

**Statement of Material Contravention of the
Fingal County Development Plan 2017-2023**

In respect of

Proposed Strategic Housing Development

at

**Fosterstown North, Dublin Road / R132,
Swords, Co. Dublin**

Prepared by

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On behalf of

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TABLE OF CONTENTS

1.0 INTRODUCTION.....	3
2.0 LEGISLATIVE CONTEXT	6
3.0 LOCAL PLANNING POLICY CONTEXT AND POTENTIAL MATERIAL CONTRAVENTIONS	7
4.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION IN CONTEXT OF SECTION 37(2)(B) CRITERIA.....	15
5.0 CONCLUSION.....	43

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1.0 INTRODUCTION

- 1.1 On behalf of the applicant, J. Murphy (Developments) Limited, we hereby submit this Statement of Material Contravention in support of a Strategic Housing Development (SHD) application on lands at Fosterstown North, Dublin Road / R132, Co. Dublin. The site has an area of c. 4.635 ha and is bound by the R132 to the east, the existing Boromhe residential development to the south and west, and the Gaybrook Street and a greenfield site to the north. The application site is located within the Metropolitan 'Key Town' of Swords, is zoned 'Residential Area' under the Fingal Development Plan 2017-2023, as varied, and forms the southern part of the lands covered by the Fosterstown Masterplan 2019.
- 1.2 The site is in an accessible urban location, with high frequency public transport operating along the R132 adjacent to the site, and further public transport enhancements proposed adjacent to the site including MetroLink and Bus Connects. The site is also in close proximity to several employment areas and Swords town centre. The proposed development will contribute a high quality residential development along with other complementary uses, including significant public open space provision (including 2 no. playing pitches), a childcare facility, a community facility and supporting commercial units, and provide much needed housing for the area in accordance with Government policy and objectives.
- 1.3 This statement provides a justification for a material contravention of the Fingal County Development Plan 2017-2023, as varied, (hereinafter 'Development Plan') should the Board be of the view that the proposed development contravenes **(i)** Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter 'Fosterstown Masterplan') 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, **(ii)** Objective DM113 / Table 12.8 in relation to car parking, **(iii)** Objective DMS30 in relation to daylight and sunlight analysis, **(iv)** Map Sheet No. 8 map-based objective in relation to the indicative Metro North route **(v)** Objectives PM52 and DMS57 in relation to public open space and **(vi)** Objective NH27 in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan.
- 1.4 In preparing this Statement of Material Contravention for the proposed development we have considered the decision of the Board in respect to the Phase 1 residential development for the Fosterstown North and Cremona lands to the north east of the site (ABP Ref.: 308366-20), the contents of the Development Plan and Fosterstown Masterplan, recent SHD decisions of the Board and recent case law.

Proposed Development

- 1.5 The proposed development is described as follows in the public notices:

"The proposed development comprises a Strategic Housing Development of 645 no. residential units (comprising 208 no. 1 bedroom units, 410 no. 2 bedroom units, and 27 no. 3 bedroom units), in 10 no. apartment buildings, with heights ranging from 4 no. storeys to 10 no. storeys, including undercroft / basement levels (for 6 no. of the buildings). The proposals include 1 no. community facility in Block 1, 1 no. childcare facility in Block 3, and 5 no. commercial units (for Class 1-Shop, or Class 2- Office / Professional Services or Class 11- Gym or Restaurant / Café use, including ancillary takeaway use) in Blocks 4 and 8.

The development will consist of the following:

- Block 1 comprises 29 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 21 no. 2 bedroom units. A community facility (191.8 sq.m) is provided at ground floor level.
- Block 2 comprises 23 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 15 no. 2 bedroom units.
- Block 3 comprises 24 no. residential units, within a four storey building (with a pitched roof), including 6 no. 1 bedroom units and 18 no. 2 bedroom units. A childcare facility (609.7 sq.m) is provided at ground floor level.
- Block 4 comprises 93 no. residential units, within a part seven, part eight, and part nine storey building, with an undercroft level, including 34 no. 1 bedroom units, 54 no. 2 bedroom units, and 5 no. 3 bedroom units. 3 no. commercial units (with a GFA of 632.2 sq.m) are provided at ground floor level.
- Block 5 comprises 91 no. residential units, within a part six, part seven, and part eight storey building, with an undercroft level, including 34 no. 1 bedroom units, 55 no. 2 bedroom units, and 2 no. 3 bedroom units.
- Block 6 comprises 54 units, within a part eight, part nine storey building, with an undercroft level, including 13 no. 1 bedroom units, 38 no. 2 bedroom units, and 3 no. 3 bedroom units.
- Block 7 comprises 117 no. residential units, within a part seven, part eight, and part nine storey building height, over a basement level, including 40 no. 1 bedroom units, 76 no. 2 bedroom units, and 1 no. 3 bedroom unit.
- Block 8 comprises 94 no. residential units, within a part six, part seven, part eight, and part nine storey building, over a basement level, including 33 no. 1 bedroom units, 58 no. 2 bedroom units, and 3 no. 3 bedroom units. A commercial unit (with a GFA of 698.2 sq.m) is provided at ground floor level.
- Block 9 comprises 75 no. residential units, within a part seven, part eight, part nine, and part ten storey building, over a basement level, including 23 no. 1 bedroom units, 48 no. 2 bedroom units, and 4 no. 3 bedroom units.
- Block 10 comprises 45 no. residential units, within a part nine, part ten storey building, including 9 no. 1 bedroom units, 27 no. 2 bedroom units, and 9 no. 3 bedroom units.

The development includes a total of 363 no. car parking spaces (63 at surface level and 300 at undercroft / basement level). 1,519 no. bicycle parking spaces are provided at surface level, undercroft / basement level, and at ground floor level within the blocks / pavilions structures. Bin stores and plant rooms are located at ground floor level of the blocks and at undercroft / basement level. The proposal includes private amenity space in the form of balconies / terraces for all apartments. The proposal includes hard and soft landscaping, lighting, boundary treatments, the provision of public and communal open space including 2 no. playing pitches, children's play areas, and an ancillary play area for the childcare facility.

The proposed development includes road upgrades, alterations and improvements to the Dublin Road / R132, including construction of a new temporary vehicular access, with provision of a new left in, left out junction to the Dublin Road / R132, and construction of a new signalised pedestrian crossing point, and associated works to facilitate same. The proposed temporary vehicular access will be closed upon the provision of permanent vehicular access as part of development on the lands to the north of the Gaybrook Stream. The proposal includes internal roads, cycle paths, footpaths, vehicular access to the undercroft / basement car park, with proposed infrastructure provided up to the application site boundary to facilitate potential future connections to adjoining lands.

The development includes foul and surface water drainage, green roofs and PV panels at roof level, 5 no. ESB Substations and control rooms (1 no. at basement level and 4 no. at ground floor level within Blocks 2, 4, 7 and 8), services and all associated and ancillary site works and development."

- 1.6 This Statement of Material Contravention accompanies the SHD application and the public notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Planning and Development Regulations (as inserted by S.I. No.291/2017) include the following reference to this statement in the prescribed format as follows:

“The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.”

Potential Material Contraventions

- 1.7 Having regard to the provisions of the Fingal Development Plan 2017-2023, as varied, it is respectfully requested that the Board have regard to the justification provided for potential material contraventions of the Development Plan, in the event that the Board is of the view that the proposed development constitutes a material contravention of the following objectives of the Development Plan:

- Objective SWORDS 27 of the Fingal Development Plan provides that it shall be an objective to ‘*Prepare and/or implement the following Local Area Plans and Masterplans during the lifetime of this Plan...*’ which includes the Fosterstown Masterplan (MP 8.I map based objective). The implementation of Masterplans is also referred to in Objective PM14 and Objective PM15. Fosterstown Masterplan was prepared and agreed by elected members of the Planning Authority in May 2019, Therefore, given the Fosterstown Masterplan was prepared pursuant to Objective SWORDS 27 of the FDP, it may be considered that the following aspects of the proposed development constitute potential material contraventions of key objectives of the Fosterstown Masterplan, as Objectives SWORDS 27, PM14 and PM15 refer to ‘implementing’ masterplans:
 - Road Improvements and Phasing
 - New Vehicular Access
 - Density
 - Apartment Typology
 - Residential Unit Mix
 - Building Heights
- **Objective DM113 and Table 12.8-** which relates to car parking and to the implementation of the car parking standards as set out in Table 12.8 of the Development Plan;
- **Map Sheet No. 8 map-based objectives-** which relates to the indicative route for the proposed Metro North and its stops.
- **Objective DMS30-** which states ‘*Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.*’
- **Objectives PM52 and DMS57** in relation to public open space; and

- **Objective NH27** in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan.
- 1.8 It is considered that the Board may determine that the proposed development materially contravenes the above objectives of the Development Plan and therefore represents a material contravention of the Development Plan.
- 1.9 For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.
- 1.10 The Statement of Consistency and Planning Report accompanying this application demonstrates compliance with all other relevant policies and objectives of the Development Plan and Fosterstown Masterplan 2019. Significantly, the proposed SHD does not contravene either the Development Plan or any Local Area Plan in relation to the zoning of land, whether materially or at all, as the uses are permissible under the 'RA- Residential' zoning.
- 1.11 It is respectfully submitted that the proposed development is in accordance with the provisions of the National Planning Framework 2018, the Urban Development and Building Heights Guidelines for Planning Authorities, 2018 (hereinafter 'Building Height Guidelines') and the Sustainable Urban Housing: Design Standards for New Apartments, 2020 (hereinafter 'Apartment Guidelines'). It is therefore respectfully submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development in the event that it is determined that the proposed development materially contravenes the Development Plan, and in turn the Fosterstown Masterplan 2019.

2.0 LEGISLATIVE CONTEXT

- 2.1 The Planning and Development (Housing) and Residential Tenancies Act 2016 ("the 2016 Act"), empowers An Bord Pleanála to decide to grant permission for a 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 subsection 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."

- 2.2 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 Fosterstown North SHD does not contravene the development plan or local area plan in relation to the zoning of land; then (iii) the provisions of 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) of the states the following:

“(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’. (Emphasis added)

2.3 A response to the relevant criteria above is provided in Section 3 of this report, and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed Fosterstown North SHD, thereby enabling the Board to decide to grant permission, notwithstanding the potential material contraventions of (i) Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter ‘Fosterstown Masterplan’) 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, (ii) Objective DM113 / Table 12.8 in relation to car parking, (iii) Objective DMS30 in relation to daylight and sunlight analysis, (iv) Map Sheet No. 8 map-based objective in relation to the indicative Metro North route (v) Objectives PM52 and DMS57 in relation to public open space and (vi) Objective NH27 in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan.

3.0 LOCAL PLANNING POLICY CONTEXT AND POTENTIAL MATERIAL CONTRAVENTIONS

3.1 The local planning policy context in respect to the potential material contraventions is summarised below, with an explanation for the inclusion of this Statement of Material Contravention with the subject application.

3.2 The potential material contraventions of the Development Plan, as varied, are addressed in turn below.

1. Objective SWORDS 27, Objectives PM14 and PM15 and the Fosterstown Masterplan (2019)

3.3 Objective SWORDS 27 of the FDP provides that it shall be an objective to ‘*Prepare and/or implement the following Local Area Plans and Masterplans during the lifetime of this Plan...*’ and it includes Fosterstown Masterplan. The implementation of Masterplans is also referred to in Objective PM14 and Objective PM15. The FDP includes a number of main elements to be included in the Fosterstown Masterplan as part of the supporting text for Objective SWORDS 27. Fosterstown Masterplan was prepared and presented to elected members of the Planning Authority for agreement in May 2019, and it was subsequently published in June 2019. Therefore, as the Fosterstown Masterplan was prepared pursuant to Objective SWORDS 27 of the FDP, it may be considered that the following constitutes potential material contraventions of key objectives of the Fosterstown Masterplan as Objectives SWORDS 27, PM14 and PM15 refer to ‘implementing’ the masterplan:

- **Road Improvements and Phasing:** One of the main elements to be included is ‘*Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands*’.

Chapter 8 ‘Phasing and Implementation’ of the Fosterstown Masterplan seeks to provide for the delivery of 1,230 no. residential units dependent on the delivery of essential infrastructure over 3 phases (set out in Table 8.1), with no more than 25% of the overall quantum of development envisaged to be constructed and occupied prior to the operation of Metrolink. The subject lands comprise both Phase 1 and Phase 3 lands identified in the Masterplan.

It is recognised that the proposed development on the subject lands will exceed the quantum of development identified in Table 8.1 of the Fosterstown Masterplan Phase 1, in advance of the delivery of the Fosterstown Link Road, in addition to in advance of Bus Connects and the MetroLink Station, and the delivery of a school. However, the Masterplan also states that the Planning Authority may exercise discretion in respect of permitting future development on potential opportunity sites located within Phase 2 and 3, in order to allow appropriate development to proceed subject to a detailed Traffic Impact Assessment.

The proposed development is supported by a Traffic Impact Assessment prepared by OCSC which demonstrates that there are no traffic or transportation related reasons that should prevent the granting of planning permission for the proposed development, and the Fosterstown Link Road is not required to facilitate the proposed development, nor the delivery of the Metrolink (please refer to the Statement of Response to the Board’s Opinion for further details).

- **Building Heights:** The FDP states that one of the main elements to be included in the Fosterstown Masterplan is “*where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys*”.

Section 6 of the Masterplan provides for the following additional key objectives in relation to building heights on the subject site:

- *“Provide lower heights adjoining existing residential areas in the form of 2-3 storey development along the Forest Road and Boraimhe.*
- *Provide a strong urban edge to the R132 to the north of the site, where taller development, ranging from 5 – 9 storeys will be supported.”*

The proposed development provides for building heights from 4 no. storeys to 10 no. storeys, with heights of 4 no. storeys proposed adjoining the existing Boraimhe residential development, to the south and west, but with significant setbacks from these properties situated closest to the application (see the site layout plan for details of separation distances). Therefore, the Board may determine that the proposals represent a material contravention of a key element set out under Objective SWORDS 27 and a key objective of the Fosterstown Masterplan in relation to building height.

- **Density:** Section 6 (Built Form) of the Fosterstown Masterplan states that residential accommodation should be provided at *‘a net density of 105-115 units per hectare with an appropriate mix of houses and apartments to meet the needs of future residents of the area and to diversify Swords existing housing stock’.*

The proposed residential development provides for a net density of c. 171.5 units per hectare (gross density of 146.4 uph) which exceeds the density range set out in the Masterplan, but which is considered to be justified in the context of national planning guidelines.

- **Residential Unit Mix:** Section 6 (Built Form) of the Fosterstown Masterplan, states that residential accommodation shall provide an appropriate mix of 1, 2 and 3 bed room units in line with the unit-mix standards set out in the Design Standards for New Apartment Guidelines and the Development Plan, and includes the following indicative mix:
 - 20-25% 1 beds;
 - 45-55% 2 beds;
 - 20-30% 3 beds. ¹

The proposed development does not accord with the indicative mix set out in the Masterplan as it provides for the following mix of apartment units:

- 208 no. 1 Beds (32%)
- 410 no. 2 Beds 4 Persons (64%)
- 27 no. 3 beds (5%)

It is recognised that the proposed mix would not be consistent with the indicative mix included in the Fosterstown Masterplan. However, notwithstanding this, the proposed mix is consistent and considered to be justified in the context of the Apartment Guidelines 2020. Specific Planning Policy Requirement 1 (SPPR1) of the Apartment Guidelines states:

¹ Fosterstown Masterplan 2016, pg. 13

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

The Apartment Guidelines 2018 also state in section 1.21 that *“...where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.”*

This is also recognised by Objective PM42 of the Development Plan which states:

“Implement the policies and objectives of the Minster in respect of ‘Urban Development and Building Heights Guidelines’ (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018) issued under section 28 of the Planning and Development Act, as amended.”

Overall, the proposed unit mix is consistent with the guidance set down in SPPR1 of the Apartment Guidelines 2020, as the percentage of 1 bed units does not exceed 50%. There is no requirement for 3 bed units under SPPR1. Having regard to the above, it is considered that even where the proposed unit mix would not be consistent with the indicative mix set out in the Fosterstown Masterplan, the mix is justified under SPPR1 of the Apartment Guidelines (which were issued under Section 28 of the 2000 Act).

- **Apartment Typology:** Section 6 of the Masterplan includes objectives for including *‘a range of typologies including duplex over duplex as well as traditional apartment building forms’*. It also includes to *‘Provide housing in the form of two-storey/three storey townhouses or housing over car parking’*, with this typology indicated along the southern boundary of the subject site.

The proposed development does not include any two-storey/three-storey townhouses / housing over car parking or duplex units, but the range of unit types are considered appropriate for the subject site in the context of the Apartment Guidelines 2020.

- **New Vehicular Access:** Section 4 of the Masterplan includes the key transport and movement objectives, including that the *‘Main vehicular access to the Masterplan lands will be achieved via the new Fosterstown Link Road from the R132 to the Forest Road. The detailed design of the Fosterstown Link Road and junction layout will be subject to consultation through the planning consent process.’* It also states that *‘Secondary access to the site will also be via new entrances to the south of Forest Road.’* There is no access indicated in the

Masterplan from the R132, with a local access / link street terminating to the southern part of the subject site immediately west of the R132.

The proposed development proposes a temporary vehicular access to the subject site from the R132, and the submitted Traffic Impact Assessment demonstrates that there are no traffic or transportation related reasons that should prevent the granting of planning permission for the proposed development, and the Fosterstown Link Road is not required to facilitate the proposed development, nor the delivery of the MetroLink.

2. Car Parking

3.4 Objective DM113 includes that *'the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8.'* Table 12.8 sets out the following relevant car parking standards:

- 1 space per 1 bed units, plus 1 visitor space per 5 units,
- 1.5 spaces per 2 bed units, plus 1 visitor space per 5 units,
- 2 spaces per 3 bed units, plus 1 visitor space per 5 units,
- 0.5 spaces per creche classroom,
- 1 per 30 sq.m retail / retail services / commercial

3.5 Based on the above, there is a total requirement for 1,006 no. car parking spaces (877 no. resident spaces and 129 no. visitor spaces) under the Development Plan.

3.6 The proposed residential development contains a total of 363 no. car parking spaces, with a residential car parking ratio of 0.51 spaces per apartment, as follows:

- 300 no. residential parking at undercroft / basement
- 30 no. surface residential car parking spaces
- 10 no. surface spaces for the childcare facility
- 23 no. surface spaces for the commercial units

3.7 With the above points in mind, the proposed development will materially contravene Objectives DM113 and Table 12.8 of the Development Plan in relation to car parking provision, as the proposed number of car parking spaces is less than that set out in Table 12.8 of the Development Plan.

3.8 However, it is noted the FDP currently includes standards which limit the amount of car parking at new developments, especially places of work and education. Employment-based developments that are close to public transport need fewer car parking spaces. An allowance for a reduction in car parking is given to areas which are within a Zone 1 category, namely:

- Within 1600m of DART, Metro, Luas or BRT, (existing or proposed);
- Within 800m of a Quality Bus Corridor;
- Zoned MC Major Town Centre;
- Subject to a Section 49 Scheme;

3.9 The proposed development is well located in terms of public transport and proximity to amenities. In this case, the proposed development is located directly adjacent to a major public transport corridor being the Swords Quality Bus Corridor (QBC) and

10m from Dublin Bus Stops, i.e. within 800m, therefore, this development meets multiple criteria for reasonable grounds to minimise car parking provision for the residential apartments and offices.

- 3.10 The proposed development is also located 50m from the proposed MetroLink station across the R132. The preferred Metrolink route is located to the east of the R132, with Fosterstown Station opposite the subject site. The preferred route was subject to a public consultation in March 2019 and the TII provided an update in March 2022 outlining that a Preliminary Business Case for the Metrolink was submitted to the Department of Transport for approval in December 2021. Once confirmed to proceed, the TII expect a Railway Order will be submitted in 2022. Subject to approval, the construction of the project will proceed however it is expected this will take a number of years, and therefore the Metrolink will not be delivered in the short term.
- 3.11 Furthermore, based on the Guidelines for Planning Authorities, Design Standards for New Apartments (March 2020) and due to the close proximity of the site to the existing and future high-frequency public transport and cycling facilities, as well as the high public transport usage of existing similar developments, it is considered reasonable that the car parking ratio for the residential units can be reduced below the ratio provided in the Development Plan. A rationale for the quantum of car parking and future management of same is set in the Car Parking Rationale and Mobility Management Plan prepared by Waterman Moylan.

3. Daylight, Sunlight and Overshadowing

- 3.12 Objective DMS30 seeks to '*Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.*'
- 3.13 A Daylight and Sunlight Assessment prepared by 3DDB is submitted with the application. As outlined in the assessment report, the analysis has been carried out in accordance with the recommendations of BR 209 Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2nd Edition by BRE 2011) and in conjunction with BS 8206-2 Lighting for Buildings and Part 2: Code of Practice for Daylighting. These are the standard documents to comply with for daylight and sunlight assessments, as reflected in the Fingal Development Plan Objective DMS30, the Apartment Guidelines 2020 and the Building Height Guidelines 2018.
- 3.14 As demonstrated in the Daylight and Sunlight Assessment, it is acknowledged that the residential units do not comply fully with the daylight guidelines referenced under Objective DMS30, and therefore this may be considered a material contravention of the Development Plan. However, Section 6.7 of the Apartment Guidelines sets out that where the applicant does not fully meet all of the requirements of the daylight provisions, this must be clearly identified and a rationale for any alteration, compensatory design solutions must be set out. It includes "*the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.*"
- 3.15 We refer to Section 15 of the Design Statement which provides a full justification for the scheme in respect to those units which fall below the minimum recommended targets in the BRE Guidelines. The overall configuration of the buildings has been designed to

achieve optimum levels of sunlight and daylight penetration into the apartments, along with access to sunlighting to open amenity spaces, while at the same time providing an appropriate density and building height on an infill site in a very accessible location.

- 3.16 Having regard to the Apartment Guidelines 2020, the equivalent paragraphs in Section 3.2 of the Building Height Guidelines 2018 relating to compliance with the BRE guidance, and the recommendations in the Urban Design Manual 2009, there are a number of considerations, including compensatory design measures and national planning policy, which has informed the layout, height and density of development and support the provision of a number of rooms in apartments which are below the minimum recommended daylighting levels (see 3DDB Daylight / Sunlight Assessment for further details), and justified in the Design Statement.

4. Metro North indicative route

- 3.17 The indicative route for the new Metro North at Fosterstown is shown on Development Plan Map Sheet No.8 as being located to the western side of the R132 at Fosterstown and along the western edge of the application site.
- 3.18 In April 2019, subsequent to the adoption of the Development Plan, the National Transport Authority (NTA) published details of the emerging preferred route for the MetroLink, thereby superseding the Metro North details referenced and indicated in the Development Plan and supporting maps. The MetroLink preferred route provides for the relocation of the metro corridor and stop to the eastern side of the R132 at Fosterstown, outside the subject lands. This revision was incorporated into the Fosterstown Masterplan with the indicative layouts illustrating the building edges to the R132 with blocks located within the area of the previously proposed indicative metro route.
- 3.19 As required under the Masterplan, the proposed scheme includes a strong urban edge to the R132 and therefore the proposed development does not include setbacks for the indicative route for Metro North as shown on the Development Plan Map Sheet No. 8, as it is superseded by the MetroLink proposals.
- 3.20 Given the conflict between the indicative route for new Metro North as illustrated on the adopted Development Plan Map Sheet No. 8 and in the adopted Masterplan, the proposed development may be considered to materially contravene the Map Sheet No. 8 map-based objectives in relation to the requirement to facilitate the indicative route for new Metro North, however, this is appropriate as the indicative route is superseded by the MetroLink proposals and the preferred route, as reflected in the subsequent Fosterstown Masterplan 2019.

5. Public Open Space

- 3.21 Objectives PM52 and DMS57 relate to the provision of public open space and states:

“Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.”

- 3.22 The supporting text for both objectives acknowledge that the Council employ a flexible approach to the delivery of public open space and more intensive recreational amenity

facilities. It also states that it is the Council's intention to ensure *'except under exceptional circumstances, public open space provision exceeds 10% of a development site area.'* However, this is not reflected in the wording for Objective PM52 and DMS57, which refers to a 'minimum' requirement.

- 3.23 Objective DMS57A requires a minimum 10% of a proposed development site area to be designated for use as public open space, and states that the Council has discretion for the remaining open space required under Table 12.5, to allow provision of open space outside the development site area, or to allow provision or update of Regional Parks in exceptional circumstances.
- 3.24 Objective DMS57B requires a minimum 10% of the development area be designated for use as public open space, and that the Council has discretion to accept a financial contribution in lieu of the remaining open space requirement under Table 12.5.
- 3.25 Whilst the supporting text and Objectives DMS57A and SMD57B allow for flexibility in the public open space provision (subject to a minimum of 10% public open space), it is acknowledged this is not reflected in the objectives PM52 or DMS57. Therefore, the quantum of open space proposed in the SHD may be considered a material contravention of objectives PM52 and DMS57 of the Fingal Development Plan 2017-2023 in so far as it does not provide 2.55 ha of open space on the basis of population as required under Table 12.5.

Unit Type	No. of Dwellings	Occupancy Rate	Calculation	Total population
3+ bed apartments	27	3.5 persons	27 x 3.5	94.5
1 or 2-bed apartments	618	1.5 persons	618 x 1.5	927
Total	645			1,021.5
Required Open Space Area based on 2.5 hectares per 1000 population				2.55ha

- 3.26 However, the proposed development significantly exceeds the 10% requirement in Objective DMS57A and Objective DMS57B, providing c. 0.98 ha of public open space (excluding the riparian strip) or 22% of the site area for public open space. This increases to c. 1.3 ha (30%) when the riparian strip is included. This also exceeds the requirements set out in the Sustainable Residential Developments in Urban Areas (2009) for open space, which requires a minimum of 15% of site area for greenfield sites to be public open space. The open space in the proposed development also meets the qualitative criteria set out in the Sustainable Residential Developments in Urban Areas (2009) Guidelines.

6. Removal of Hedgerows

- 3.27 Objective NH27 of the Fingal Development Plan sets out to *'Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management.'*
- 3.28 The Arboricultural Report and drawings prepared by Charles McCorkell indicate that hedgerows of amenity and biodiversity value are required to be removed along the R132

(none of which demarcate townland boundaries as confirmed by the Archaeology and Cultural Heritage Chapter of the EIAR). This includes the removal of a low quality hedgerow to the east of the site, and part removal of hedgerows on the western boundary. The loss of these hedgerows, when considered with the design mitigation proposed, is not considered to result in adverse environmental impacts based on the assessment undertaken in the Biodiversity Chapter of the EIAR.

- 3.29 However, this may be considered a material contravention of Objective NH27 which seeks the protection of hedgerows of amenity or biodiversity. Such a contravention is considered justified in the context of the National Planning Framework and the Sustainable Residential Development in Urban Areas Guidelines (2009) in order to deliver an appropriate quality and quantum of residential development on the subject lands. It is also noted that all remaining hedgerows will be protected in accordance with the Arboricultural Report and the proposed development includes significant new tree and hedge planting that will have a positive impact on the surrounding landscape by improving the local canopy cover and the diversity of species.
- 3.30 A justification for each potential material contravention is provided in Section 4 below and subsequently summarised in Table 5.1, which provides an overview of the material contraventions, have regard to the relevant criteria set out under Section 37(2)(b) of the Planning & Development Act 2000, as amended.

4.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION IN CONTEXT OF SECTION 37(2)(B) CRITERIA

- 4.1 In the event that the Board considers that the proposed development constitutes a material contravention of the following objectives, having regard to the analysis provided above:
- (i) Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter 'Fosterstown Masterplan') 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, (ii) Objective DM113 / Table 12.8 in relation to car parking, (iii) Objective DMS30 in relation to daylight and sunlight analysis, (iv) Map Sheet No. 8 map-based objective in relation to the indicative Metro North route (v) Objectives PM52 and DMS57 in relation to public open space and (vi) Objective NH27 in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan.

A justification for such material contraventions is set out below, under the relevant criteria set out under Section 37(2)(b) of the Planning & Development Act 2000, as amended.

- 4.2 Section 9(6)(c) of the 2016 Act empowers the Board to grant permission for a proposed strategic housing development that materially contravenes a Development Plan (other than in relation to the zoning of the land) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development. Section 37(2)(b) of the Act sets out 4 no. grounds on which the Board may grant permission for a development that materially contravene a Development Plan. In circumstances where there is no material contravention of any policy or objective of the Development Plan in relation to the zoning of land, it is considered that that permission

for the proposed development may be granted on one or more of the following grounds set out within this statement.

- 4.3 As set out within the accompanying Statement of Consistency and Planning Report, the proposed development complies with the zoning objectives pertaining to the subject site and all other relevant policies, objectives and standards of the Development Plan.

Section 37(2)(b)- Part (i)

Proposed Development is of Strategic or National Importance

- 4.4 The proposed development comprises of the provision of 645 no. residential units, a childcare facility, 1 no. community facility and 5 no. commercial units, public open space and associated development on lands zoned 'Residential Area' under the Fingal Development Plan 2017-2023 and forms the southern part of the Fosterstown Masterplan lands.
- 4.5 As outlined in the Statement of Consistency and Planning Report, the proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.
- 4.6 In respect of the Fosterstown Masterplan, the vision states that '*The Vision for Fosterstown is to create a residential community that is mixed and balanced, and forms a clear nexus with the scale of commercial development anticipated on the nearby Barrysparks & Crowscastle area. The Fosterstown lands have a unique opportunity to utilise the new connections that will emerge in Swords via the Metrolink station and Core Bus Corridor on the R132.*' The proposed development is therefore considered strategic in the context of the Fosterstown Masterplan as it delivers on the vision and key principles in respect of its contribution to deliver a high quality residential development along with other complementary uses, including significant public open space provision (including 2 no. playing pitches), a community facility and supporting commercial units.
- 4.7 The proposed development also delivers on Government Policy to increase delivery of housing from its current under supply. The Rebuilding Ireland Action Plan for Housing and Homelessness (2016), and consequently the 2016 Act, recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of Rebuilding Ireland – Action Plan focuses on the delivery of housing stock as a key objective to tackle homelessness and support a growing population.
- 4.8 The Government's Housing for All: A New Housing Plan for Ireland, published in September 2021, seeks to increase new housing supply to an average of at least 33,000 new units per year over the next decade. In terms of first steps to increase new housing supply, the Plan includes for '*in accordance with the National Planning Framework, focus on adequate supply of serviced zoned lands to meet housing need, at required density.*'
- 4.9 It is submitted that, with regard to S.37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on the Government's policy to increase delivery of housing from

its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness (July 2016), and Housing for All – A New Housing Plan for Ireland (2021). It is also of importance in terms of delivery of housing in accordance with the Development Plan and Fosterstown Masterplan. The proposals will also help in meeting the Core Strategy figures, as varied, of 14,799 residential units for the Metropolitan Key Town of Swords, albeit the units will be delivered during the lifetime of the next Development Plan, notwithstanding that the lands have been zoned for residential development since at least the 2005 Development Plan.

- 4.10 The proposed development is therefore considered to be strategic in nature and will deliver on national policy objectives in respect to the delivery of housing on serviced, zoned land in appropriate urban locations.

Section 37(2)(b)- Part (ii)

There are conflicting objectives in the Development Plan or the objectives are not clearly stated, insofar as the proposed development is concerned

- 4.11 The following section shall demonstrate how the proposed development is justified in the context of conflicting objectives in the Fingal Development Plan. Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter 'Fosterstown Masterplan') 2019 in relation to unit mix and Map Sheet No. 8 map-based objective in relation to the indicative Metro North route of the Development Plan

Map Sheet 8 – Map Based Objective Metro North Route

- 4.12 The relevant conflicting objectives are Objective DMS120, Development Plan Map Sheet No.8 Specific Objective "*Indicative Route for Metro North*", and Objectives SWORDS 27, PM14 and PM15 as they relate to implementation of the Fosterstown Masterplan.
- 4.13 In summary, the indicative route for new Metro North is illustrated on the adopted Development Plan Map Sheet No. 8 map-based objectives, located to the western side of the R132 at Fosterstown and within the subject lands as shown in Figure 4.1. Objective DMS120 of the Development Plan requires the indicative route for new Metro North and its stops to be kept free from development.²

² *Fingal Development Plan 2017-2023, pg.456*

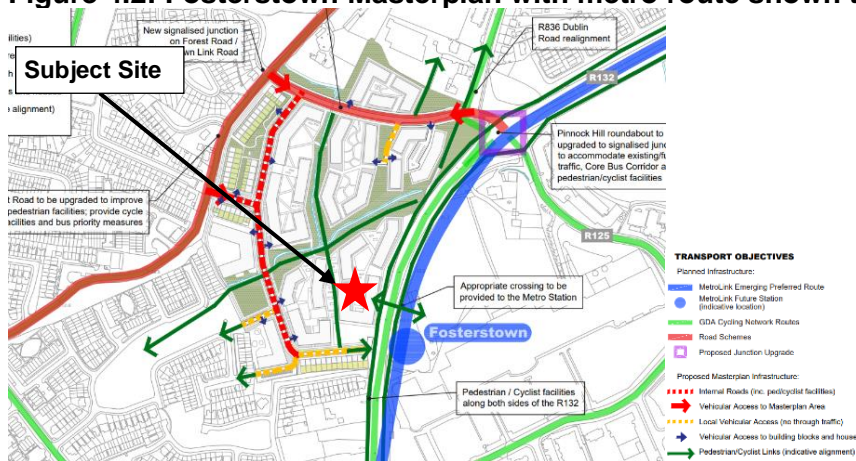
Figure 4.1: Development Plan Map with metro route shown to west of R132 (indicative red line)



Source: Fingal County Development Plan 2017-2023, Map Sheet No.8-Swords (extract)

4.14 However, the Fosterstown Masterplan, which has been prepared in the intervening period based on an objective of the Development Plan, reflects the latest information in respect to MetroLink, which supersedes the Metro North indicative route in the Development Plan, and indicates the metro corridor located to the eastern side of the R132 at Fosterstown, outside the subject lands. It also identifies the indicative Masterplan block layouts within the area of the previously proposed indicative metro route as shown in Figure 4.2. The route alignment indicated in the Masterplan is based on the emerging preferred route for the MetroLink, published by the NTA in 2019 which supersedes the alignment indicated on the Development Plan Map Sheet No.8.

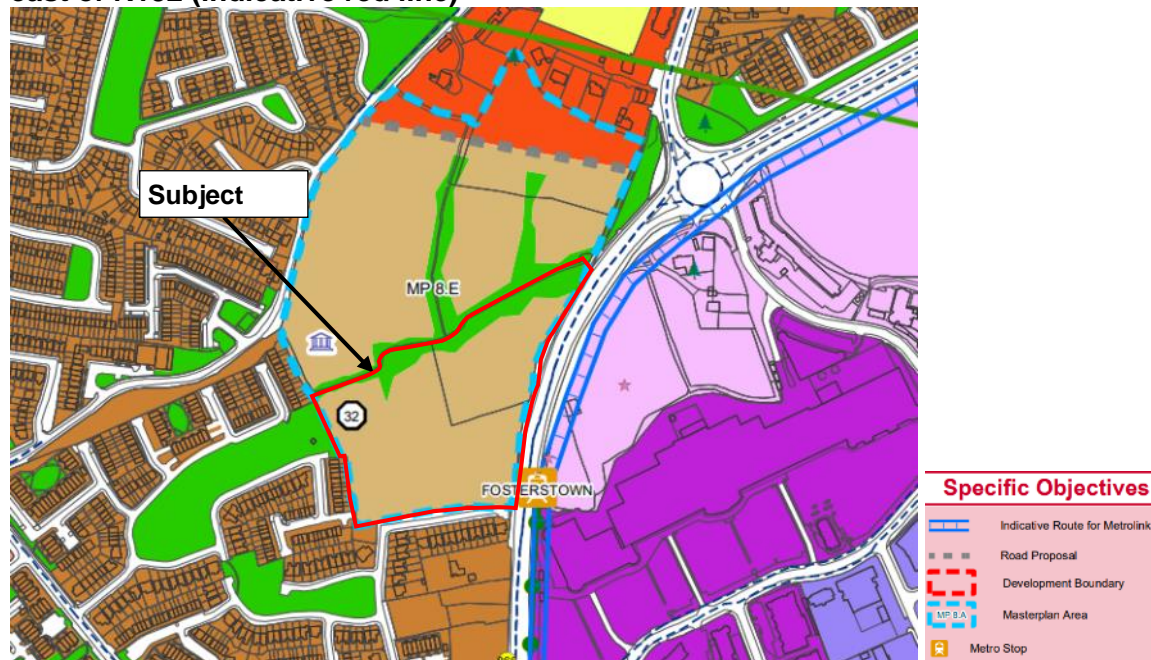
Figure 4.2: Fosterstown Masterplan with metro route shown to east of R132



Source: Fosterstown Masterplan

4.15 As further evidence of the preferred metro route, an extract from the Draft Fingal Development Plan 2023 – 2029, Map Sheet No. 8 published in February 2022 illustrates the preferred route to the eastern side of the R132, as illustrated in Figure 4.3.

Figure 4.3: Draft Development Plan Zoning Map Extract with metro route shown to east of R132 (indicative red line)



Source: Fingal County Development Plan 2023-2029, Sheet No.8-Swords (extract)

- 4.16 As demonstrated above, there is conflict between associated Objective DMS120 and Development Plan Map Sheet No. 8 map-based Specific Objective “Indicative Route for Metro North” and the Objectives SWORDS 27, PM14 and PM15 which relate to the implementation of the Fosterstown Masterplan, which has since been adopted in 2019.
- 4.17 Therefore in these circumstances, given the conflict between the indicative route for the new Metro North and its stops shown on the adopted Development Plan Map Sheet No. 8 map-based objectives and in the adopted Masterplan, it is submitted that the criteria in section 37(2)(b)(ii) above is satisfied in respect of the proposed Fosterstown North SHD and it has been demonstrated above that the layout of the proposed Fosterstown North SHD development is justified under the Fosterstown Masterplan (as implemented under Objectives Swords 27, PM14 and PM15), the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended notwithstanding the potential material contravention of Objective DMS120 and Development Plan Map Sheet No. 8 map-based Specific Objective “Indicative Route for Metro North”.

Unit Mix

- 4.18 In summary, and as set out in Section 3 above, the Fosterstown Masterplan states that the mix of residential accommodation to be provided is to be in line with the unit-mix standards set out in the Development Plan and the Apartment Guidelines. However, the Masterplan also sets out an indicative unit mix, which conflicts with SPPR1 of the Apartment Guidelines, requiring:
- 20-25% 1 beds;
 - 45-55% 2 beds;
 - 20-30% 3 beds.

- 4.19 The proposed development is consistent with the first part of the Masterplan which requires the mix of residential accommodation to be provided in line with the Apartment Guidelines. The proposed unit mix is also considered to be in compliance with the Development Plan objectives PM38 and PM40. However, it does not accord with the indicative mix set out in the Masterplan. As outlined above, the proposed development provides for a unit mix consistent with the guidance set down in SPPR1 of the Apartment Guidelines, with no studios proposed and the percentage of 1 beds not exceeding 50% of the total units as follows:
- 211 no. 1 Beds (32%)
 - 19 no. 2 Beds 3 Persons (3%)
 - 395 no. 2 Beds 4 Persons (60%)
 - 33 no. 3 beds (5%)
- 4.20 Given Objectives SWORDS 27, PM14 and PM15 relate to the implementation and achievement of specific objectives indicated in masterplans and given the conflicting statements regarding unit mix contained in the Fosterstown Masterplan and noting the mix referred to is 'indicative', it is considered the proposed housing mix, which complies with SPPR1 of the Apartment Guidelines, is justified.

Section 37(2)(b)- Part (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

- 4.21 The following section shall demonstrate how the potential material contraventions of **(i)** Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter 'Fosterstown Masterplan') 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, **(ii)** Objective DM113 / Table 12.8 in relation to car parking, **(iii)** Objective DMS30 in relation to daylight and sunlight analysis, **(iv)** Map Sheet No. 8 map-based objective in relation to the indicative Metro North route **(v)** Objectives PM52 and DMS57 in relation to public open space and **(vi)** Objective NH27 in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan, are justified in the context of recent Government Planning Policy, the EMRA RSES 2019, and Section 28 Government Guidelines, which seek to increase residential densities on zoned serviced lands adjacent to public transport corridors, and which have been published since the adoption of the Development Plan. These include:
- Project Ireland: National Planning Framework 2040 (NPF) (2018);
 - Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly 2019 (EMRA RSES);
 - Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness (2016)
 - Housing for All - a New Housing Plan for Ireland 2021;
 - Design Manual for Urban Roads and Streets 2019;
 - Sustainable Residential Development in Urban Areas Planning Guidelines (2009);

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020);
- Urban Development and Building Heights Guidelines for Planning Authorities, 2018.

Project Ireland: National Planning Framework 2040

4.22 The proposed development, located in the Key Town of Swords, on a public transport corridor and on zoned serviced land, accords with the provisions of the National Planning Framework, which prioritises the delivery of new housing on lands which are within or continuous to existing urban areas, and which have access to relevant services.

4.23 National Policy Objective 3a seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built up areas over the lifetime of the framework. The Plan states:

'A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites'. (Emphasis added)

4.24 The proposed development also accords with and supports the delivery of several key objectives of the NPF including the following:

- ***“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.”***
- ***“In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”.***
- ***“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 33: 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, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”**
- 4.25 The following provides a justification of a number of the contraventions in the context of the NPF.

Building Heights and Density

- 4.26 In respect of the potential material contraventions of the Fosterstown Masterplan and key objectives in relation to building heights and density as discussed in Section 3, it is clear the NPF includes a strong emphasis towards increased building heights and density in appropriate locations within existing urban centres and along public transport corridors in order to provide for the critical mass needed to make the public transport services viable. It is considered the proposed density and increased height (up to 10 no. storeys and a net density of c. 171 uph) of the proposed development, when compared to the Masterplan (up to 8 storeys and a net density of 105-115 uph) is considered appropriate for the location of the site and the availability of public transport facilities and services provided within the area, including the location of the future Bus Connects and Metro Stop in close proximity to the site. As set out in further detail in the Traffic Impact Assessment, the proposal, including the proposed vehicular access, is compatible with the planned Bus Connects and Metrolink. Therefore, the proposed access will not impact on the delivery of MetroLink. In addition, the proposed access provides for pedestrian and cycling infrastructure along the R132 and does not conflict with the BusConnects proposals for the site (see Statement of Response).
- 4.27 Therefore, the proposed development represents the achievement of effective density on a strategically located site identified for development in the Development Plan which is well served in terms of the necessary facilities, infrastructure, and amenities to facilitate a higher density development such as that proposed. Lower heights and density, as envisaged in the Masterplan, is considered to provide for an underutilisation of these lands which are well served by existing and planned public transport and would be contrary to Government policy which promotes increased densities at well served urban sites, and which discourages universal height standards in favour of a more site-specific approach.

Road Improvements, Phasing, Vehicular Access

- 4.28 In respect of the potential material contraventions of the Fosterstown Masterplan key objectives in relation to road improvements, phasing and the new vehicular access, the NPF actively seeks to foster stronger regions via the utilisation of existing residential zoned and serviced or serviceable lands such as the subject site. Restricting the proposed development in respect of the road improvements, phasing of development and the vehicular access as referred to in SWORDS 27 and the Fosterstown Masterplan is considered contrary to the objectives of the NPF, in particular NPO 3(a), 11 and 33, which aim to direct new homes to locations which can support sustainable development and can encourage more people and generate more jobs and activity in towns. The NPF also supports the increased residential density in accordance with the principles of compact growth.
- 4.29 The location of the proposed development in the Key Town of Swords, contiguous to the built up area constitutes an opportunity for planned, compact and sustainable growth on

an appropriately zoned site, which has strong physical and social infrastructure. The development includes provision of a new vehicular access from the R132 to serve the proposed development, and as explained further in the Traffic Impact Assessment does not require the Fosterstown Link Road to facilitate the proposed development. Furthermore, Irish Water have confirmed that the proposed development can be accommodated subject to minor local upgrades.

- 4.30 The NPF identifies that to meet the targets set out in the above objectives, that it will necessitate a significant and sustained increase in urban housing output and apartment type development in particular. Therefore, it is clear from the NPF that there is a strong emphasis towards providing apartment type development in appropriate locations within existing urban areas and along public transport corridors in order to provide for the critical mass needed to make the public transport services viable. It is considered the proposed development provides for this with a mix of 1, 2 and 3 bed apartments.

Unit Mix

- 4.31 In respect of the potential material contravention of the Fosterstown Masterplan key objectives in relation to unit mix, there is no national policy objective specific to housing mix, and whilst it is recognised NPO37 sets out a Housing Need Demand Assessment is to be undertaken for each authority to align future housing requirements, this has not been adopted by FCC as of yet. The NPF also acknowledges that decreasing household sizes is an established trend, which is reflected in policy terms under SPPR1 of the Apartment Guidelines 2018, and thereby supporting the unit mix proposed for the subject site.

Daylight and Sunlight

- 4.32 In respect of Objective DMS30 of the Development Plan, which seeks to 'Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents', we note that the scheme results in a compliance for ADF of circa 92% for the development when LKDs are considered at the higher target value of 2% as recommended in the BRE Guidelines, thus the scheme could be considered to not fully comply with Objective DMS30.
- 4.33 However, as provided for under the Apartment Guidelines 2020 and the Building Height Guidelines 2018, and the acknowledgement in National Policy Objective 13 of the NPF that planning and related standards will seek to achieve a well-designed high quality development, 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"*, it is considered that the proposal seeks a suitable balance between achieving compliance with the recommendations of the BRE Guidelines and delivering an appropriate scale and design of development on the subject lands.
- 4.34 We refer to Section 15 of the Design Statement which provides a full justification for the scheme in respect to those units which fall below the minimum recommended targets in the BRE Guidelines. The overall configuration of the buildings has been designed to achieve optimum levels of sunlight and daylight penetration into the apartments, along with access to sunlighting to open amenity spaces, while at the same time providing an

appropriate density and building height on an infill site in a very accessible location, as required under national planning policy and guidelines.

Car Parking

- 4.35 In relation to the material contravention of Objective DM113 and Table 12.8 of the FDP, the proposed parking provision accords with the principle of NPO13 which states that car parking will be based on performance criteria to achieve well designed high quality outcomes.
- 4.36 In summary, the NPF supports the provision for planned growth at locations which are equipped to sustain such development. The NPF favours compact development within urban areas and provides that where the expansion of settlements takes place it should be delivered in a sustainable, compact manner. The proposed development implements the policies and objectives of the NPF in that the proposed SHD constitutes an efficient use of lands which are zoned for residential development.

Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

- 4.37 The Eastern & Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 was adopted in 2019. The principal statutory purpose of the RSES is to support the implementation of Project Ireland 2040 - The National Planning Framework (NPF) and National Development Plan (NDP). Therefore, it provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy.
- 4.38 The EMRA RSES supports residential development on strategically located sites, in proximity to public transport services. The RSES also supports increased densities, heights and urban consolidation in inner suburban locations.
- 4.39 The RSES states that *“the Core Strategies of the relevant Local Authorities should demonstrate consistency with the population targets expressed in the NPF and the Implementation Roadmap for the National Planning Framework July 2018. **The NPF identifies a target population of 1.4 million people in Dublin City and Suburbs for 2031, an increase of some 220,000 people, and a target of 1.65m. in the MASP an increase of some 250,000 people.**”*
- 4.40 As part of the RSES, the site lies within the boundary for the Dublin Metropolitan Area Strategic Plan (MASP) area. The RSES states that *“the core strategies of development plans relevant to the MASP should have a focus on the delivery of sites in the MASP whilst retaining flexibility to respond to **new and future opportunities for the delivery of housing in the metropolitan area**, in line with the transitional population projections methodology in the NPF roadmap and a robust evidence-based analysis of demand, past delivery and potential.”*
- 4.41 The subject site is located in Swords, c. 1km south of the Town Centre, which is identified in the RSES as a Key Town for the metropolitan area. The RSES sets out that key priorities are to promote compact growth and enhanced public realm in the town centre along with the planned sequential development of Swords.

- 4.42 The following Regional Policy Objectives are of relevance:

- **RPO 4.29:** *Support the regeneration of underused town centre lands along with the planned and sequential infill opportunities to provide for high density and people intensive uses in accessible locations that are accessible to high quality transport, existing and planned, and to support the preparation of a local area plan for the strategic landbank at Lissenhall for the longer-term development of Swords.*
- **RPO 5.4:** *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.*
- **RPO 5.5:** *Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.*

4.43 The subject lands form part of the sequential infill opportunities to provide for high density development in accordance with the above objectives and to deliver on the Core Strategy population figures for the town as set out in the Development Plan. The subject development seeks to provide for residential development on a strategically located site thereby delivering a greater mix of uses, increased densities, heights and urban consolidation in an area well served by public transport. The proposed development therefore is compliant with the overall policies and objectives of the RSES in this regard.

Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness (2016)

4.44 Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness recognises the need for step-change in housing delivery in order to meet burgeoning demand (which is currently going unmet) and urgent housing need.

4.45 It is noted that this Action Plan is superseded by the Housing for All – A New Housing Plan for Ireland, however, it identified a need for pent-up demand arising from undersupply of new housing in recent years which continues to be an issue addressed in the Housing for All plan. The subject lands are zoned and serviced, located within the development boundary of Swords and can provide a small element of this provision over the short to medium term on the subject site.

Housing for All - a New Housing Plan for Ireland

4.46 “*Housing for All - a New Housing Plan for Ireland*” (hereinafter Housing for All”) is the government’s housing plan to 2030. Launched in September 2021, it is a multi-annual, multi-billion euro plan which will improve Ireland’s housing system and deliver more

homes of all types for people with different housing needs.³ The government's overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price
- built to a high standard and in the right place
- offering a high quality of life

4.47 The government's vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social and environmental sustainability built into the system. It is estimated that Ireland will need an average of 33,000 new homes to be provided each year from 2021 to 2030.

4.48 The policy has four pathways to achieving housing for all:

- supporting home ownership and increasing affordability
- eradicating homelessness, increasing social housing delivery and supporting social inclusion
- increasing new housing supply
- addressing vacancy and efficient use of existing stock

4.49 The proposed development is consistent with the overall aim of Housing for All to build an average of 33,000 homes per annum in the State between and 2030 and to accelerate social housing delivery.

4.50 The proposed development provides for 645 no. new apartments which will substantially add to the residential accommodation availability of the area and cater to the increasing housing demand. The proposed development will contribute to the quantum of new of social housing units available to the Council through the Part V proposals for the site which is consistent with the objectives of Housing for All.

Design Manual for Urban Roads and Streets (2019)

4.51 In respect of the potential material contraventions of the Fosterstown Masterplan key objectives in relation to road improvements, phasing and the new vehicular access, the Design Manual for Urban Roads and Streets (DMURS), 2019, sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. It also outlines practical design measures to encourage more sustainable travel patterns in urban areas. The DMURS Statement of Consistency report prepared by Waterman Moylan provides further detail in respect of the compliance of the proposed development with DMURS and demonstrates that the proposed access is appropriate, as supported by the Road Safety Audit (which included a series of recommendations incorporated into the final design). The findings from the Traffic Impact Assessment demonstrate that the existing transport infrastructure in the area is adequate to safely accommodate the development proposed and the provision of the Fosterstown Link Road is not required to facilitate the proposed development.

³ <https://www.gov.ie/en/publication/ef5ec-housing-for-all-a-new-housing-plan-for-ireland/>

Sustainable Residential Development in Urban Areas Planning Guidelines (2009)

Density

- 4.52 The Sustainable Residential Development in Urban Areas Planning Guidelines (2009) promotes increased residential densities in appropriate locations, including city and larger town centres. Swords would be classified as a larger town under the Guidelines as it has a population of more than 5,000 people. Section 5.4 states that increased densities should be encouraged on residentially zoned lands, such as the subject site, particularly in the following relevant locations:

(c) Public Transport Corridors – "...It is recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities."

- 4.53 As set out above, the site is located within the town of Swords on residentially zoned land, contiguous to the built up area and is proximate to existing and planned infrastructure and services within the town. The subject lands are considered an outer suburban / greenfield site, and the proposed development forms a comprehensive development, with good transport links that will deliver infrastructure, including the access roads, in addition to the significant provision of public open space. In this regard the proposed density accords with the guidelines for Public Transport Corridors. The subject site is located within 500 metres walking distance of bus stops, and it will also benefit from the Bus Connects proposals and the future Metrolink.

Removal of Hedgerows

- 4.54 The proposed removal of an existing part hedgerow along the R132 and part of the hedgerow on the western boundary (none of which demarcate townland boundaries) in order to facilitate an urban edge along the R132 and appropriately sized and laid out playing fields on the western side of the site, to be mitigated by extensive planting of open space areas, is considered justified in the context of the guidelines, in terms of the promotion of higher densities of well connected sites which could not be achieved in this context in a reasonable manner without the removal of some external site features. The Biodiversity Chapter of the EIAR, THE Arboricultural Report and the Landscape Design Report submitted with the application provides a more detailed rationale for the design, which seeks to maintain and enhance the biodiversity of these lands.
- 4.55 In addition, the design manual linked to the guidelines sets out 12 criteria which it recommends should be assessed in the assessment of planning applications. Criteria no. 12 refers to 'Detailed design: How well thought through is the building and landscape design'.
- 4.56 Section 16 of the Design Statement confirms that *'the design has been considered in detail with the input of specialist designers co-ordinated by the Architectural team to provide a high quality building and environment. The selection of materials and external*

design makes a positive contribution to the locality. The landscape design has been considered in detail to provide screening and a green visual appearance to the development. Design of the buildings and communal spaces will facilitate easy and regular maintenance.'

- 4.57 The Landscape Design Report also confirms that a key principle of the landscape design was to allow connections to different habitats and enable a tree and hedgerow planting structure to be established across the site. The new tree structure is designed to grow and mature within the context of the proposed development ensuring the creation of a sylvan character for the site. The partial removal of hedgerows, of low amenity value, when considered with the design mitigation proposed, is not considered to result in adverse environmental impacts based on the assessment undertaken in the Biodiversity Chapter of the EIAR.
- 4.58 Therefore, it is clear the proposed development has been designed in accordance with best practice to create a high quality development, in accordance with the guidelines.

Public Open Space

- 4.59 The proposed development will provide for high quality open space in accordance with the guidelines on Sustainable Residential Development in urban Areas (2009). Section 4.20 and 4.21 of the Guidelines states:

"4.20 ...In green-field sites or those sites for which a local area plan is appropriate, public open space should be provided at a minimum rate of 15% of the total site area. This allocation should be in the form of useful open spaces within residential developments and, where appropriate, larger neighbourhood parks to serve the wider community;"

"4.21 "It will be necessary for planning authorities to take a more flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards outlined above. Where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution towards public open space or recreational facilities in the wider area in lieu of public open space within the development."

- 4.60 Having regard to the above, the proposed development clearly meets and exceeds the requirements of the guidelines. The proposed development provides significant open space of 22% of the site area, which increases to 30% when including the riparian strip given this space accommodates pedestrian movement as well as recreation use.

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020

- 4.61 The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020) build upon the provisions of the NPF. Under section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.

Building Height, Density, and Unit Typology

- 4.62 In respect of the potential material contraventions of the Fosterstown Masterplan key objectives in relation to building height, density and unit typology, the Apartment Guidelines (Section 2.4) provide clear guidance with regard to the types of location which are considered suitable for higher density residential development. The guidelines also note that the scale and extent of development should increase in relation to proximity to public transport. The site falls within a 'central and / or accessible urban location' as defined in the Guidelines. The Guidelines state that 'Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments'. The subject site also has good access to existing and planned public transport. The proposed development wholly comprises apartments, with an overall net density of 171.5 uph, which accords with the requirements of the Guidelines to deliver higher density development in appropriate locations.

Unit Mix

- 4.63 In respect of the potential material contraventions of the Fosterstown Masterplan key objectives in relation to unit mix, full details on consistency with the Apartment Guidelines 2020 are set out in the Statement of Consistency and Planning Report and PCOT Architects HQA submitted with this SHD application. However, having specific regard to unit mix, SPPR1 is directly relevant and states the following:

"SPPR 1- Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)."

- 4.64 The proposed unit mix (32% 1 beds, 63% 2 beds and 5% 3 beds) is consistent with the guidance set down in SPPR1 of the Apartment Guidelines 2020, as no studios are proposed and the percentage of 1 beds does not exceed 50%. There is no requirement for 3 bed units under SPPR1, however, 5% of the units are 3 beds to ensure an appropriate mix of typologies on the subject site.
- 4.65 Furthermore, a HDNA has not been adopted to support the unit mix criteria in the Masterplan and therefore the unit mix requirement in the Masterplan is not evidence based as required under current national policy and Guidelines.

Car Parking

- 4.66 In respect of the car parking and the FDP Objective DM113 and Table 12.8, the Apartment Guidelines note (Section 4.18) that the *"quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria"*.⁴

⁴ Sustainable Urban Housing: Design Standards for New Apartments, 2020, pg.24

- 4.67 The Guidelines state (Section 4.19) the following in relation to Central and/or Accessible Urban Locations:

“In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity”⁵

- 4.68 The proposed development will provide for 363 no. car parking spaces to serve the residential element which results in a car parking ratio of 0.51 spaces per apartment. This provision is in accordance with the requirements for car parking for Central and/or Accessible Urban Locations under the Apartment Guidelines under which the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated. In the context of the future Fosterstown Metro Stop and BusConnects, we note the policy specifically refers to highly accessible areas near rail and bus stations.

- 4.69 We also highlight that the proposed development will provide a total of 1,518 bicycle parking spaces as follows:

- 347 no. surface bicycle parking spaces
- 244 no. ground floor secure bicycle parking spaces
- 100 no. store secure bicycle parking spaces
- 828 basement bicycle parking spaces

- 4.70 Therefore, whilst the proposal provides a reduced overall car parking standard when compared to Development Plan standards, under the Apartment Guidelines the proposed car parking is considered to be justified by the proximity of the proposed residential development to high quality public transport and the town centre of Swords, and the substantial amount of bicycle parking proposed for the use of the future residents and the surrounding existing community. The Masterplan supports less car parking spaces to encourage residents and visitors to use public transport, which the proposal aligns with.

Daylight and Sunlight

- 4.71 In relation to Daylight and Sunlight and Objective DMS30, Section 6.6 and 6.7 of the Guidelines relate to daylight provision, and in particular Section 6.7 recognises that:

‘Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to a design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.’

⁵ Sustainable Urban Housing: Design Standards for New Apartments, 2020, pg.24

- 4.72 We refer to the Daylight and Sunlight Assessment and Section 15 of the Design Statement which provides a full justification for the scheme in respect to those units which fall below the minimum recommended targets in the BRE Guidelines. The overall configuration of the buildings have been designed to achieve optimum levels of sunlight and daylight penetration into the apartments, along with access to sunlighting to open amenity spaces, while at the same time providing an appropriate density and building height on an infill site in a very accessible location.
- 4.73 Having regard to the Apartment Guidelines 2020, the equivalent paragraphs in Section 3.2 of the Building Height Guidelines 2018 relating to compliance with the BRE guidance, and the recommendations in the Urban Design Manual 2009, there are a number of considerations, including compensatory design measures and national planning policy, which has informed the layout, height and density of development and support the provision of a number of rooms in apartments which are below the minimum recommended daylighting levels (see 3DDB Daylight / Sunlight Assessment for further details), and justified in the Design Statement.
- 4.74 The optimisation process has ensured that the majority of habitable rooms achieve and exceed the minimum levels of daylight and sunlight as recommended in the BRE Guidelines. Shortfalls are, however, an inevitable consequence of any development within an urban context. A degree of flexibility is recognised in both the Apartment Guidelines 2020 and the Building Height Guidelines 2018.
- 4.75 The design team has therefore ensured that compensatory measures are incorporated into the scheme to address the fact that some of the units are below the minimum recommendations of the BRE Guidelines. This includes the following:
- The provision of public open space and communal open space which exceeds the minimum requirements (See M&A Landscape plans and reports);
 - The provision of a community facility for residents;
 - Apartment units exceed the minimum floor area requirements set out in the Apartment Guidelines 2020 (no derogation is sought in respect of any of the standards);
 - Increased head heights to windows where views are more favourable;
 - Increased window widths where views are more favourable;
 - Provision of large private amenity in the form of balconies or terraces to all units which meet and exceed (where possible) the standards set out in the Apartment Guidelines, and locating balconies to ensure good levels of sunlight where possible;
 - Reductions in the overall depth of rooms to improve the level of daylight, whilst still ensuring minimum floor areas for rooms are met and exceeded where possible;
 - Very good levels of sunlight for all open spaces of amenity at ground and podium levels;
 - Orientation and outlook of proposed units: the majority apartments have a westerly, southerly or easterly aspect, which overlook a landscaped context with good levels of sunlight amenity and facing adjoining buildings which have strong elements of architectural design with high quality finishes, materials and textures.

Urban Development and Building Heights Guidelines for Planning Authorities, 2018

- 4.76 The proposed building heights (4 to 10 storeys), which are in excess of the heights recommended in the Masterplan (3 to 8 storeys), are considered to be justified in the context of the Urban Development and Building Heights Guidelines for Planning Authorities, 2018 (hereinafter 'Building Height Guidelines') which sets out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040. Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.
- 4.77 Sections 1.13 and 1.14 of the Building Height Guidelines state that specific planning policy requirements (SPPRs) of guidelines issued under Section 28 of the Planning and Development Act 2000 take precedence over any conflicting, policies and objectives of development plans. Where such conflicts arise, such plans/ schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements. We also note Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) confirms that when making a decision, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000 where they differ with provisions of the Development Plan.
- 4.78 The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 4.79 The Building Height Guidelines advocate a move away from blanket caps on building heights and seek to encourage greater height in central and/or accessible urban locations, such as the subject site, to encourage compact urban form and the delivery of housing and employment at accessible urban locations. The Guidelines also place significant emphasis on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks and state the following:
- "In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks".*
- 4.80 In addition, the Building Height Guidelines state that *"the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and **more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights**".*
- 4.81 Under SPPR3 of the Building Height Guidelines it is a specific planning policy requirement that where an applicant demonstrates compliance with specific height

criteria, the assessment of the Planning Authority or the Board must take account of the wider strategic and national policy parameters set out in the National Planning Framework and the Building Height Guidelines. SPPR3 states:

“It is a specific planning policy requirement that where:

- (A) 1. *an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
 2. *the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

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

- 4.82 Compliance with the relevant criteria set out under Section 3.2 of the Guidelines is demonstrated below to satisfy the requirements of SPPR3 for increased building height on the subject site.

Compliance with Development Management Criteria

At the scale of relevant city/ town

- 4.83 The criteria for assessment of developments at the scale of the relevant city/ town are addressed below:

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

Response:

- 4.84 As noted above, the site is well serviced by public transport with high capacity, frequent service, and is located directly adjacent to a major public transport corridor being the Swords Quality Bus Corridor (QBC). A number of bus stops located within 30m-450m walking distance to the site, providing for a high capacity and frequent service to the city centre, along with direct links with Dublin Airport, Dublin City Centre, and UCD. This includes the Swords Express bus services (including routes 500, 501, 502, 503, 504, 505, 500X, and 501X), a range of Dublin Bus services and a GoAhead service (including routes the 33, 33a, 41, 41b, 41x and 101).
- 4.85 The Public Transport Capacity Assessment prepared by Waterman Moylan demonstrates the existing bus network in the area has sufficient capacity to accommodate passenger trips generated by the proposed development and it confirms the peak frequency of bus services is 37 no. buses per hour equivalent to an average frequency of one bus per 1.5 minutes.
- 4.86 Future proposals for public transport in the area include Bus Connects and a section of the Core Bus Corridor 2 (Swords to Dublin City Centre) preferred route passes directly by the site to the east, along the R132 / Dublin Road. The site will also benefit from the future MetroLink line, which will run along a corridor linking Swords, Dublin Airport and the City Centre, and will terminate at Charlemont. The preferred route public consultation identified a MetroLink stop is proposed on the opposite side of the R132/Dublin Road, north of and partially within the footprint of Airside Retail Park, and adjacent to the

subject site at Fosterstown North. However, the proposed development can be supported by the existing high quality public transport serving the area.

“Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape visual assessment, by suitably qualified practitioner such as a chartered landscape architect”

Response:

- 4.87 In addressing the above criteria, the Board should also refer to the following documentation:
- Architectural Design Statement prepared by Arrow Architects
 - Landscape and Visual Impact Assessment Chapter of the EIAR prepared by Mitchell and Associates, and the Verified Views Montages, Presentation and CGI Images Brochure prepared by 3DDB
 - Archaeology and Cultural Heritage Chapter of the EIAR prepared by Archaeological Consultancy Services Unit Ltd
- 4.88 The Archaeology and Cultural Heritage Chapter within the EIAR confirms the site is not located in an architecturally sensitive area. It also confirms the site was subject to a number of archaeological assessments carried out in relation to the site, both invasive and non-invasive. These include Geophysical Survey (19R0011; Murphy, Breen, 2019), Archaeological Assessment (Lyne, 2019) and test trenching (19E0034; Clarke, Lyne, 2020). These did not identify any subsurface archaeological remains within the site
- 4.89 We refer to the Design Statement prepared by Arrow in respect of the design evolution and rationale for the proposals. The proposed scale of the development, at part 4 to part 10 no. storeys, has been designed to maximise the use of the site whilst mitigating impact on the existing residential areas adjoining the site of the proposed development. The height and massing have been designed and positioned to provide an appropriate transition in scale to the lower density residential dwellings with a variety in massing, concentrating the taller elements along the R132, away from the existing lower density residential dwellings, whilst achieving a higher density appropriate for such locations in proximity to existing high capacity, high frequency public transport, and also proximate to further planned high quality public transport infrastructure and given the proximity to the town centre of Swords, a Key Town and the County Town of Fingal.
- 4.90 As noted above, the layout has developed to broadly reflect the Fosterstown Masterplan 2019, with longer angular blocks to form high quality urban spaces with distinctive environments, each with its own unique identify. It is considered the proposals now provide the optimal urban design and architectural solution with an exceptional variety of high quality materials and a variety of building heights and design elements to create quality architecture, and as a result providing a positive contribution to the character of the subject site and the surrounding area, resulting in improved visual impact and a better quality environment which will improve resident’s amenity.



Figure 4.4: CGI View of the Proposed Development along the R132

- 4.91 The visual impacts of the proposals are discussed in greater detail in the accompanying Landscape and Visual Impact Assessment Chapter within the EIAR. This confirms that *‘from the perspective of visual impact on surrounding views, the proposed scheme is well considered, design and detailed, and this is instrumental in eliminating negative impacts and indeed providing a degree of positive impact – this is particularly so for views along the R132.’*
- 4.92 The LVIA Chapter also confirms that the development proposals incorporating increased building height, include proposals which successfully integrate into / enhance the character and public realm of the area, having regard to topography and its cultural context.
- 4.93 In respect of the neighbouring residential properties to the south and west, the LVIA Chapter notes that whilst the context for the existing housing is changed, the proposed larger scheme development to the north, never appears to dominate and the essential qualities of the existing residences remain intact.
- 4.94 Overall, the proposal development is considered to integrates and enhances the character of the surrounding area of the subject site, and the proposals are considered to make a positive contribution, with sufficient variety in scale and form responding to the adjoining developments and creating visual interest in the streetscape.

“On larger urban redevelopment sites, proposed developments should make positive contribution to place making, incorporating new streets and public spaces, using massing and height to achieve the required densities but sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.”

Response:

- 4.95 The site is not considered a larger urban redevelopment site, however, as set out in the Design Statement in more detail, the layout and different scale of the buildings contribute in creating a hierarchy of streets and spaces varying in size and type with opportunities for place making. There is a variety of open spaces provided, with a mix of hard and soft landscaping, including trees, planting and informal play areas. Furthermore, the

proposals are considered to make a positive contribution to place-making through a high quality development which incorporates the sites extensive frontage with the R132.



Figure 4.4: CGI of northern boundary of the proposed development

- 4.96 The scale and massing of the higher elements has been carefully considered in terms of width and depth in order to appear in balance within the existing context while appropriately responding to the site context on a R132 corridor. The height of the development steps down and the massing is broken up to a greater degree, in deference to the existing residential development further to the west and south of the subject site.
- 4.97 In this respect, the proposals are considered to be of an appropriate scale, height and massing to complement the existing urban form whilst successfully introducing a high quality element of architecture to the site, making optimal use of the infill lands.
- 4.98 The LVIA chapter of the EIAR also confirms that the *‘proposed development will 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

- 4.99 The criteria for assessment of developments at the scale of district/ neighbourhood / street context are addressed below:

“The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape”

Response:

- 4.100 The proposed development is set out in 10 no. blocks and provides for variety and interest in the elevations by providing varying height (ranges from 4 no. storeys to 10 no.

storeys) and features to enhance the architectural quality of the buildings. Sections 13.3 to 13.12 of the Design Statement provides further detail on the high quality palette of materials proposed throughout the development. In summary, the materials and finishes of the proposed blocks will be designed to a high architectural standard and will make a positive contribution to the urban neighbourhood and streetscape.

- 4.101 The range in building heights also takes account of the surrounding context of development. The reduced height along the western and southern boundaries at 4 no. storeys responds to the existing residential properties in the area and, coupled with the substantial separation distances, provides for an appropriate transition in heights from the existing 2 no. storey residential dwellings.
- 4.102 The 10 no. storey element towards the north-east also responds to the future development on the adjacent sites to the north of the proposed development and provides for an appropriate context of development for future developments within the masterplan area.
- 4.103 Overall, it is considered the proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- 4.104 Further rationale and explanation of how the proposed development responds to its environment and makes a positive contribution to the urban area and streetscapes can be found within the Design Statement, the Landscape Design Report and the LVIA Chapter of the EIAR submitted herewith.

“The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered;”

Response:

- 4.105 As set out above, the proposed development ranges in height from 4 no. storeys along southern and western boundary, in response to the existing properties surrounding the subject site, increasing to 10 no. storeys along the R132. The variation in the building heights, block layouts and arrangements, provides for visual interest to the development and avoids a monolithic visual appearance.
- 4.106 The proposals provide for the sustainable development of these underutilised infill lands, providing integration with the existing context whilst also introducing high quality landscaping and commercial uses at ground floor level which are accessible to the public.
- 4.107 The Design Statement prepared by Arrow Architects provide details in relation to the proposed materials and finishes, with detailed elevational design drawings included in the architectural drawing pack. The materials and finishes have also been considered with regard to the surrounding existing pattern of development and material palette in the locality. The proposed height and scale of the development is built on the principles of good urban design and provides for a quality street frontage at these locations.
- 4.108 The layout and siting of the development creates attractive new streetscapes and a greater sense of place. The proposal is not monolithic, with graduation of heights and

massing, and has been designed to facilitate appropriate setbacks, where necessary from the neighbouring buildings to negate against any negative impact.

“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 “The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009);”

Response:

- 4.109 The proposal provides for an appropriate scale and urban edge to the R132, the Gaybrook Stream to the north and incorporates a public plaza at the junction with the R132, where existing and proposed public transport nodes meet. All of these existing and proposed site features help support the scale of development proposed.
- 4.110 The proposal has been subject to a Flood Risk Assessment prepared by Waterman Moylan which concludes the ‘*subject site has been analysed for risks from tidal and fluvial flooding from the Gaybrook Stream, pluvial flooding, groundwater and drainage system failures due to human error or mechanical system failure...As the flood risk from all sources can be mitigated, reducing the flood risk to low or very low, the proposed development is considered acceptable in terms of flood risk.*’

“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 integrated in a cohesive manner”.

Response:

- 4.111 The proposed development provides for appropriate urban edge to the R132/Dublin Road. The proposal enhances the urban design context, in particular, provision of a public plaza located opposite the Metro station. In relation to the internal / access road the proposed development provides an active street frontage through the presence of commercial units and a community facility centred around the public plaza, in addition to a childcare facility. The proposed height and scale of the development represents good quality urban design principles and provides for a quality street frontage at these locations and will positively contribute the legibility of the area.

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

Response:

- 4.112 As set out in preceding sections, the proposal contains a good mix of 1, 2 and 3 bed units which accord with SPPR 1 of the Apartment Guidelines and has regard to existing provision in the wider need and expected need. The proposal also includes supporting commercial and community uses to ensure a good quality neighbourhood is delivered on the subject site which enhances the existing area.

At the scale of the site/ building

- 4.113 The Building Height Guidelines also set out the following criteria for developments 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.”

“Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s Site Layout Planning for Daylight and Sunlight (2nd Edition) or BS 8206-2:2008 – ‘Lighting for Buildings – Part 2: Code Practice for Daylighting’.

“Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution

- 4.114 As discussed above a Daylight and Sunlight Assessment prepared by 3DDB is submitted with the application as discussed in greater detail above, and which demonstrates the appropriateness of the proposed development in the context of the recommendations of the relevant BRE Guidelines, i.e. appropriate and reasonable regard has been had to same in the preparation of the scheme.

- 4.115 It is acknowledged that the proposals do not fully meet all of the requirements of the daylight provisions, which is relatively standard for higher density urban developments, and accordingly Section 15 of the Design Statement provides a justification for the scheme in respect to those units which fall below the minimum recommended targets in the BRE Guidelines. The overall configuration of the buildings has been designed to achieve optimum levels of sunlight and daylight penetration into the apartments, along with access to sunlighting to open amenity spaces, while at the same time providing an appropriate density and building height on an infill site in a very accessible location.

Specific Assessments

- 4.116 Finally, the Building Height Guidelines set out the following specific assessments to support proposals at some or all the scales outlined above:

“Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include assessment of the cumulative micro-climatic effects where taller buildings are clustered.”

- 4.117 The application is accompanied by a Microclimate Assessment undertaken by AWN which is included as Chapter 11 of the EIAR. The assessment undertaken has informed the architectural and landscape design, for example the planting in the courtyard and open space areas will enhance shelter from the wind and the building orientation means that the open spaces between buildings will be sheltered from wind effects. Thus, the

assessment concludes that the 'impact of the proposed development on microclimate will be imperceptible' and no specific mitigation measures are required, as they have been incorporated at design stage based on the input into the design process.

“In development locations proximity to sensitive bird and/ or bats 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.”

- 4.118 This application is accompanied by a AA Screening Report and NIS prepared by Enviroguide and Chapter 5 Biodiversity of the EIAR, which demonstrates that the proposed building heights do not have the potential to adversely impact on the biodiversity of the area and which confirms that *'Bird collisions with the proposed buildings are not likely to occur, due to the height of the buildings and the dispersed nature of their glazed components.'*

“An assessment that the proposal allows for the retention of important telecommunications channels, such as microwave links”.

- 4.119 We refer to Section 10 of the Energy Statement prepared by Waterman Moylan. This confirms the height and scale being sought for this new development will not have an impact on any current microwave telecommunication channels in the area. If however, a microwave link is found to be impacted by the proposed development, during the construction stage of this project, mitigation will be employed by engaging with the telecommunication company and organising the re-alignment of their microwave links to a new hop site, which is standard practice in urban areas.

“An assessment that the proposal maintains safe air navigation”.

- 4.120 The proposed development is located in proximity to Dublin Airport, but is located outside the Public Safety Zones. A Glint and Glare Assessment prepared by Macro Works is submitted with the application and confirms that *'it is considered that there will not be any hazardous glint and glare effects upon the Dublin Airport aviation receptors identified as a result of the proposed roof-mounted solar PV panels.'*

- 4.121 In addition, the proposed development is located within Noise Zone C and the development has prepared to comply with Objective DA07 of the Fingal Development Plan 2017-2023 in relation to noise insulation, as set out in the Noise and Vibration Chapter of the EIAR which assesses the noise and vibration impacts, and outlines that the recommended internal noise criteria can be achieved through incorporation of mitigation measures in the proposed façade materials as part of the detailed design stage, as is standard practice.

- 4.122 The applicant has also consulted with the Dublin Airport Authority (DAA) and the Irish Aviation Authority (IAA) prior to lodging this application (see Appendix 2 of the Statement of Consistency and Planning Report). The DAA confirmed by email on the 7th of April 2022 and subsequently on the 12th April 2022 that based on a preliminary review of the proposals, an instrument flight procedures assessment would not be necessary and subsequently confirmed no objection following discussions with the IAA ANSP stating:

'...we can confirm there is no objection to the above referenced development and the proposed heights in principle, however once submitted to ABP we would request a condition be applied to any grant of approval requiring consultation/agreement with IAA and daa on craneage prior to commencement.'

4.123 IAA also noted that the Safety Regulation Division – Aerodromes will likely make the following general observation on the planning application for the proposed Strategic Housing Development:

“In the event of planning consent being granted, the applicant should be conditioned to notify daa / Dublin Airport and the Authority of the intention to commence crane operations with at least 30 days prior notification of their erection.”

4.124 Thus, subject to construction stage mitigation it is apparent that the proposed heights will not impact on air navigation safety.

“An urban design statement including, as appropriate, impact on the historic built environment”

4.125 As set out above, the application is accompanied by the following documentation of relevance to this requirement:

- Design Statement prepared by Arrow Architects
- Landscape and Visual Impact Assessment and Photomontage Views Brochure, included in Chapter 11 of the EIAR
- Archaeological and Cultural Heritage Chapter included within the EIAR
- Landscape Design Report prepared by Mitchell + Associates

4.126 The subject site is not situated in a historic built environment or near to a protected structure or recorded monument. The proposed development has been designed to respect and enhance the surrounding character of the area. The proposed layout of the building appropriately responds to the site’s context and character.

“Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.”

4.127 As noted above, this application is accompanied by an AA Screening Report, NIS and Chapter 5- Biodiversity of the EIAR prepared by Enviroguide. These environmental reports demonstrate that the proposed building heights on the subject site does not have the potential to result in adverse environmental impacts on European sites or the local environment.

Summary Response to SPPR3

4.128 Under SPPR 3 of the Building Height Guidelines, it states that where the applicant sets out compliance with the criteria for assessing building height at the scale of the relevant town / city, at the scale of district / neighbourhood / street and at the scale of a site / building that the planning authority or An Bord Pleanála may approve such development even where specific objectives of the relevant development plan, local area plan or planning scheme may indicate otherwise.

4.129 As set out above, it has been demonstrated that the proposed building heights are appropriate within the context of the above development management criteria. The proposal responds to the natural and built environment and makes a positive contribution to the area. The proposed development has been carefully designed to maximise access to natural daylight and minimise overshadowing and loss of light. Other

application reports and the EIAR have demonstrated that no significant environment impacts arise as a result of the proposed development.

- 4.130 It is respectfully submitted that the applicant has demonstrated compliance with the criteria under Section 3.2 of the Guidelines as required under SPPR3. The proposed development complies with such objectives therefore is considered to be in accordance with the provisions of national policy guidelines.

Summary

- 4.131 Having regard to the above and the provisions of the NPF, the RSES, the Rebuilding Ireland – The Government’s Action plan on Housing and Homelessness, Housing for All, the Apartment Guidelines and the Building Height Guidelines it is respectfully submitted that the Board can approve the proposed development under section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential material contravention of (i) Objective SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter ‘Fosterstown Masterplan’) 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, (ii) Objective DM113 / Table 12.8 in relation to car parking, (iii) Objective DMS30 in relation to daylight and sunlight analysis and (iv) Map Sheet No. 8 map-based objective in relation to the indicative Metro North route of the Development Plan.

Section 37(2)(b)- Part (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.

- 4.132 The pattern of development and permissions granted in the area of the subject site are key considerations in the rationale for the current Strategic Housing Development proposal.

ABP Ref.: 308366-20 - Fosterstown North and Cremona, Forest Road, Swords, Co. Dublin

- 4.133 An Board Pleanála granted permission on the 3rd of February 2021 for a Strategic Housing Development for 278 no. units and development of part of the Fosterstown Link Road, at Fosterstown North and Cremona, Forest Road, Swords, Co. Dublin. This SHD formed Phase 1 of the northern portion of the Fosterstown Masterplan lands. The permitted development includes 3 no. blocks ranging in height from 5 no. to 9 no. storeys, a childcare facility, a retail unit, tenant amenity space, and 206 no. car parking spaces to serve the residential element (a ratio of 0.7 spaces per residential unit).
- 4.134 This sets a precedent for granting permission for increased building heights which could materially contravene Objective SWORDS 27, as it relates to building heights in the Fosterstown Masterplan Area, and also reduced car parking provision which could materially contravene Objective DM113, as it relates to car parking standards for new developments.

- 4.135 The Board’s Order states the following:

“The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Fingal Development Plan 2016-2022 would be justified for the following reasons and considerations.

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000, as amended:

- The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland Action plan on Housing and Homelessness 2016 and the Project 2040 Ireland National Planning Framework fully support the need for urban infill residential development, such as that proposed on this site.*

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended:

- The Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, seeks to increase densities on appropriate sites within Dublin City and Suburbs. In relation to Section 28 Guidelines of particular relevance are the Urban Development and Building Height Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 which state that inter alia that building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against the criteria therein. The Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, support increased densities in appropriate locations and the proposal has been assessed in relation to same. The proposal has also been assessed against the relevant criteria in the associated Urban Design Manual. In relation to car parking, the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2018, seek to reduce car parking standards in central and accessible urban locations sites and it is the Board’s view that the quantum of parking proposed by the application is in line with these Section 28 Guidelines.”*

5.0 CONCLUSION

- 5.1 This statement provides a justification for a material contravention of the Fingal Development Plan 2017-2023 should the Board be of the view that the proposed development contravenes **(i)** Objectives SWORDS 27, PM14, PM15 in relation to the preparation and implementation of masterplans, and associated objectives set out in the Swords Masterplans Part C: Fosterstown (hereinafter ‘Fosterstown Masterplan’) 2019 in relation to road improvements and phasing, building height, density, unit mix and housing typology and vehicular access, **(ii)** Objective DM113 / Table 12.8 in relation to car parking, **(iii)** Objective DMS30 in relation to daylight and sunlight analysis, **(iv)** Map Sheet No. 8 map-based objective in relation to the indicative Metro North route **(v)** Objectives PM52 and DMS57 in relation to public open space and **(vi)** Objective NH27 in relation to the protection of existing hedgerows of amenity or biodiversity value of the Development Plan.

- 5.2 This statement has outlined how the proposed development accords with national and regional planning policy, and S. 28 Guidelines, including the Urban Development and Building Height Guidelines for Planning Authorities, (SPPR3), the Sustainable Residential Development in Urban Areas 2009 (in particular Chapter 5) and the Sustainable Urban housing: Design Standards for New Apartments (in particular SPPR1, Section 2.4, 4.18 and 4.19), and the Design Manual for Urban Roads and Streets which support the delivery of residential development in appropriate locations through the promotion of appropriate densities and heights, in addition to supporting the proposed vehicular access and reduced car parking provision for apartments.
- 5.3 Table 5.1 below summarises the relevant justification for each potential Material Contravention in the context of the Section 37(2)(B) criteria.

Table 5.1: Summary of Justification for Potential Material Contraventions

Potential Material Contraventions of the Development Plan (as set out in Section 2 of this Report)	Justification for Material Contravention in Context of Section 37(2)(B) Criteria
1. Objective Swords 27, Objectives PM14 and PM15 and the Fosterstown Masterplan (2019), including:	
Road Improvements and Phasing	<ul style="list-style-type: none"> Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, and DMURS
New Vehicular Access	<ul style="list-style-type: none"> Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, and DMURS
Density	<ul style="list-style-type: none"> Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, the Building Heights Guidelines 2018, Sustainable Residential Development in Urban Areas Planning Guidelines and the Apartment Guidelines 2020
Unit Mix and Typology	<ul style="list-style-type: none"> Section 37(2)(b)-Part (ii) - There is conflicting requirements in the Fosterstown Masterplan, having regard the Objectives SWORDS 27, PM14 and PM15 which relate to the implementation of the Masterplan.
Building Heights	<ul style="list-style-type: none"> Section 37(2)(b)-Part (iii) – justified in the context of the NPF, RSES, Rebuilding Ireland, Housing for All, the Building Heights Guidelines 2018, Sustainable Residential Development in Urban Areas Planning Guidelines and the Apartment Guidelines 2020 Section 37(2)(b)-Part (iv) – justified in the context of a SHD granted (under ABP Ref.: 308366-20) on the lands to the north of the subject site

<p>2. Objective DM113 and Table 12.8 - Car Parking</p>	<ul style="list-style-type: none"> • Section 37(2)(b)-Part (iii) – justified in the context of the NPF and the Apartment Guidelines 2020 • Section 37(2)(b)-Part (iv) – justified in the context of a SHD granted (under ABP Ref.: 308366-20) on the lands to the north of the subject site
<p>3. Objective DMS30 – Daylight and Sunlight Guidelines</p>	<ul style="list-style-type: none"> • Section 37(2)(b)-Part (iii) – justified in the context of the NPF, the Apartment Guidelines 2020 and the Building Height Guidelines 2018
<p>4. Map Sheet No. 8 - Metro North indicative route</p>	<ul style="list-style-type: none"> • Section 37(2)(b)-Part (ii) – justified in the context there is conflict between the Development Plan Map Sheet No. 8 map-based Specific Objective “Indicative Route for Metro North” and the Objectives SWORDS 27, PM14 and PM15 which relate to the implementation of the Fosterstown Masterplan.
<p>5. Objective PM52 and Objective DMS57 – Public Open space</p>	<ul style="list-style-type: none"> • Section 37(2)(b)-Part (iii) – justified in the context of the Sustainable Residential Development in Urban Areas Planning Guidelines
<p>6. Objective NH27 – Protection existing woodlands, trees and hedgerows which are of amenity or biodiversity value</p>	<ul style="list-style-type: none"> • Section 37(2)(b)-Part (iii) – justified in the context of the Sustainable Residential Development in Urban Areas Planning Guidelines

- 5.4 It is considered that there is ample justification for An Bord Pleanála to permit a material contravention of the Fingal Development Plan, and in turn the Fosterstown Masterplan, should the Board consider same to arise in respect to particular aspects of the proposed development, having regard to the policies outlined in the NPF, the RSES and other Ministerial and Government Guidelines, and recent precedents having regard to Section 37(2)(b)(i), (ii), (iii) and (iv) of the planning and Development Act, 2000 (as amended).
- 5.5 The Statement of Consistency and Planning Report accompanying this SHD application demonstrates compliance with all other relevant policies and objectives of the Development Plan, and it is considered that the above are the only potential material contraventions associated with the application.
- 5.6 It is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement for potential material contraventions of the Fingal Development Plan and permit the proposed development, notwithstanding the potential that the proposal includes material contraventions of the Development Plan.