, this area is at a considerable aesthetic, naturalistic and functional disconnect to that of the wider Bessborough grounds, as well as land use and character to its east. Aside from the trees aligning its eastern boundary, this area offers little naturalistic or scenic amenity, and is of little conservation or recreational value; in contrast to much of the wider Bessborough Estate.

It is very evident that existing governing site character is not of obvious high landscape value and it has been demonstrated through the Landscape/Townscape and Visual Assessment that there will be no impacts on landscape assets, visual amenities or protected views. Again, for reference, the conclusions reached are consistent with the ABP Inspector's findings under ABP 309560-21 that while increased height will give rise to a level of visual change both on local views and longer range views,

it would not be out of character with the emerging pattern of development in the area and will be viewed as an extension of the baseline urban condition to the immediate east and the Mahon Key Development Area of which the site is part".

The accompanying design statement outlines its architectural approach towards the design of the proposal. The proximity to Bessborough House is an integral element to the design and the relationship with the protected structure is a principal design consideration. Chapter 10 - Cultural Heritage prepared by John Cronin and



Associates in the EIAR that accompanies this application states that the construction and operational phases of the proposed development will have no predicted impact on the archaeological or architectural resources. A number of slight to moderate indirect impacts on the general settings of known cultural heritage assets within the property are predicted.

At the scale of district/ neighbourhood/ street

- The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.
- The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a

As the accompanying Design Statement, TVIA/LVIA (Chapter 4 of EIAR) and Landscape Design Strategy note the design responds to the building clusters and enclosures of Bessborough House. However, while respecting the scale and form of the estate house in the south-western portion of the site, higher densities are achieved in the north-east of the site, where an uplift in building height and scale reflects the adjoining urban form in the Mahon District Centre. The TVIA/LVIA notes that the enhanced connectivity and amenity space resulting for the proposed development will make a positive contribution towards the Mahon urban neighbourhood. It notes that whilst the proposal will result in a distinct increase in the scale and intensity of development within this area, and its immediate surrounds, such a development is to be expected in a dynamic, and ever-evolving locality as this, and will knit into the prevailing urban fabric rather than contrasting against it.

The architectural design has been considered to minimise massing impacts through a block-based approach with extensive glazing. The proposed design includes L-shaped apartment buildings arranged to reflect the forms and geometries of the Bessborough House historic building cluster, with enclosed amenity spaces. A variation in material break-up to each block further de-scales the composition with higher elements in muted darker Colours. The entire scheme is bisected by a large public realm piece linking the west of the site to the Passage West Greenway to the east. This transept is given nodal interest points with live uses at street level.

Placemaking is achieved with the spatial arrangement of the blocks and feature elements by aligning them with desire lines, in conjunction with a diverse yet considered palette of materials, and a

sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).

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

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

At the scale of the site/building

- The form, massing and height of proposed

mix of activities and amenities in strategic locations across the site.

Additional building heights are introduced in proximity to the established urban area of Mahon. The mass of the scheme will also be further broken down through the change of materials along the building facades.

The proposed development is adjacent to the Lough Mahon estuary. The proposal includes the provision of a new access point to the adjacent greenway, forming an integral connection between the site and the nearby water frontage. The proposed layout will enhance the urban context for the Greenway, the proposed Bessborough Estate neighbourhood park and the Loughmahon marine frontage. There are no watercourses located within the subject site. The Flood Risk Assessment prepared by J.B. Barry & Partners Limited that accompanies this application concludes that the site is not at risk of flooding.

The proposed public realm improvements will result in a DMURS compliant streetscape and will produce an urban environment that integrates with the surrounding environment and aligns pedestrian and cycle paths with desire lines. The proposed development will improve the inter-relationship and linkage between the Bessborough Estate and Mahon District Centre.

Section 2.24 of the CCDP notes in relation to Mahon that “*there is a need for a balance between residential and employment uses*”. The proposed development would contribute towards addressing this imbalance. The proposed mix of units has been designed having regard to the Apartment Guidelines, with a range of residential typologies and shared resident facilities. The proposal would contribute positively towards enhancing the housing mix of the area. The juxtaposing of the proposed compact high-density apartments with the existing low-density housing in the vicinity would result in an overall acceptable and sustainable level of development.

The chosen block layout and modulation of heights will reduce the massing effect of the proposal while ensuring adequate daylight and amenity to existing

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

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and future residents and reflecting the scale of the adjoining built environs. As outlined in the Design Statement, the proposed block arrangements have been refined in response to considerations of amenity segregation and to maximise access to daylight.

Refer to enclosed Daylight Reception Analysis Report and Sunlight and Shadow Report produced by DK Partnership.

Specific Assessments

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

- Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.
- In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.
- An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.
- An assessment that the proposal maintains safe air navigation.
- An urban design statement including, as appropriate, impact on the historic built environment.
- Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.

This is supported by a suite of specialist studies. An Appropriate Assessment Screening and Natura Impact Statement have been prepared by Dixon Brosnan and are enclosed with this application. Daylight and Sunlight Assessment, shadow, microclimate and telecommunication studies were carried out, the reports from which accompany this application. In addition, landscape and visual, ecological, and heritage impact assessments were also carried out as part of the accompanying EIAR. Collectively, these assessments demonstrate that the overall scale and massing of the proposal is well judged, carefully composed and an appropriate response to local context.

In addition to the above, the Building Height Guidelines state:

it is government policy that building heights must be generally increased in appropriate locations. There is therefore a presumption in favour of building of increased height in our town/city cores and in other urban locations with good public transport accessibility.

As demonstrated in the Development Management Criteria Assessment above, the proposed height is appropriate in this acknowledged strategic employment and strategic housing location which

benefit from good public transport and has been intentional in response to the receiving environment. We consider therefore that under the provision of Section 37(2)(b)(iii) of the Act, the approach to height adopted in Phase1 'the Meadows' SHD is acceptable.

The ABP Inspector in their assessment of the nearby application for 413 no. apartments in Jacob's Island, which includes a 25 storey tower (ABP-301991-18) stated that:

'Given the location of the development in the context of the facilities, services and employment opportunities of Mahon and Cork City Centre, the combination of high density and extremely low density residential development in the vicinity, I am satisfied that the applicant has satisfactorily increased residential density to an acceptable and sustainable level.'

In addition, the ABP inspector went on to say:

'My own view is that waterfront locations provide an ideal context for tall buildings and in this case the strategic gateway location to Mahon and Cork City beyond is opportune.'

Having regard to Section 37(2)(b)(iv) of the act, it is evident that the proposed height of the Phase1 'the Meadows' SHD is coherent with the surrounding pattern of development that has been permitted.

3.1.4 Unit Mix and Household Size

The CCDP Objective 6.8 – Housing Mix sets out the Council's aim:

To encourage the establishment of sustainable residential communities by ensuring a mix of housing and apartment types, sizes and tenures is provided. Planning applications for multiple housing units shall submit a Statement of Housing Mix detailing the proposed mix and why it is considered appropriate. The needs of special groups such as the elderly and disabled shall also be considered as part of this process.

Table 3.1. Extract from Table 16.4 of the CCDP – Indicative Dwelling Size Targets

<i>Existing Household mix</i>		<i>Dwelling size distribution targets</i>	
Household size	House size	<i>Zones*</i>	
		Zone 1 and Zone 2 and all Apartment / Duplex schemes	Zone 3 (Suburbs) (mixed house / apartment schemes)
1 Person	1 Bed	Max 15%	Max 20%
2 Person	2 Bed	Max 50%	Min 30%
3 Person	3 / 3+ Bed	Min 35%	Min 50%
4 Person			
5 Person			
Total		100%	100%

The subject site is located in Zone 3 as per Map 16.1 of the CCDP. The CCDP provides an indicative breakdown of dwelling sizes. A comparison with the housing mix of the proposed scheme is provided below.

Table 3.2. Proposed Unit Mix Against CCDP Indicative Targets

Unit Size	Percentage	Quantum	Development Plan Target
Studio & 1 no. bed	42.1 % (2% accounted for by studios)	118	Max 20 %
2 no. bed	53.6 %	150	Min 30 %
3 no. bed	4.3 %	12	Min 50 %
	100 %	280	

The proposed development therefore contravenes the CCDP in respect of the mix of units. A justification for the deviation from the CCDP standards is provided below.

3.1.4.1 Justification for Material Contravention in accordance with Section 37(2)(b) of the Planning and Development Act, 2000 (as amended)

The quantum of one and three person units is not consistent with the indicative targets for unit sizes in the CCDP. The proposed development has been designed in accordance with the Apartment Guidelines, 2020 which supersede the adoption of the CCDP. Section 37 (2)(b) (iii) of the Planning and Development Act, 2000 (as amended) are therefore of relevance.

We refer to Specific Planning Policy Requirement 1 of the Apartment Guidelines, 2020 that states:

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

The *Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), 2009* guidelines also acknowledge changing household formations and declining family sizes.

The CCDP does not provide an evidence based HNDA for the South Mahon area to dictate the mix of units needed to accommodate future population growth in this area. According to the 2016 CSO, the predominate tenure in the Mahon Neighbourhood (based on Airo Neighbourhood Profile Document, prepared in support of the Draft City Plan 2021) is House/Bungalow which represents 82% of the housing stock.

Section 5.0 of the RSES identifies Mahon as one of the strategic housing and regeneration locations within the Cork Metropolitan area, with a potential residential yield of 1,021 units. The proposed development aims to provide a choice of suitably sized tenure in this area that responds to changing demographics including family formations and household sizes in line with one of the NPF's core

principles to 'tailor the scale and nature of future housing provision to the size and type of settlement where it is planned to be located'.

The provision of a greater number of smaller units will complement the existing stock of traditional low density family dwelling houses in the Mahon Neighbourhood by providing an efficient mix of units that meet the needs of modern households. This is supported in the City Council's Submission On Section 5 Consultation, dated 15/11/21, which states that:

This mix of unit types is considered acceptable and accords generally with the requirement for a mix of units as set out in SPPR 8.

With regard to household sizes we note that the Inspector in assessing the Former Ford Site in the Cork South Docks (ABP Ref: APB-309059-20) was of the view that:

I find Table 16.4 of the development plan to be unclear with regard to the targets identified for bedspaces (dwelling type) vis bedroom number (house size), i.e., a 2-bed house would not generally be regarded as a 2-person dwelling type.

They go on to note that:

The proposed development complies with SPPR1 of the Apartment Design Guidelines in terms of housing mix and can therefore be considered to provide a reasonable and sustainable mix of housing which reflects current trends in household formation patterns.

The subject application similarly complies with SPR1 of the Guidelines and can also be considered to appropriately accommodate current trends in household sizes.

We consider therefore that under the provision of Section 37(2)(b)(iii) of the Act, the approach to unit mix and household sizes adopted in Phase1 'the Meadows' SHD is acceptable.

3.1.5 Unit Size

Table 16.5 of the CCDP specifies minimum apartment size standards as per the extract below.

Table 3.2. Extract from Table 16.5 of CCDP – Minimum Unit Size Standards

Table 16.5 Minimum Overall Apartment Gross Floor Areas

Dwelling type	Size
One bedroom	55 sq. m.
Two bedroom / 3 persons	80 sq. m.
Two bedroom / 4 persons	90 sq. m.
Three bedroom	100 sq. m.
Four bedroom	115 sq. m.

The proposed development has been designed in accordance with the Apartment Guidelines, 2020 which set out standards below the CCDP minimum standards.

Table 3.3. Apartment Guidelines 2020 – Minimum Gross Floor Area Standard

Unit Size	Standard
Studio	37 sq m
One bedroom	45 sq m
Two bedroom (three person)	63 sq m
Two bedroom (four person)	73 sq m
Three bedroom	90 sq m

The proposed development therefore contravenes the CCDP in respect of the unit sizes.

3.1.5.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

The Housing Quality Assessment prepared by ShipseyBarry Architecture (refer to Key Data Section of enclosed Design Statement) demonstrates that all 280 no. proposed units have been designed in accordance with the Apartment Guidelines. And meet or exceed the minimum standards. The CCDP is superseded by the adoption of the Apartment Guidelines, which are therefore the relevant standards to follow for best practice. Section 37 (2)(b) (iii) of the Planning and Development Act, 2000 (as amended) is of relevance in this context.

A Daylight and Sunlight Analysis was carried out by DKPartnership to demonstrate that the proposed development will benefit from good quality daylight. The report concludes that:

Given the results and conclusions above we, DKP, deem the proposed project to be in compliance with the recommendations in the BRE design guidelines 'site layout and planning for daylight and sunlight - a guide to good practice'.

In addition, 43.2% of the proposed units are dual aspect to achieve a high-quality living environment, which significantly exceeds the 33% target for accessible urban areas (as established in Section 2.13). Furthermore 57.8% of proposed units exceed the minimum floor area standard by 10% or greater.

The proposed development provides for a 35 place creche and café, in addition to tenant amenity facilities (692.6 sq m), semi-private amenity space (2,119 sq m) and public open space (2,958 sq m) within the application site for future residents to utilise. The tenant amenity facilities will supplement the private apartments and include lounges/ home-working space and a gym that will contribute to creating a high-quality living environment. The Architectural Design Statement prepared by ShipseyBarry Architecture provides details on the indicative images on how the communal areas can be utilised by end-users.

The proposal will provide a high-quality residential development within walking distance of Mahon District Centre, a number of employment hubs and expansive green infrastructure (The Passage West Greenway).

The Apartment Guidelines are widely accepted as the relevant design standards, for instance the apartment sizes in the permitted nearby Jacob's Island site (ABP Ref: APB-301991-18) are in accordance with the Apartment Guidelines.

3.1.6 Dual Aspect

Section 16.51 of the Development Plan states that:

“Dual aspect is a key quality of life issue and energy efficiency issue. Dual aspect provides for a more attractive, usable and adaptable living space, better views and also cross-ventilation and better sunlight/ daylight. The target is for 90% of apartments to be dual aspect. No single aspect apartments should be north facing.”

The proposed scheme provides 121 no. dual aspect apartments which represents 43.2% of the overall scheme. There are 39 north facing apartments.

3.1.6.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

The subject site is located within an area defined as an accessible urban area. In reference to such locations Specific Planning Policy Requirement 4 of the Apartment Guidelines state that:

“A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.”

The Development Plan is superseded by the adoption of the Apartment Guidelines and are therefore the relevant standards to follow for best practice. This is widely accepted, for example the dual aspect ratios in the permitted Former Ford Site (ABP Ref: APB-309059-20) are in accordance with the Apartment Guidelines, 2020. Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are therefore applicable in respect of the justification for the material contravention of dual aspect at the subject site.

A key aspect of the final layout is the achievement of street frontage and permeability through the site and this has been a key influence in respect of achievable dual aspect, the rationale for which is set out in the Architectural Design Statement. 43% of units in the proposal are dual aspect which is in excess of the 33% standard identified above.

The Apartment Guidelines state that “North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature”. In the case of the subject proposal, all north facing units have been designed to overlook amenity and quality landscaped areas in accordance with the guidelines.

3.1.7 Stair Cores

In relation to stair and lift cores, the CCDP stipulates that:

it is recommended that a maximum of 4 apartments per floor should be accessed from a lift/stair core in order to ensure a high quality of internal circulation space.

The layout of the proposed scheme exceeds the maximum of 4 no. units per floor per core therefore the proposed development contravenes the CCDP in this respect.

3.1.7.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

The proposed scheme has been designed to adhere to the Apartment Guidelines, 2020 which supersede the currently adopted Development Plan. Specific Planning Policy Requirement 6 of the Apartment Guidelines, 2020 states that:

A maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishments schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.

The number of apartments per stair core in the proposed development ranges from 11 in Block A to 12 in Blocks B, C and D. It does not exceed a maximum of 12 no. apartments per floor per core therefore complying with the Section 28 guidelines that were adopted after the CCDP. The contravention of the CCDP with reference to the quantum of units per stair core is considered to be justified having regard to Section 37 (2)(b) (iii) of the Planning and Development Act, 2000 (as amended).

3.1.8 Floor to Ceiling Heights

Section 16.54 of the Development Plan states that:

“Providing decent floor-to-ceiling heights has significant benefits for dwellings, including more attractive living spaces, better daylight / sunlight / ventilation, and improved storage space opportunities. Apartments will have a minimum floor to ceiling height of 2.7m (3m floor to floor) apart from in exceptional circumstances relating to architectural conservation and historic character of townscapes and the significant character of streets and their existing building elevations.

The proposed scheme provides ground level floor to ceiling heights of 2.7m with typical floor to ceiling heights of 2.5m at upper floor levels.

3.1.8.1 Justification for Material Contravention in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended)

Again, we reiterate that the provisions in respect of this item have been superseded by the adoption of the Apartment Guidelines which are therefore the relevant standards to follow. Section 37 (2)(b) (iii) of the Planning and Development Act, 2000 (as amended) is therefore applicable. Specific Planning Policy Requirement 5 of the Apartment Guidelines states the following:

“Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality”.

As corroborated on the submitted architectural plans, where ground floor apartments are proposed, the floor to ceiling heights comply with or exceed the minimum 2.7m dimension. The average floor to ceiling height at upper floor levels is 2.5m as per accepted standards and in

general compliance with the above referenced Ministerial Guidelines. The quality of these spaces has been tested by way of daylight reception analysis with all applicable standards exceeded.

04. Conclusion

Section 8(1)(iv)(II) of the Residential Tenancies Act 2016 (as amended) specifies that, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

On the basis of the reasons and considerations set out in the report above, we consider that sufficient justification exists for An Bord Pleanála to decide to grant permission for the proposed Phase 1 'The Meadows' SHD, in accordance with section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act, 2000 (as amended), notwithstanding the fact that the proposed SHD may materially contravenes the Cork City Development Plan 2015 -2021 in relation to Social Housing under Part V, Plot Ratio, Building Height and Tall Buildings, Unit Mix, Unit Size, Dual Aspect, Floor to Ceiling Heights and Stair Cores.

We consider that An Bord Pleanála should grant permission for the proposed development of the Phase 1 'The Meadows' SHD site having regard to the provisions of section 37(2)(b) of the Planning and Development Act, 2000 (as amended).