



Material Contravention Statement

Proposed Strategic Housing Development at the Former
Tedcastles Site, Centre Park Road, Cork

Tiznow Property Company Limited (Comer Group Ireland)

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01. Introduction

1.1 PURPOSE OF STATEMENT

HW Planning have been appointed by Tiznow Property Company Limited (Comer Group Ireland) to prepare this statement to address aspects of the proposed Strategic Housing Development at the Former Tedcastles Site, Centre Park Road, Cork (“the City Park SHD”) that may be considered to materially contravene certain non-land use policies and objectives of the Cork City Development Plan 2015 - 2021 (CDP).

The proposed development materially contravenes policies, objectives and standards contained in the Cork City Development Plan 2015 - 2021 in respect of Social Housing, Plot Ratio, Height and Tall Buildings, Unit Mix, Unit Size, Dual Aspect, Stair Core and Private Open Space.

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 City Park 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 City Park SHD, thereby enabling the Board to decide to grant permission, notwithstanding the material contravention of the subject policies, objectives and standards of the CDP 2015 -2021.

This statement addresses the material contraventions of certain policies, objectives and standards contained in CDP 2015 -2021 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 demolition of existing structures and the construction of a strategic housing development of 823 no. apartments in 6 no. buildings ranging in height from part-1 to part-35 no. storeys over lower ground floor level. The development will contain 282 no. 1 bedroom apartments, 414 no. 2 bedroom apartments and 127 no. 3 bedroom apartments.

All blocks will contain ancillary commercial areas including: 3. no café/restaurants and 2 no. public houses (1,089 sq m); 7 no. retail units, a convenience retail store which includes the sale of alcohol for consumption off premises, a library, medical centre, pharmacy, post office and dentist (2,484 sq m); and 2 no. childcare facilities (662 sq m). The development will also contain supporting internal resident amenity spaces (2,760 sq m) and external communal amenity spaces at podium and roof terrace levels.

Block A is part-3 to part-35 no. storeys over lower ground and will contain a retail unit split over 2 no. levels, restaurant, convenience retail store, a public house over 2 no. floor levels, 174 no. apartments and ancillary internal and external resident amenity spaces.

Block B proposes part-8 to part-10 no. storeys over lower ground and comprises a public house, café, retail unit and ancillary resident amenity at ground floor level. There are 95 no. apartments provided at upper levels.

Block C ranges in height from part-1 to part-6 no. storeys over lower ground and comprises a medical centre at lower ground and ground floor levels, a library over 2 no. floor levels, 2 no. retail units, ancillary resident amenity and 75 no. apartments.

Block D is part-1 to part-10 no. storeys over lower ground and contains a creche, café/restaurant, retail unit and internal and external ancillary resident amenity spaces at lower ground and ground floor levels. 171 no. apartments are provided at the upper levels.

Block E ranges in height from part-1 to part-6 no. storeys over lower ground and contains a pharmacy, post office, 2 no. retail units and dentist split over 2 no. levels and 95 no. apartments at upper levels.

Block F is part-1 to part-10 no. storeys over lower ground and consists of a creche at ground floor level, ancillary resident amenity spaces and 213 no. apartments.

Pedestrian bridges are provided from the Former Tedcastles Yard to the Marina which includes the removal of 13 no. existing car parking spaces on the Marina to facilitate pedestrian connections to existing pedestrian infrastructure.

The proposed development also provides for hard and soft landscaping, boundary treatments, public realm works on Centre Park Road, car parking, bicycle stores and shelters, bin stores, signage, lighting, sprinkler tank, plant rooms and all ancillary site development works above and below ground. Vehicular access to the proposed development will be provided via Centre Park Road.

1.3 LAND USE ZONING OBJECTIVE

The subject site is located on lands zoned Zo 16 – Mixed Use, Zo 14 Public Open Space and Zo 9 – Neighbourhood Centres. Lands to the north are also designated as an area of High Landscape Value.



Figure 1.1 Zoning Map

A range of uses are permitted on ZO 16 – Mixed Use designated lands including residential and other uses as set out below:

“general offices, conference centre, third level education, hospital, hotel, commercial leisure, cultural, residential, public institutions, childcare services, business and technology/research uses (including software development, commercial research and development, publishing, information technology, telemarketing, data processing and media activities) and in addition, local convenience stores/corner shops and community/civic uses.”

In respect of the Mixed Use zoning objective, the Development Plan states:

“This zoning objective facilitates the development of a dynamic mix of uses for Docklands which will interact with each other creating a vibrant residential and employment area. A vertical and horizontal mix of uses should occur where feasible, including active ground floor uses and a vibrant street frontage on principle streets.

This zoning applies to areas of the North and South Docks. The range of permissible uses within this zone in Docklands includes general offices, conference centre, third level education, hospital, hotel, commercial leisure, cultural, residential, public institutions, childcare services, business and technology/research uses (including software development, commercial research and development, publishing, information technology, telemarketing, data processing and media activities) and in addition, local convenience stores/corner shops and community/civic uses.”

An area of the site fronting onto Centre Park is zoned Zo 9 which has a stated aim:

“To protect, provide for and/or improve the retail function of neighbourhood centres and provide a focus for local services.”

Section 15.16 of the Development Plan directs that:

“The primary purpose of these centres is to fulfil a local shopping function, providing a mix of convenience shopping, lower order comparison shopping, and local services to residential and employment areas...”

Furthermore, stating that:

“Residential uses are also acceptable within this zone.”

A portion of the site to the north and west is zoned Z0 14 – Public Open Space and has been included within the application to ensure a seamless integration with surrounding area. The objective of Zo 14 Public Open Space is:

“To protect, retain and provide for recreational uses, open space and amenity facilities, with a presumption against developing land zoned public open space areas for alternative purposes, including public open space within housing estates.”

The lands zoned public open space (15,000 sq m) are not counted as part of the provision of public open space serving the development and are located outside the net developable area. It should also be noted that the delivery of development is not dependent on the zoned public open space but is included within the site boundary as a planning gain serving the wider South Docklands.

The Marina to the north of the Former Tedcastles Site is designated as an Area of High Landscape Value where the stated aim is to:

“To conserve and enhance the character and visual amenity of Areas of High Landscape Value (AHLV) through the appropriate management of development, in order to retain the existing characteristics of the landscape, and its primary landscape assets. 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.”

As outlined at Section 1.2 above, the proposed development will provide 823 no. apartments in 6 no. buildings ranging in height from part-1 to part-35 no. storeys over lower ground floor level. The development will contain 282 no. 1 bedroom apartments, 414 no. 2 bedroom apartments and 127 no. 3 bedroom apartments. Ancillary commercial uses will be provided at the lower levels of the development to deliver active and vibrant frontages, particularly fronting Centre Park Road. The mix of commercial uses proposed include food and beverage, local retail and neighbourhood centre uses will be delivered including 2 no. café/restaurants, 2 no. public houses, 7 no. retail units, a convenience retail store, a library, medical centre, pharmacy, post office, dentist and 2 no. creches. In addition, active resident amenity spaces are strategically

proposed along the internal spine road and fronting open spaces to create passive surveillance and active frontages.

Furthermore, Section 13.80 of the Development Plan states:

“The bulk of the South Docks area is zoned for Mixed Use development to allow for flexibility in land uses and to create a lively and sustainable urban quarter.”

The Inspector in assessing the recently permitted scheme on the adjacent Former Ford Factory Site (ABP-309059-20) noted that:

“No split or mix of uses for Z0 16 lands is specified in the development plan and the proposed uses are all acceptable thereon. The previous LAP for the South Docks has expired and the planning authority submission suggests that the emerging strategy for the eastern docklands area will be predominantly residential in nature.”

The proposed development will provide a vertical and horizontal mix of uses including active ground floor uses (i.e., café/ retail/ resident amenity) and vibrant frontages at podium level (i.e., own door apartment/ creche) with residential units at upper levels. The use of the lands in respect of the proposed City Park SHD is therefore consistent with the land use zoning objective for the lands.

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

The proposed SHD materially contravenes policies, objectives and standards of the Cork City Development Plan 2015 -2021 in relation to Social Housing under Part V, Plot Ratio, Building Height and Tall Buildings, Unit Mix and Household Size, Unit Size, Dual Aspect, Stair Cores, and private open space. 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.

Further to the above, the material contraventions referred to above are discussed in regard to the relevant policies and objectives of the Cork City Development Plan 2015 -2021 and are followed by a demonstration of the manner in which Section 37(2)(b)(ii), (iii) or (iv) considerations apply.

1.4.1 Other Matters

1.4.1.1 Car Parking

Figure 16.1 and Table 16.8 of the Development Plan provide guidance on car parking. 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 268 No. resident car parking spaces which represents a 0.33 car parking ratio per unit and 6 no. visitor car parking spaces. The adjacent scheme (ABP Ref: APB-309059-20) was permitted with a similar parking ratio of 0.39 car parking spaces per unit. The 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 is not considered a material contravention of the Development Plan.

1.4.1.2 Density

Section 16.40 Residential Density of the Development Plan 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 Inspector in granting permission for a net density of 275 no. units per ha on the Former Ford Site (ABP Ref: APB-309059-20) to the south 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”.

The Inspector also iterated that:

“I note that there are no identified infrastructural constraints in the area which preclude the achievement of such higher density development on the lands which would otherwise accord with strategic planning policy objectives for the area.”

The proposed density is therefore not considered a material contravention of the Development Plan.

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.*

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

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

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 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. The Guidelines define 'Brownfield' sites as:

“any land which has been subject to building, engineering or other operations, excluding temporary uses or urban green spaces, generally comprise redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas. Where such significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.”

The Guidelines identifies the following key considerations for the development of 'Cities and larger towns':

- *The trend towards smaller average household sizes;*
- *The need to encourage the provision of affordable housing; and*
- *The need to reduce CO2 emissions by reducing energy consumption and to support a more efficient use of energy in the residential and transport sectors, in line with Ireland's commitments under the Kyoto Protocol.*

The Guidelines provide a broad spectrum of criteria that should be considered in the design and assessments of projects including:

- *Acceptable building heights (see below);*
- *Avoidance of overlooking and over shadowing;*
- *Provision of adequate private and public open space, including landscaping where appropriate and safe play spaces;*
- *Adequate internal space standards in apartments;*
- *Suitable parking provision close to dwellings; and*
- *Provision of ancillary facilities, including childcare.*

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 Former Tedcastles site is located within walking distance of significant employment locations including established commercial and industrial uses in the South Docklands including Southern Milling, Culture Co-Working, and Goulding Chemicals. The edge of the city centre including Navigation Square office development is located c.1.5 from the subject site. Albeit north of the river, it is noted that Tivoli Docks, Kent Station, Penrose Wharf and Horgan's Quay are located less than 1.5 km from the subject site (as the crow flies).

The subject site is served by an existing hourly bus service on Centre Park Road (less than 300m from the subject site) from Horgan's Quay to Mahon Point shopping centre (Route no. 212). In the assessment of the Former Ford Site (ABP-309059-20 refers), the Inspector noted the more frequent bus services available along Blackrock Road (Route no. 202 and 202A Hollyhill (Apple) to Mahon which operates a c. 20 no. minute frequency. The Blackrock bus stop is located c. 800 m to the south-west, a 10 no. minute walk. The recently published Draft BusConnects will replace the existing services with Route no. 9 Jacob's Island to Kent Station, a 20 no. minute peak frequency, from Centre Park Road and Route no. 11 Mahon Point to Farranree, a 30 no. minute peak frequency, from Blackrock Road.

The high capacity light rail public transport corridor from Mahon to Ballincollig via Centre Park Road will provide an additional mode of travel for future residents.

The Inspector in assessing the Former Ford site to the south accepted that this area of the South Docklands is considered a central and accessible location. Section 2.2 of the Guidelines further direct that:

"In general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment developments should increase in relation to proximity to core urban centres and other relevant factors. 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.

The vision for the Southern Region is outlined in the RSES as follows:

- *Nurture all our places to realise their full potential;*
- *Protect and enhance our environment;*
- *Successfully combat climate change;*
- *Achieve economic prosperity and improved quality of life for all our citizens;*
- *Accommodate expanded growth and development in suitable locations; and*
- *Make the Southern Region one of Europe’s most creative, innovative, greenest and liveable regions.*

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”.

The South Docklands 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.*

The RSES specifies the following objectives and infrastructure priorities for the South Docklands:

- *Potential Residential Yield: 9,500 residential units, 9,500 jobs based on 920,000 sq m office space and additional jobs from services, retail, restaurants etc.*
- *Delivery of a Light Rail system to unlock the potential for high-density development.*
- *River Crossings.*
- *Upgrades to Monahan Road, Centre Park Road, and bridge approach roads.*
- *Flood Relief Measures.*
- *Brownfield site remediation.*
- *Cross-river watermain to serve South Docklands.*

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 16 – Mixed Use, Zo 9 – Neighbourhood Centre, Zo 14 – Public Open Space zoning and high landscape value objectives were discussed at Section 1.3 of this report. The vision for Cork over the lifetime of the Plan and beyond is to deliver:

“a successful, sustainable regional capital and to achieve a high quality of life for its citizens and a robust local economy”

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 South Docklands Local Area Plan, 2008 (LAP) expired in 2018 therefore it does not have any statutory powers. The key aspirations of the LAP remain relevant for the delivery of a mixed use development and are referred to throughout the application documentation as an informative guide.

The vision for the Docklands set out in the Development Plan is provided below:

“Cork City Docklands represent the biggest development opportunity for Cork City and the CASP (Cork Area Strategic Plan) area over the Plan period and beyond, its redevelopment and renewal being of regional and national significance. The vision for Docklands is that of a vibrant mixed use and socially inclusive urban quarter that will capitalise on the intrinsic advantages of the area.”

In order to achieve the vision for the South Docklands, Objective 13.25 - Development of the Docklands outlines that Cork City Council aims to:

- a) To promote the development of the North and South Docklands as major development opportunities of regional and national importance;*
- b) To create a vibrant mixed use and socially inclusive urban quarter in Docklands;*
- c) To re-orient Docklands as an extension of the City Centre and to initially focus on development of areas easily accessible from the City Centre, with other areas developing as barriers to development are overcome and opportunities arise;*
- d) To review the local planning frameworks and if appropriate amend them to take account of changed circumstances;*
- e) To work with key stakeholders, including government agencies and landowners, to overcome infrastructural deficits and other barriers, to secure the development of Docklands.*

The Development Plan identifies that:

“the redevelopment of the North and South Docks as a major new mixed use quarter is the most significant sustainable development opportunity for the City Region. It has an attractive waterfront location adjoining the City Centre which can be well served by public transport.”

Furthermore, noting that:

“the delivery of Docklands development is critical to the city achieving its population and employment targets and to the implementation of the CASP update strategy as a whole.”

Section 13.79 of the CCDP asserts that:

“With appropriate investment, the South Docks area is capable of supporting a large residential and working population, however the achievement of this will be dependent on the relocation of the Port of Cork and the SEVESO site and the delivery of the necessary infrastructure to support development including bridge and road access, education, cultural and social/community uses and polices in the city region to direct development to this potential new urban quarter. The redevelopment of the South Docks is likely to extend for a considerable period beyond the lifetime of this Plan.”

With specific reference to the South Docklands, Objective 13.27 of the Development Plan outlines that Cork City Council be promote the following:

- a) Promote development of the South Docks as a new urban quarter, with initial emphasis on those areas that can be developed without major infrastructural investment;*
- b) Review the South Docks Local Area Plan and consider whether it needs to be amended to take account of changed circumstances including reviewing the proportional mix and density of uses in different precincts and related infrastructural requirements;*
- c) Support the upgrade of recreational and amenity facilities at Marina Park, Pairc Uí Caoimh and Monahan Road over this Plan period;*
- d) Work with key stakeholders to overcome barriers to development of South Docks.*

As detailed throughout the application documentation the Former Tedcastles SHD will deliver a mixed use scheme that supports Cork City Council's vision for the South Docklands. The material contraventions to the Cork City Development Plan 2016-2021 are comprehensively addressed at Section 3.0 of this statement.

03. Material Contravention

3.1 Relevant Policies and Objectives

The proposed development materially contravenes policies, objectives and standards of the Cork City Development Plan 2015 - 2021 in respect of Social Housing, Plot Ratio, Height and Tall Buildings, Unit Mix, Unit Size, Dual Aspect, Stair Core and Private Open Space. In circumstances where the Cork Warehouse 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 is set out, as required under the relevant criteria set out under Section 37(2)(b) of the 2000 Act, as amended.

First, for ease of reference, the relevant policies, objectives and standards of the Cork City Development Plan 2015 -2021, which the proposed development materially are outlined followed by a demonstration of the manner in which section 37(2)(b) 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 823 no. residential units on Zo 16 – Mixed Use, Zo 9 – Neighbourhood Centre, Zo 14 – Public Open Space zoning and high landscape value objectives lands therefore it is strategic in nature by definition. The 4.86 ha subject site is located on a prominent brownfield site within the South Docklands. The South Docklands are earmarked for significant re-development over the coming years and as discussed at Section 2.3 are envisaged to deliver a new urban quarter. Objective 13.25 - Development of the Docklands states that the development of the South Docklands is of regional and national importance. The c. 131ha South Docklands are a natural extension of the City Centre and will be subject to significant infrastructure improvements including upgrades to Centre Park Road. Section 32(b)(i) is therefore applicable to the development in its entirety.

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 Cork City Development Plan 2015 -2021. This material contravention statement will address the inconsistencies of the proposed development against the Development Plan under the relative topics.

3.1.1 Social Housing under Part V

Objective 6.3 of the Development Plan 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 granting of a 30 year lease for 10% of the housing units (i.e., 83 no. units) to the Planning Authority, Approved Housing Body (AHB) or persons nominated by Cork City Council.

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

In addition to Section 32(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 which supersedes 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.”

The proposed development is required to provide a 10 % Part V contribution in accordance with current legislation. Overall, the proposed development will provide 29 no. one bed, 42 no. two bed and 12 no. three bed units therefore 83 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.”

A Strategic Housing Development comprising 1,002 no. units was permitted by An Bord Pleanála (ABP Ref. 309059-20 refers) on 20th April 2021. The development proposed 100 no. Part V units representing 10% of the overall scheme. A condition to this effect was attached to the grant of permission to ensure that the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended were satisfied.

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 1.5 – 2.5 for the Docklands (north and south docks). Based on the developable site area (28,005 sq m) the net plot ratio of the proposed scheme is 3.26 (and the gross plot ratio is 1.88).

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

Section 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 Development Plan recognises the limitations of plot ratio calculations stating that:

“Plot ratio provides a useful indicator when considering the capacity of a development site and ascribing building volumes to be placed on a site and in determining the necessary infrastructure that will be required to service a development.”

Plot ratio as prescribed within the Development Plan is intended as an ‘indicative’ guide rather than a maximum ceiling for plot ratio in the Docklands. An Bord Pleanála have recently granted permission for the Former Ford Factory (ABP Ref: ABP-309059-20) which sets precedent for the future pattern of development in the South Docklands. The Inspector in granting permission for the scheme with a net plot ratio of 2.89 and a net density of 275 no. units per ha on the Former Ford Site was of the opinion 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”.

The Inspector also iterated that:

“I note that there are no identified infrastructural constraints in the area which preclude the achievement of such higher density development on the lands which would otherwise accord with strategic planning policy objectives for the area.”

The permitted scheme exceeded the indicative plot ratio set out in the Development Plan by providing a net plot ratio of 2.89. Section 37(2)(b)(iv) is therefore applicable to the consideration of plot ratio.

The proposed development is a direct response to the vision for the Docklands as set out in the Development Plan where it is stated that:

“Cork City Docklands represent the biggest development opportunity for Cork City and the CASP (Cork Area Strategic Plan) area over the Plan period and beyond, its redevelopment and renewal being of regional and national significance. The vision for Docklands is that of a vibrant mixed use and socially inclusive urban quarter that will capitalise on the intrinsic advantages of the area.”

The development will provide a mix of commercial spaces within the development to activate the street frontages in addition to areas of public open space fronting onto Centre Park Road. Communal open space for future residents is provided at podium and roof terrace levels.

The CDP identifies that:

“the redevelopment of the North and South Docks as a major new mixed use quarter is the most significant sustainable development opportunity for the City Region. It has an attractive waterfront location adjoining the City Centre which can be well served by public transport.”

Furthermore, noting that

“the delivery of Docklands development is critical to the city achieving its population and employment targets and to the implementation of the CASP update strategy as a whole.”

Section 13.79 of the CDP asserts that:

“With appropriate investment, the South Docks area is capable of supporting a large residential and working population, however the achievement of this will be dependent on the relocation of the Port of Cork and the SEVESO site and the delivery of the necessary infrastructure to support development including bridge and road access, education, cultural and social/community uses and policies in the city region to direct development to this potential new urban quarter. The redevelopment of the South Docks is likely to extend for a considerable period beyond the lifetime of this Plan.”

It is evident from the above that the objectives pertaining to plot ratio conflict with the vision of Cork City Council, furthermore they contradict the aim to increase and promote suitable densities by imposing restraints on developments therefore Section 37(2)(b)(ii) is applicable in this regard.

This is evident further when considering Objective 6.9 - Housing Density of the Development Plan which aims:

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

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 a net density of 294 no. units per hectare having regard to the guidance of the Development Plan. On review of the Cork City Development Plan, it is clear that there is no correlation between the vision for a higher density and taller buildings on this centrally accessible site and the indicative plot ratio envisaged for the South Docklands in the Development Plan.

The National Planning Framework understands the changing demographics and household formations, in addition recognising the evolving tenure needs of an urban population. We refer to National Planning Policy Objective 6 which aims to:

"regenerate and rejuvenate cities, towns and villages of all types and scales 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."

The restriction of a plot ratio of 1.5 – 2.5 as set out in the Development Plan results in an unwarranted limitation on the development potential of the brownfield subject lands which is contrary to the overarching National Planning Policy guidance. Section 37(2)(b)(iii) is of relevance in this regard as the narrative of the NPF is that:

"There are many areas in our cities, towns and villages that contain lands and buildings not developed or used to their full potential"

The NPF provides clear direction on the need for a holistic approach when considering brownfield site and site specific constraints of developing brownfield sites such as the Former Tedcastles Site. The NPF is an overarching policy that directs the future development of our towns and cities and should be considered to be of significant importance.

"To enable brownfield development, planning policies and standards need to be flexible, focusing on design-led and performance-based outcomes, rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas."

The subject lands are brownfield in nature and located in an area earmarked for redevelopment. The receiving environment is facing a transitional period where lands to the east have either secured a grant of permission for development (Former Ford Site Ref.: ABP-309059-20) or recently completed (Marina Park and Pairc Ui Chaoimh), whilst lands north and west remain industrial in nature. It would not be in the interests of proper planning and sustainable development as considered in the NPF to restrict the plot ratio of the site as set out in the Development Plan. The subject lands are triangular in nature are bound on 2 no. sides by existing watercourses, a significant site characteristic that has dictated the site layout design.

The plot ratio of 3.26 is a result of an efficient use of the developable site area which has sought to provide active uses on all frontages in response to the site characteristics.

In addition to the above, the NPF outlines that:

“The infill/brownfield targets set out in NPOs 3a, 3b and 3c of this Framework will necessitate a significant and sustained increase in urban housing output and apartment type development in particular, if we are to avoid a continuation of the outward expansion of cities and larger urban areas.”

A key aim of the application is to deliver an urban residential development that effectively uses the available urban lands. The development provides grade level car parking with podium level open space to ensure an appropriate response to the NPF.

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

The Cork City Development Plan 2015-2021 states that:

“The North and South Channel River Corridors provide an opportunity for new developments to address and celebrate the landmark river corridors. Much of the river frontage contains historic groups of buildings and it is an objective to conserve these areas of architectural and historic significance. Building heights in these areas typically have building heights of 3-4 storeys. There is some scope for modest increases in appropriate circumstances as outlined below. New building height should differ between the north and south river channels within the City Centre due to their different scales and character (see Table 16.3). allow sun-penetration to the public realm. The river frontage to the east of Brian Boru Bridge/Clontarf Bridge, where the river broadens is capable of accommodating increased building height. The height of buildings fronting onto Lapp’s Quay illustrates this principle.”

The subject site is located on the south side (north-facing) of the south channel therefore a building height guide of 13-15 m and 4 no. storeys is applicable as per the extract from Table 16.3 below.

Table 16.3 City Centre River Corridor Building Heights Guidelines

Front wall height	NORTH CHANNEL (building height (m) / approximate storeys)	SOUTH CHANNEL (building height (m) / approximate storeys)
South-facing (north side)	18-20 (6)	16-18 (5)
North-facing (south side)	16-18 (5)	13-15 (4)

We also refer to Objective 16.7 – Tall Building Locations of the Development Plan which 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 Development Plan 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 (32metres or higher, the approximate equivalent of a 10 storey building with a commercial ground floor and residential in the remaining floors).*

The proposed scheme is part-1 to part-35 no. storeys with a maximum height of 116,150 m proposed at Block A. As per Section 16.25 of the Development Plan, the proposed development is classed as a ‘Tall Building’ and therefore the proposed height is considered to materially contravene both Table 16.3 and 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)

Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are of relevance.

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 Docks 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 south docklands via Centre Park Road with a number of indicative stops identified. 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 subject site is served by an hourly bus service on Centre Park Road (less than 300m from the subject site) from Horgan’s Quay to Mahon Point shopping centre (Route no. 212). In addition to more frequent bus services available along Blackrock Road (Route no. 202 and 202A Hollyhill (Apple) to Mahon which operates a c. 20 no. minute frequency. The Blackrock bus stop is located c. 800 m to the south-west, a 10 no. minute walk.

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

- 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.

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 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

The high capacity light rail public transport corridor from Mahon to Ballincollig via Centre Park Road will further enhance the frequency of public transport from the docklands (c. 5 no. minute frequency).

The Inspector in the assessment of the scheme at the adjacent Former Ford Site (APB-309059-20) was of the opinion that it was *"located in an area which is less sensitive in terms of its visual amenity context. The proposed development will improve the urban character of this area and integrate and address public realm improvements occurring at Marina Park."*

A Townscape and Visual Impact Assessment by Park Hood Landscape Architects accompanies this application.

The 1 - 35 no. storey development will provide an appropriate higher density development on a strategically located brownfield site that will integrate with adjoining sites as demonstrated in the masterplan document prepared by C+W O'Brien Architects.

The proposed development appropriately responds to its receiving environment by providing a vertical and horizontal mix of uses that will address the surrounding streetscape.

The quality materials and finishes proposed are detailed in the accompanying Design Statement and CGIs and demonstrate that the redevelopment of this brownfield site will significantly improve the urban landscape.

A Flood Risk Assessment prepared by Arup is enclosed concluding that the sensitive elements of the development are appropriately situated.

The proposed scale, height and massing of the proposed development will create key way finding measures in the locale particularly along Marquee Road.

The proposed mix of units has been designed having regard to the Apartment Guidelines and will provide a range of unit sizes (as detailed in the

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.

accompanying HOA) to meet the housing needs for a range of people.

At the scale of the site/building

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

The Design Team have developed the current proposed scheme having regard to natural daylight, ventilation and views and to minimise overshadowing and loss of light. We note that 46.5% of units are dual aspect providing greater daylight, views, and ventilation. A detailed Daylight and Sunlight Analysis has been prepared by Arup and is submitted as part of the application documentation.

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.

An Appropriate Assessment Screening and Natura Impact Statement have been prepared by Dixon Brosnan and are enclosed with this application. A Daylight and Sunlight Assessment and Wind Study were also be carried out. It is considered that no other specific assessments are warranted.

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 location and has been intentional in response to the receiving environment.

The Inspector in the assessment of the part-4 to part 14 no. storey scheme at the Former Ford Distribution Site (ABP Ref: ABP-309059-20) was of the opinion that:

“the nature and pattern of surrounding development is such that the development of the site is not particularly constrained and can largely create its own context and provide a catalyst for further development in the area” concluding that *“Having regard to the setting and context of the site, the proposed building heights do not impact on surrounding lands or sensitive uses and I do not consider that the proposed heights would impact on the quality of residential amenity...I regard the proposed building heights as acceptable for this location”*.

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

3.1.4 Unit Mix and Household Size

The Cork City Development Plan refers to the desired housing mix in Objective 6.8 – Housing Mix where the aim is:

“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 Development Plan

<i>Existing Household mix</i>		<i>Dwelling size distribution targets</i>	
Household size	House size	Zones*	
		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 2 as per Map 12 of Volume 2 of the Development Plan. The Development Plan provides a breakdown of household size and units sizes. Albeit the Development Plan states that these are 'indicative' a comparison with the proposed scheme is provided below for robustness both factors are compared separately for completeness.

Table 3.2. Proposed Household Size

Household Size	Quantum	Percentage	Development Plan Target
2 no. person	282	34 %	Max 50 %
3 no. person	31	4 %	Min 35 %
4 no. person	383	47 %	No target
5 no. person	9	1 %	No target
6 no. person	118	14 %	No target

Table 3.3. Proposed Unit Site

Unit Size	Percentage	Quantum	Development Plan Target
1 no. bed	34%	282	Max 15 %
2 no. bed	51 %	414	Max 50 %
3 no. bed	15 %	127	Min 35 %
	100 %	823	

The proposed development therefore contravenes the development Plan in respect of the mix of units. A justification for the deviation from the Development Plan 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 three person units is not consistent with the indicative targets for household and unit sizes in the Development Plan. The proposed development has been designed in accordance with the Apartment Guidelines, 2020 which supersede the adoption of the City Development Plan. Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are therefore of relevance.

The Inspector in assessing the Former Ford Site (ABP Ref: APB-309059-20) to the south 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.”

The Inspector adds 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.”

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 Cork City Development Plan 2015 does not provide an evidence based HNDA for the South Docklands 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 South Docks (Electoral Division Knockree B) is House/Bungalow which represents 88%. The redevelopment of the South Docklands is envisaged to provide a ‘major new mixed use quarter.’ 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 South Docks by providing an efficient mix of units that meet the needs of modern households. 51.3% of households contain 3 + no. resident persons according to the 2016 CSO. In comparison the 34 no. flat/apartment units recorded in the 2016 CSO had an average of 1.6 no. residents.

3.1.5 Unit Size

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

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 minimum standards.

Unit Size	Standard
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 Development Plan 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 C + W O'Brien Architects demonstrates that the 823 no. proposed units have been designed in accordance with the Apartment Guidelines. The Development Plan is superseded by the adoption of the Apartment Guidelines and are therefore the relevant standards to follow for best practice. Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended) are of relevance.

A Daylight and Sunlight Analysis was carried out by Arup to demonstrate that the proposed development will benefit from good quality daylight and demonstrates that the proposed units and amenity spaces will benefit from appropriate levels of daylight.

In addition, 46.5 % of the proposed units are dual aspect to achieve a high quality living environment, which significantly exceeds the 33% target for central and accessible urban areas.

The proposed development will provide public (4,695 sq m), communal (2,760 sq m internal and 5,452 sq m external) and private amenity areas (7,119 sq m) within the application site for future residents to utilise. The communal amenity areas will supplement the private apartments and include lounges/ co-working space, exercise areas that will contribute to creating a high quality living environment. The Architectural Design Statement prepared by C+W O'Brien Architects provides details on the indicative images on how the communal areas can be utilised by end-users.

In addition to the above, the urban redevelopment will provide a high quality residential development within walking distance of Cork City Centre and expansive green infrastructure (Marina Park and Lea to Sea Greenway).

The Apartment Guidelines are widely accepted as the relevant design standards, for instance the apartment sizes in the permitted Former Ford Site (ABP Ref: APB-309059-20) are in accordance with the Apartment Guidelines, 2020.

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 provided 383 no. dual aspect apartments which represents 46.5% of the overall scheme.

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

As discussed at Section 2.3 of this statement the subject site is located within an area defined as a central and/or accessible 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.”

We reiterate that the Development Plan is superseded by the adoption of the Apartment Guidelines and are therefore the relevant standards to follow for best practice. The Apartment Guidelines are widely accepted as the relevant design standards, 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 Former Tedcastles Site site.

3.1.7 Stair Cores

In relation to stair and lift cores, the Development Plan 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 Development Plan 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 proposed development 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 Development Plan. The Apartment Guidelines have informed the pattern of development in the area including the development of the Ford Factory site (ABP Ref: APB-309059-20). The contravention of Development Plan is in reference to the quantum of stair cores is considered to be justified having regard to Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended).

3.1.8 Private Open Space

Table 16.7 - Private Open Space Standards of the Cork City Development Plan 2015 -2021 sets out the minimum quantum of private open space for apartments and duplex units in the docklands.

Unit Type	Area (sq. m.) per Unit	
	City Centre, Docklands and Inner Urban Areas	Suburban Areas
Townhouses/Terraced Houses	30	48-60
Detached/ semi-detached Houses (1-2 beds)	30	48-60
Detached/ semi-detached Houses (3-5 beds)	30-50	60-75
Duplexes	5-8	12-15
Apartments – 1 Bed	6 sq. m.	
Apartments – 2 Bed	8 sq. m.	
Apartments – 3 Bed	12 sq. m.	

Table 3.1. Extract from Table 16.7 of the Cork City Development Plan

The Housing Quality Assessment prepared by C + W O’Brien Architects demonstrates that the proposed units have private open spaces ranging from 5 to 9 sq m.

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

The proposed development has been designed in accordance with the Apartment Guidelines. As noted previously, the Apartment Guidelines were adopted in 2020, following a revision of the 2018 Guidelines, and replace the standards set out in the Development Plan.

Appendix 1 of the Apartment Guidelines, 2020 provide the following open space standards required for private areas.

Table 3.2. Private Open Space Requirements

Unit Size	Requirement
One bed	5 sq m
Two bed (3 person)	6 sq m
Two bed (4 person)	7 sq m
Three bed	9 sq m

Notwithstanding that the Apartment Guidelines are the appropriate guidance for the provision of private open space and are reflected in the surrounding pattern of development, such as in the permitted Former Ford Site (ABP Ref: APB-309059-20). The Board should note that the subject site is located to the west of Marina Park and to the south of Marina Walk. Marina Park is c. 32 Ha of parklands surrounding Pairc Ui Chaoimh providing excellent green infrastructure for play, leisure and commuting from the subject site. Marina Walk provides pedestrian and cycle connections from the South Docks to Passage West (i.e., Passage West Greenway, which forms part of the wider Lee to Sea Greenway). Cork City Council outline that

“the iconic park will provide a wide range of passive and active recreation elements with a particular emphasis on water based activities, play and a range of event spaces. All elements will be seamlessly accommodated into a varied and visually attractive landscape that respects the natural features and heritage of the area.”

The proximity to Marina Park which is classed as a city park on the hierarchy of parks in the Development Plan will be a significant advantage for future residents of the scheme. While Marina Park does not provide ‘equipped’ play areas, there are ample natural play opportunities for future older resident children to utilise including large kick about areas. The Apartment Guideline acknowledge that *“Experience in Ireland and elsewhere has shown that children will play everywhere.”* There is no requirement for play equipment set out in the Apartment Guidelines. The proposed scheme will cater for the needs of children of various ages within the public open spaces and communal open spaces at podium and roof levels as detailed in the Landscape Strategy prepared by Park Hood Landscape Architects.

The provision of play facilities will further complement the provision of private open space which has been provided in accordance with national planning policy guidance therefore the deviation

from the Development Plan as discussed above can be granted having regard to Section 37 (2)(b) (iii) and (iv) of the Planning and Development Act, 2000 (as amended).

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, sufficient justification exists for An Bord Pleanála to decide to grant permission for the proposed City Park 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 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 and Household Size, Unit Size, Dual Aspect, Stair Cores, and Private Open Space.

We consider that An Bord Pleanála should grant permission for the proposed City Park SHD development at the Former Tedcastles site having regard to the provisions of section 37(2)(b) of the Planning and Development Act, 2000 (as amended).