

Material Contravention Statement

**Strategic Housing Development for
Build to Rent apartment
development for 207 units at Ravens
Rock Road/ Carmanhall Road,
Sandyford, Dublin 18**

**Prepared on behalf of Sandyford Environmental
Construction Ltd**

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1 Material Contravention Statement

1.1 Introduction to Material Contravention Statement

This report has been drafted in response to the legislative requirement and Item 13 of the Strategic Housing Development (SHD) Application Form. The Planning and Development (Housing) and Residential Tenancies Act 2016 as amended provides in section 5(6)

“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 statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant’s opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”

The description of the proposed development is presented in the following section.

1.2 Description of Development

Sandyford Environmental Construction Limited, intend to apply to An Bord Pleanála for planning permission for a strategic housing development at this site of c 0.7 ha at junction of Ravens Rock Road and Carmanhall Road, Sandyford, Dublin 18.

The proposed development consists of **207 Build to Rent** residential apartment units within 3 no. apartment blocks and as follows:

- 48 No. Studio
 - 103 No. 1 bed
 - 55 No. 2 bed
 - 1 No. 3 bed
-
- All residential units provided with private balconies/terraces to the north/south/east and west elevations
 - Crèche 306 sqm
 - Residential amenity spaces 415 sqm
 - Height ranging from 6 to 10 storeys (over basement)
 - A public pocket park on the corner of Carmanhall Road and Ravens Rock Road and landscaped communal space in the central courtyard
 - Provision of a new vehicular entrance from Ravens Rock Road and egress to Carmanhall Road
 - Provision of pedestrian and cycle connections
 - Demolition of two light industry/office structures (total 1,613.49 sqm)

- 79 parking spaces and 288 cycle spaces at ground floor/undercroft and basement car park levels
- Plant and telecoms mitigation structures infrastructure at roof level

The development also includes 2 no. ESB substations, lighting, plant, storage, site drainage works and all ancillary site development works above and below ground

1.3 Legislative Provisions

Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, states that the Board may decide to grant a permission for a proposed strategic housing development in respect of an application where the development materially contravenes the development plan relating to the area concerned.

It also states in Section 9(6)(b) that grant of permission may not be given if the material contravention relates to zoning.

Finally, it considers under Section 9(6)(c) that grant of permission may be given by the Board where the Board considers that that if section 37(2)(b) of the Planning and Development Act 2000, as amended were to apply, it would grant planning permission.

Section 37(2)(b) of the Planning and Development Act 2000, as amended, effectively allows the Board to grant permission, when it considers that:

*(i) “the proposed development 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 Governments, or

*(iv) permission for the proposed development should be granted having **regards to the pattern of development, any permissions granted, in the area since the making of the development plan.**” [bold our emphasis]*

With regard to Section 9(6)(b), we note that in this case the contravention relates to height and density, balance of units, parking and tree preservation and not to the zoning of the land and therefore the Board can adjudicate on a material contravention.

The applicants are of the view that s.37(2) (i), (ii), (iii) and (iv) above is applicable to the proposed development.

1.4 Summary of Items for Material Contravention

This statement is designed to address relevant policy requirements of Dún Laoghaire Rathdown County Development Plan 2022-2028 which was adopted by the elected members at a Special County Development Plan meeting held on the 10th March 2022. The adopted Plan comes force 6 weeks after it was adopted on the 21st April 2022.

Of particular relevance are the policies set out under Appendix 17, the Sandyford Urban Framework Plan 2022-28 (SUFP).

Having regard to the above Description of Development, there are considered to be 5 policies of relevance to this statement;

1. **Building Height - The proposed SHD is up 10 storeys**
2. **Density - A density of 295.8 units per ha. is proposed**
3. **Apartment mix – The proportion of 3-bedroom Build to Rent units proposed is under that prescribed in Table 12.1 of the development plan**
4. **Car Parking - It is proposed to provide car parking at a rate below that prescribed in the Development Plan**
5. **External Storage**
6. **Tree preservation – It is proposed to remove and replace trees indicated for preservation on the SUFP**
7. **Dual aspect**
8. **Public Open space provision**
9. **Private open space provision**

Notwithstanding the National Planning Framework (NPF), the “*Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*” (2009), the *Design Standards for New Apartment Guidelines* (2018) and *Urban Development and Building Heights – Guidelines for Planning Authorities* (2018), the density, height, typology of units and public realm measures of the proposed development may be considered inconsistent with and to materially contravene the Sandyford Urban Framework Plan which forms part of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

It is a matter for An Bord Pleanála to determine as to whether the proposed development represents a material contravention.

This report seeks to address the potential material contravention of the height and density of the Sandyford Urban Framework Plan (SUFP). The height and density issues are interrelated in that a greater height on an available small footprint, inevitably increases density.

A lower proportion of 3 bedroom apartment units is provided at a rate other than that provided for under the newly adopted plan, but is in accordance with national guidelines.

Car parking is provided at a rate consistent with permitted development in the area.

The zoning plan for the area indicates local objectives for Tree preservation at the subject site. A public pocketed park is provided at the corner of the site to preserve the Oak trees and trees along Ravens Rock Road are to be replaced.

There are conflicting provisions and a lack of clarity in the plans in respect of the assessment public open space and dual aspect provision which are referred to in this statement out of caution.

Private open space requirements have been superseded by the Apartment Design Guidelines.

1.5 Applicable Plans

This application is made during a transition period between two development plans. The new Development Plan was adopted by the Elected Members of the Council at a special Council

meeting held on the 10th of March 2022. The Plan will come into effect in 6 weeks from that date (i.e. 21st April 2022). Under the transitional provisions of the the Planning and Development (Amendment) (Large-scale Residential Development) Act 2021 this SHD application may be lodged no later than 19th April 2022. Therefore, while this SHD application is lodged under during the term of the expiring 2016 – 2022 County Development Plan, it may be assessed under the policies of the adopted Dún Laoghaire Rathdown County Development 2022-2028. The Statement of Consistency in Part B of the Planning Report addresses the policy of both plans.

Notwithstanding this, both the Statement of Consistency and Material Contravention Statement have addressed the provisions of both the Dún Laoghaire Rathdown County Development Plan 2016-2022 and of the Dún Laoghaire Rathdown County Development Plan 2022-2028.

The applicants have sought to avoid insofar as practical repetition, so where a provision is carried over between plans, it is discussed once.

2 Relevant Policies

2.1 Building Height

2.1.1 Sandyford Urban Framework Plan (SUFPP) 2016

The Sandyford Urban Framework Plan (SUFPP) 2016 contains specific objectives relating to the site.

Policy SUFP 3 Building Height in Sandyford Business District

Building height refers to the number of storeys within a building including ground level. This Plan sets building height limits across Sandyford Business District. The building height limits have been established through an assessment of location and character of an area and proposed land use. The Building Height Policy allows for the design of buildings or elements of buildings to exceed the building height limit at appropriately identified locations.

There is a presumption that development shall be constructed to the building height limits. However, it is essential that a building makes a positive contribution to the built form of the area and shall have particular regard to the need to minimise adverse impact on residential properties. Building height shall therefore, be determined by how it responds to its surrounding environment and be informed by:

- ***Location;***
- ***The function of the building in informing the streetscape;***
- ***Impact on open space and public realm, in particular shadow impact;***
- ***Impact on adjoining properties and***
- ***Views into the area***

This is supported by the following statements

BH1

- ***It is an objective of the Council to ensure that Sandyford Business District is developed in accordance with height limits set out in Map 3 Building Height subject to the building making a positive contribution to the built form as set out above.***

BH2

It is an objective of the Council to require applicants to include with their proposals an analysis of the impact of the height and positioning of buildings on:

- ***Immediate and surrounding environment***
- ***Adjoining structures;***
- ***Open spaces;***
- ***Public realm (including impact on streets, spaces, pedestrian and cycle routes, identified green routes,***
- ***and with particular emphasis on shadow impact);***
- ***Views and Vistas; and***
- ***Impact on micro climates (such as wind funnels and overshadowing)***

2.1.2 Sandyford Urban Framework Plan (SUFP) 2022

Policy SUFP 3 of the Sandyford Urban Framework Plan 2022 states:

3.2.1 Policy SUFP 3 Building Height in Sandyford Business District

It is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3, subject to policy objectives BHS1 and BHS2 of the Dun Laoghaire Rathdown County Development Plan 2022-2028. (consistent with NPO 35 of the NPF, SPPR 3 of the 'Urban Development and Building Height; Guidelines for Planning Authorities' (2018)).

This is qualified by the following statements

BH1 SUFP – which is the same as the 2016 SUFP

BH5 SUFP

Additional height may be permitted where it can be demonstrated that additional height over the height limits identified on Map 3 accords with policy objective BHS1 and BHS2, of the Dun Laoghaire Rathdown County Development Plan 2022-2028, Appendix 5 subject to complying with the safeguards outlined in these policies as set out in Table 5.1 of the BH Strategy and any other development limits/phasing set out in the SUFP. Any application for increased height or taller buildings over and above the parameters set out in Map 3 shall be subject to assessment under policy objective BHS1 and BHS2 of the CDP.

Appendix 5 of the County Development Plan includes BHS 1 and BHS 2 as follows:

Policy Objective BHS 1 - Increased Height

It is a policy objective of to support the consideration of increased heights and also to consider taller buildings where appropriate in the major town centres of Dún Laoghaire and Dundrum, the district centres of Nutgrove, Stillorgan Blackrock and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metre/ 10 minute walk band of LUA stop, DART stations or core /quality bus corridor, 500 metre / 5 minute walk band of bus priority route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area (NPO 35, SPPR 1 &3).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance criteria set out in table 5.1 which is contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

Policy Objective BHS 2 -building height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).

It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plan and as set out for certain areas in this draft county development plan (Sandyford Urban Framework Plan, Dundrum Urban Framework Plan Area and Dun Laoghaire Framework Plan area).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR3 there may be instances where an argument can be made for increased height and or taller buildings in the areas mentioned above on the basis of placemaking in those instances any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in Section 5. the onus will be on the applicant to demonstrate compliance with the criteria.

Within the built up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

Table 5.1 which is contained in Section 5 of Appendix 5 of the County Plan is included in Appendix A of this report for the Board’s convenience.

Map 3 of the Sandyford Urban Framework Plan 2022 sets out blanket heights for individual parcels of land within the Sandyford Business District including the subject site which has been designated as having a permitted/developed height limit of 6-9 storeys (Figure 3)

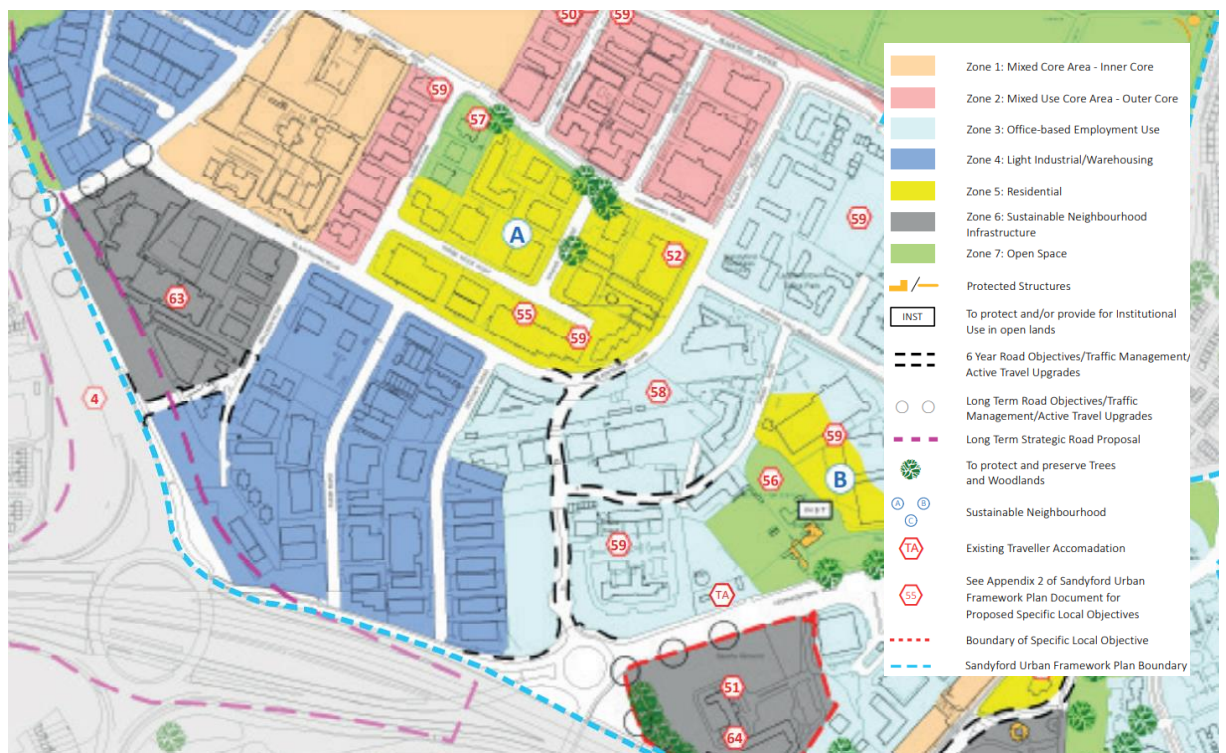


Figure 1: Map 1 – Land Use Zoning of the Sandyford Urban Framework Plan 2022-28

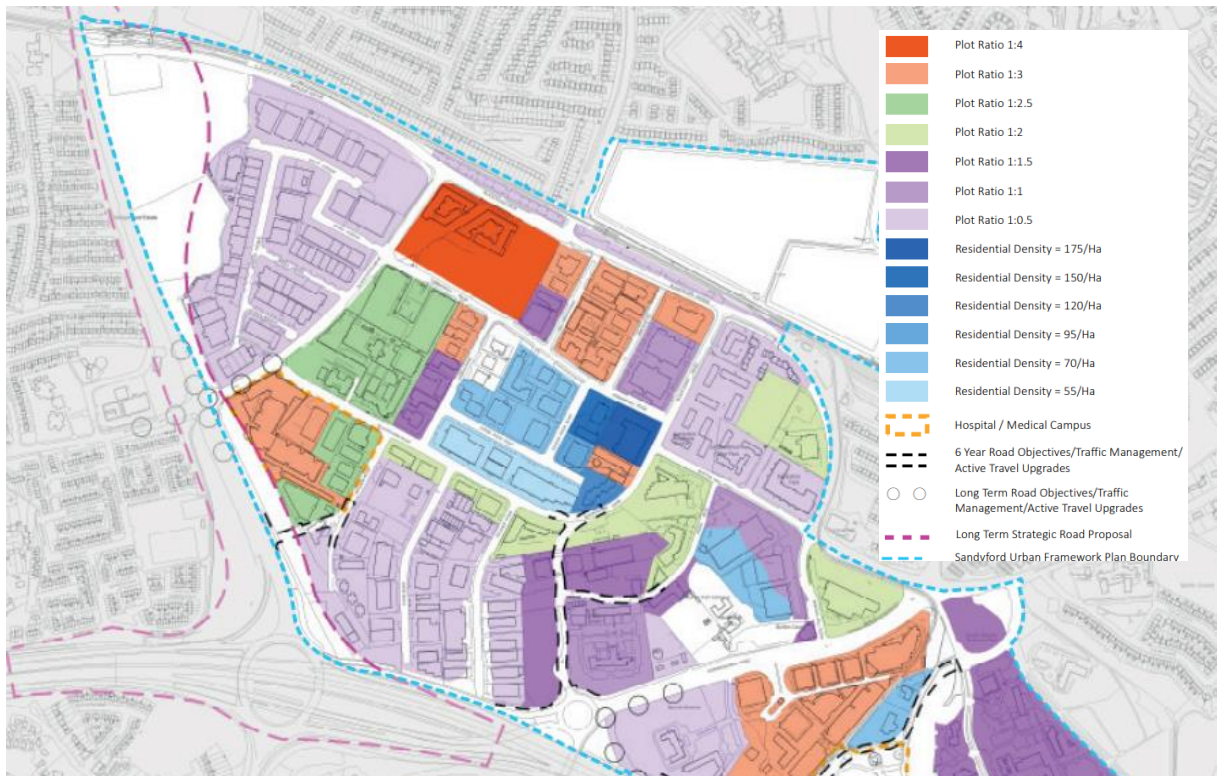


Figure 2 Map 2 - Plot Ratios & Residential Densities of the Sandyford Urban Framework Plan 2022-2028

2.2 Density and Scale

2.2.1 SUFP 2016

SUFP 2 relating to density and scale states:

2.5.1 Policy SUFP 2 Density and Scale *It is Council policy to ensure that Sandyford Business District develops in an orderly manner in accordance with the increase in uses set out in the objectives of this Plan and the Density and plot ratio set out in Map 2.*

In relation to the Objective A2 Residential Zone 5, the plan also states under A2 1 that:

It is an objective of the Council to ensure the residential neighbourhoods are developed at a density that is in accordance with the density provision set out in Map 2.

Map 2 provides for a density of 150 units per ha. for the subject site.

2.2.2 SUFP 2022

The plan reprises SUFP 2 and A2 1.

Map 2 provides for a density of 150 units per ha. for the subject site.

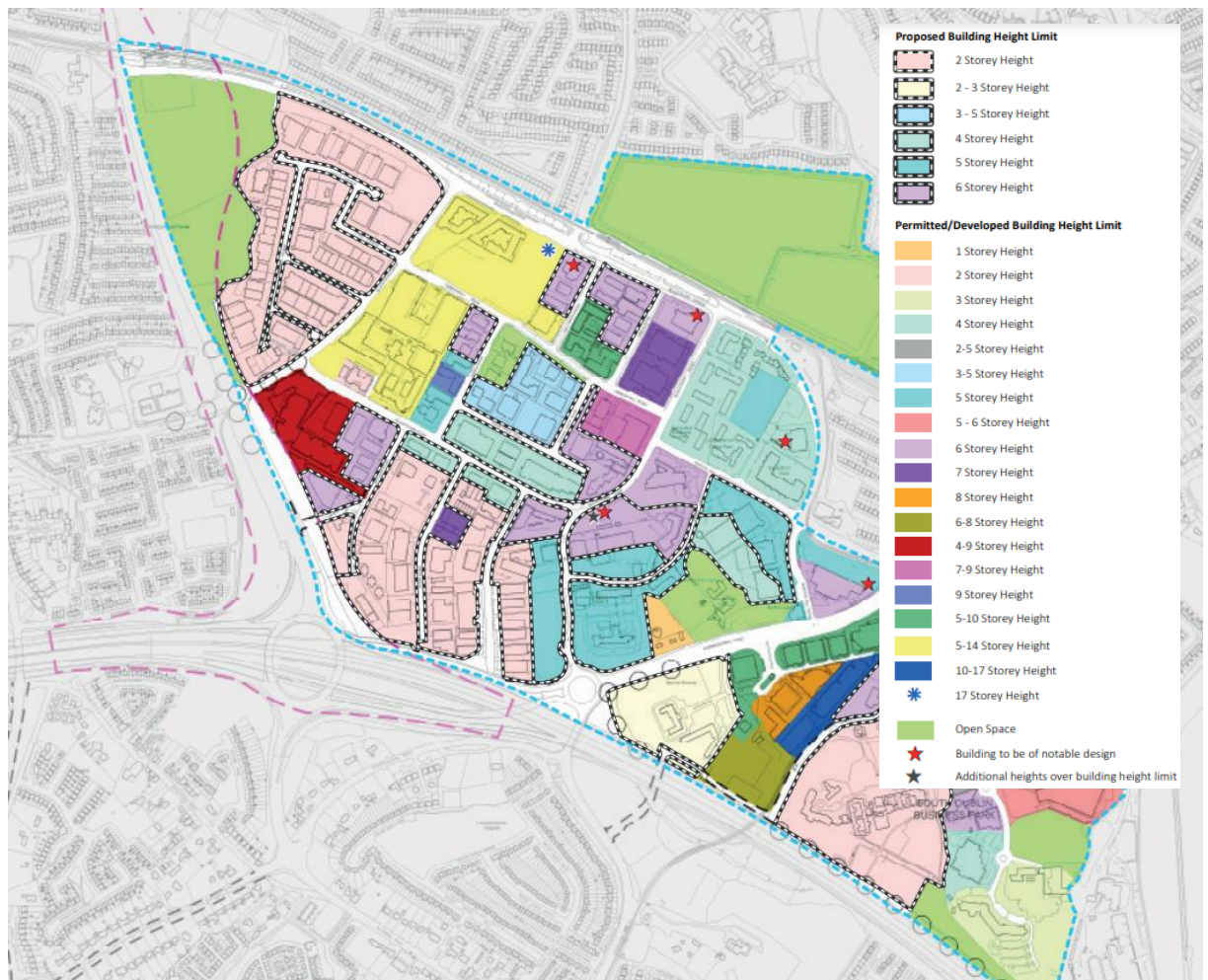


Figure 3 Map 3 – Building Heights of the Sandyford Urban Framework Plan 2022-2028

2.3 Apartment Mix

2.3.1 DLR CDP 2016-2022

Section 8.2.3.3. of the CDP states that *'larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.'*

The proposed mix is as follows: 73% of 1-bed also comprising studio units; 26.5% of 2-bed units and 0.5% of 3-bed units.

The unit mix as stated in the 2016 plan precedes the adoption the the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020).

2.3.2 DLR CDP 2022-2028

The Councillors of Dún Laoghaire Rathdown County Council amended the Draft Development Plan to include BTR developments within Table 12.1 which requires a Minimum of 40% 3+ bedroom units. The plan was since adopted to include this requirement.

This policy is inconsistent with SPPR 8(i) of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020).

At the date of submission of this SHD application it is not clear that this policy shall remain in effect or if the Office of the Planning Regulator (OPR) shall refer the matter to the Minister for Direction.

2.4 Car Parking - Residential

2.4.1 Dún Laoghaire Rathdown CDP 2016 - 2022

Under s.8.2.3.2(iii), the plan sets out parking standards as shown in table 8.2.3 (presented below):

Land use	Standards
Residential Dwelling	1 space per 1-bed unit and per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location).
Apartments, Flats, Sheltered housing	1 space per 1-bed unit 1.5 spaces per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location)

2.4.2 SUFP 2022

The SUFP includes the following parking objective:

TAM14

It is an objective of the Council that development shall adhere to the parking standards as set out in section 12.4.5 of the Written Statement and the cycle standards as set out in – ‘Standards for Cycle Parking and Associated Cycling Facilities for New Developments’ (2018) or any subsequent review of these standards.

Table 12.7 Sandyford Urban Framework Plan Area - Parking Maximums For All Future Residential Developments New Residential parking thresholds in SUFP:

Unit size	Car parking spaces per unit
1 bed	0.6
2 bed	0.8
3 or more bed	1
All units	Minimum of 0.02 car share spaces

2.5 External Storage

2.5.1 Dún Laoghaire Rathdown County Development Plan 2022-2028

Under s.12.3.5.3 'Internal Storage and External Storage', the CDP requires that the provision shall accord or exceed the provisions as stated in table 12.3b which is shown below. As the development does not meet those standards, the Board may be of the view that it constitutes a material contravention.

Table 12.3b

Number of Bedrooms	Storage area (cubic metres)
Studio/1 bedroom	4m cubed
2 bedroom (3 person)	6m cubed
2 bedroom (4 person)	8m cubed
3 bedroom	10m cubed

2.6 Trees

Both the 2016 and 2022 SUFP address trees in the same manner.

Map 1 of the Sandyford Urban Framework Plan 2022-2028 includes a site specific objective on the site; *To protect and preserve Trees and Woodlands.*

Reference is also made to Policy PR5

PR5: It is an objective of the Council to endeavour to conserve all street and roadside trees where feasible and to replace all trees removed with an appropriate species, where the removal of street and roadside trees is necessary.

The SUFP also includes the following pertinent statement regarding the surroundings of the site.

Zone 5 Residential

(a) Carmanhall Road Neighbourhood

This residential neighbourhood is to be centrally located within Sandyford Business District adjacent to the Mixed Use Core Area, reducing the need to travel and enhancing the viability of retail facilities and services and the vitality of the area as a whole. It is suitably located close to existing residential developments at Beacon South Quarter, Rockbrook and at Corrig Road and Ballymoss Road and is within walking distance of proposed social, educational and recreational amenities and the proposed transport interchange and Luas along Blackthorn Drive/Avenue.

The outer edge of this residential area, fronting Blackthorn Road, provides for uses that will create active street frontage and provide a transition between the residential area and the opposing employment based areas along Blackthorn Road. It is anticipated that these own door business units will provide appropriate facilities for small businesses (Map 1, SLO 55).

***3.5.4. Zone 5 – Sustainable Residential Neighbourhoods
Sites 1, 5 and 11: Carmanhall Road Residential Neighbourhood***

- **Carmanhall Road which forms the base line for this residential neighbourhood is considered essential in enhancing connectivity and linking the different retail, commercial and residential aspects of Sandyford Business District.**
- **This residential neighbourhood shall be contained by tall buildings at either end of Carmanhall Road where the building line along the southern side of Carmanhall Road shall be set back to provide a linear greenway. This linear greenway will widen into a substantial Civic Park located at the junction of Corrigan Road and the north west of Carmanhall Road. It is envisaged that the Park together with the greenway will provide high amenity open space for both the local residents and employees alike.**
- **The urban form shall provide a strong, animated and active outer edge, with commercial uses at ground floor level, to the residential neighbourhood fronting onto Blackthorn Road. This outer edge whilst promoting routes and permeability will act as a buffer to the inner residential area and the green areas of this neighbourhood.**

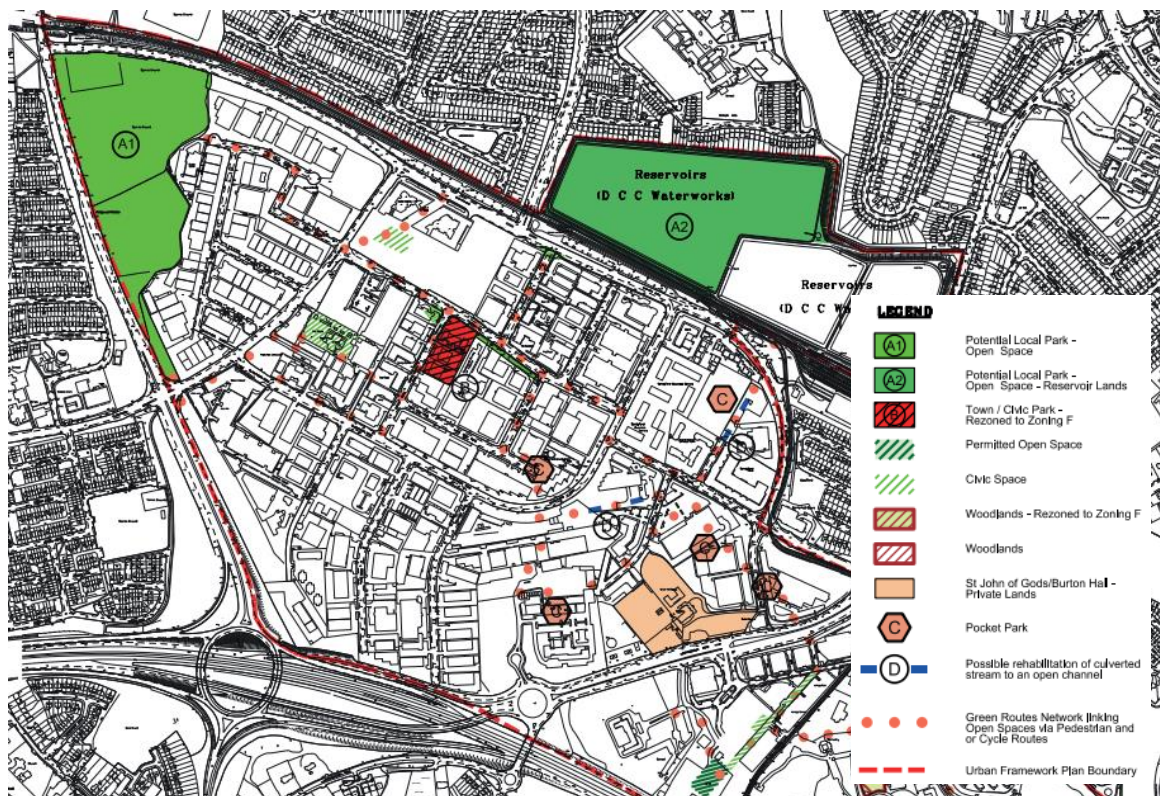


Figure 4 Drawing No. 10 Amenity Open Space Plan of the Sandyford Urban Framework Plan 2022-2028



Figure 5 Drawing No. 11 Design Principles and Character Areas of the Sandyford Urban Framework Plan 2022-2028

2.7 Dual Aspect

2.7.1 Dún Laoghaire Rathdown CDP 2016-2022

Section 8.2.3.3 of the Development Plan states:

“(ii) Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/ or innovative design responses are used to maximise natural light.”

2.7.2 Dún Laoghaire Rathdown CDP 2022-2028

The Dún Laoghaire Rathdown CDP 2022-2028 plan states under section 12.3.5.1:

*‘the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2018), provides guidance with respect to the minimum number of dual aspect apartments that may be provided in any single apartment schemes. In accordance with this guidance, **DLR as a County is classified as a suburban or intermediate location** and therefore:*

‘There shall generally be a minimum of 50% dual aspect apartments in a single scheme.’ (our emphasis)

As the development complies with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020), it may be viewed as inconsistent with both CDP.

2.8 Public Open Space

2.8.1 DLR CDP 2016 – 2022

Under section 8.2.3.3 (viii) Apartments – Public, Communal and Private Open Spaces – Standards, the plan refers back to Section 8.2.8.2 - Public/Communal Open Space Quantity of the Dun Laoghaire County Development Plan 2016-2022 which states:

‘The Planning Authority will require public and/or communal open space to be provided within new residential and large-scale commercial developments. An absolute default minimum of 10% of the overall site area for all residential developments shall be required to be reserved for use as Public Open and/or Communal Space.*

Open Space: For all developments with a residential component – 5+ units - the requirement of 15 sq.m-20 sq.m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high-quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2.”

** For the purposes of this section, ‘Public’ open space refers to all areas of open space within a new development (be that public (taken in charge), communal, semi private or otherwise) that is accessible by all residents/ employees of the development and in certain cases may be accessible by the wider general public. ‘Public’ open space within new developments may not necessarily be taken in charge or be publicly owned/controlled by the Council. (page 205)”*

In addition, we refer to section 8.2.8 of the plan addresses open space requirements. It states:

‘Any relaxation of open space provision will be assessed on a case-by-case basis and should not be seen as setting a precedent for future developments.’

2.9 Private Open Space

2.9.1 DLR CDP 2016 – 2022

Section 8.2.7.4 of the CDP sets out the private open space requirements for residential units, including apartments. This section was not amended on foot of the publication of the Apartments Design Guidelines.

3 Justification of Material Contravention

Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government. Reference is also made to conflicting policies in the plan and to the pattern of development in the area.

The policy is provided in Planning Report and Planning Consistency Statement, and it is not intended to repeat save to summarise the key policies that apply to the material contravention statement.

3.1 Material Contravention Justification – Height and Density

3.1.1 *Justification of Material Contravention s.37(2)(1) – Proposed Development is of Strategic or National Importance*

National Planning Framework 2040

The NPF provides a range of National Strategic Outcomes.

The first outcome is stated as “Compact Growth”. *“Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority”*

Of particular relevance to the proposed development are National Strategic Outcome 1 – Compact Growth and National Policy Objectives (NPO) set out by the National Planning Framework 2040, in particular:

- NPO 3(a) – deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 4 – create attractive, liveable and well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- NPO 5 - develop cities and towns of sufficient scale and quality.
- NPO 6 – regenerate and rejuvenate cities and towns so that they can accommodate increased residential population.
- NPO 11 - presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages.
- NPO 13 - introduced the concept of higher buildings and lowered parking standards where 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.
- NPO 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Having regard to the relevant objectives above, the proposed development is consistent with the NPF and in particular with its principles of compact growth and the reinforcement of the

country's existing urban structure at all levels. Where housing policy is concerned, the proposed development accords with the NPF's core principles for housing delivery and in particular the location of the proposed new housing is prioritised within the existing settlements. The proposed development will provide a continuous built form adjacent to the existing built-up area.

With regard to Objective 13, the inclusion of apartments is in response to the NPF which recognises that *"currently, 7 out of 10 households in the State consist of three people or less, with an average household size of 2.75 people. This is expected to decline to around 2.5 people per household by 2040. Yet, the stock of housing in Ireland is largely comprised of detached and semi-detached houses with three to four bedrooms."* The proposed development of build to rent apartments will result in a variety of apartment sizes to accommodate a mix of household types, suitable for a variety of household sizes in order to ensure a social mix and balance is achieved.

With regard to Objective 35, the NPF explicitly supports the increase residential density in settlements, through a range of measures including increased building heights.

The NPF states *"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."*

The proposed development has due regard to the above NPOs as demonstrated in other parts of this report and in the Statement of Consistency. In addition, it is Government policy to provide more housing as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – Ireland's new Plan for Housing.

The development includes a significant number of residential units in a range of typologies. It contributes to the strategic provision of large-scale housing in the County and Region. On this basis, it is submitted that the proposed development is both, of strategic and national importance and the needs for housing has been clearly identified by the Government.

Section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, effectively allows the Board to grant permission, when it considers that the proposed development is of **strategic or national importance**. The specific objectives outlined above are achieved by allowing a higher density development on the subject site. Section 37(2)(b) of the Planning and Development Act 2000, as amended also allows the Board to grant permission, when it considers that (iii) permission for the proposed development should be granted having regard to any **relevant policy of the Government, the Minister**. The National Planning Framework is the relevant national policy.

3.1.2 *Justification of Material Contravention s.37(2)(ii) – Conflicting Objectives*

Dún Laoghaire Rathdown County Development Plan 2022-2028

We refer the Board to PHP18 - Residential density which seeks to *'Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.'*

We also refer the Board to Appendix 17 of the Plan which comprises the SUFP specifically. Through Map 2, the SUFP sets out residential densities applicable on a site-by site basis, which the application site allocated a density of 150 uph.

The densities set out in map 2 of the SUIP are conflicting with the objectives set out by the Council under PHP18 particularly when considering the site is an infill/brownfield site. On this basis, it is respectfully requested that the proposed development should be considered having regard to PHP18 and not as a material contravention of the density set out in Map 2.

3.1.3 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

Sustainable Urban Housing: Design Standards for New Apartments 2018

Section 37(2)(b) of the Planning and Development Act 2000, as amended, allows the Board to grant permission, when it considers that:

*(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, **guidelines under section 28, ...***

The Design Standards for New Apartments Guidelines for Planning Authorities build upon the provisions of the NPF in signalling a move away from blanket restrictions on heights in certain location in favour of an evidence-based approach based on performance criteria. The Apartment Guidelines do not detail performance criteria but note it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities.

Further information can be found on what performance criteria are considered on p67 of the NPF as follows:

'Infill and brownfield development is more challenging to deliver than greenfield development for a variety of reasons, including land management but also the challenge of integrating with existing communities, who may have a preference for the status quo to be retained, even if that might reduce opportunities for rejuvenation and drive urban expansion outwards.

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

In particular, general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc.

*A more dynamic performance-based approach appropriate to **urban location type** will also enable the level of public transport service to improve as more development occurs and vice-versa. There should also generally be no car parking requirement for new development in or near the centres of the five cities, and a significantly reduced requirement in the inner suburbs of all five.'* (bold, our emphasis)

In addition, the Apartment Guidelines provide guidance with regard to the types of location which are considered suitable for higher density developments that may wholly comprise apartments, referred to as *Central and /or Accessible Locations*. The subject site meets all identified criteria for such developments.

Criterion 1

Sites within walking distance (i.e. up to 15 minutes or 1,000- 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions.

The subject site is located within 15 minute walk of a number of key locations including, the Beacon Hospital (10 minutes) and several places of employment all within 1 to 15 minutes walk.

Criterion 2

Sites within reasonable walking distance (i.e. up to 10 minutes or 800 - 1,000m) to/from high capacity urban public transport stops (such as DART or Luas). The site is located within a 5-minute walk of Sandyford Luas stop.

Criterion 3

Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/ from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

The site is bounded by high frequency bus services that provide routes to Dublin City Centre and surrounds (Routes 11, 75A, 114, 116, 700).

Accordingly, it is clear that the height limitations provided by the Sandyford Urban Framework Plan are in conflict with the provisions set out by the Apartment Guidelines.

It may also be noted that the Urban Framework Plan states -

“It is considered that the overall quantum of residential use already permitted in the Mixed Use Core Areas is sufficient to provide vitality to these areas. Future residential development should therefore, primarily be focused within the residential zoned land (Map 1, Zone 5)”.

However, the majority of the permitted SHD development has occurred on the mixed-use lands at western end of Carmanhall Road.

It is further noted that the above criteria allow the scheme to be considered under **BHS 1 and BHS 2 of the County Development Plan** (quoted above) and as such may not constitute a Material Contravention of the Development Plan.

Urban Development and Building Heights Guidelines for Planning Authorities 2018

Justification background

Section 37(2)(b) of the Planning and Development Act 2000, as amended, allows the Board to grant permission, when it considers that:

*(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, **guidelines under section 28...***

The Urban Development and Building Heights, made in response to the publication of Project Ireland 2040 and the NPF note Local Authorities have set generic height limits and state the following:

*“Such limits have resulted from local-level concerns, like maintaining the character of an existing built-up area, for example. However, such limits, **if inflexibly or unreasonably applied**, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also **hinder innovation in urban design and architecture** leading to poor planning outcomes”.*

(bold our emphasis)

The Guidelines state that it is appropriate to support heights of at least six storeys at street level with scope for greater height subject to design parameters.

An Bord Pleanála and Planning Authorities must have regard to these Guidelines, and we note with particular reference to the Specific Planning Policy Requirements (SPPRs) set out in the Building Height Guidelines, these elements are mandatory. SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans. Therefore, the imposition of the 6 to 9 No. storey height restriction at the subject site would be contrary to SPPR 1.

Development Management provisions and applicability

The Development Management provisions are detailed in the Planning Report and Statement of Consistency.

In particular the stated policy in SPPR 3 applies, which in summary states that, where an applicant sets out how a development proposal complies with the criteria and the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines **then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.** *(bold our emphasis)*

In relation to the assessment, *“it is Government policy that building heights must be generally increased in appropriate urban locations”.* There *“is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.”*

Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:

Questions	Response
Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National	The proposed development delivers compact growth bedside public transport. Imposing a height restriction at the subject site through the SUFP is contrary to SPPR 1 of the Height Guidelines, 2018 which notes that blanket numerical limitations on

Questions	Response
Strategic Objective to deliver compact growth in our urban centres?	building height shall not be provided for through statutory plans.
Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?	Yes, the proposed development is on zoned residential lands, included set back, appropriate use, own door etc. and contributes to delivering compact growth in urban centres. The scheme is therefore fully in accordance with the preferred approach of the National Planning Framework and of the relevant statutory plan. Indeed, the provision of increased height and density may be held to be in accordance with BHS 1 and BHS 2 of Appendix 5 of the Development Plan.
Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?	<p>SPPR 1 sets out that blanket numerical restrictions on building heights shall not be provided, in order to support building height and density in locations with good public transport accessibility. While the SUFP was adopted this year, it still specifically set out a numerical limitation on height, and density. Sandyford is a highly accessible settlement located in the Metropolitan Area. The surrounding area of the application site is urban in nature and the site is an infill development. The application as it stands contribute to the NSO 1 on Compact Growth.</p> <p>Part of the site includes a 10 storey element which provides architectural interest across the site, responds to the differing characteristics and contexts of the location and is appropriate in order to accord with Government policy to increase building heights in sustainable locations.</p>

The applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the following criteria:

At the scale of the relevant city/town

Criteria	Response
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	The site is 5-minute walk from Luas stop and adjacent to several bus routes as detailed before.

Criteria	Response
<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>The site is not located in an architecturally sensitive area. The applicant has included verified views and photomontages as part of the application. These demonstrate the close and distant views for the information of the Board in the CGI views prepared by Digital Dimensions (also see Architects Design Statement).</p>
<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p>	<p>This criterion is listed under the scale of the relevant city/town but also applies to the district/neighbourhood/ street and therefore there is a degree of overlap in the justification. Sandyford Industrial Estate was opened in 1977 on 200 acres of land where the majority of the site was allocated for industrial purposes and the rest as roads. The Industrial estate vehicular layout has remained and sets the overall context of the current and proposed urban layout. The new developments are confined to the original industrial estate roads layout and the overall area was never re-master planned for a new urban area. Sandyford Business District consists of the wider area comprising four areas described as business parks – Central Park, Sandyford Business Park, South County Business Park and Stillorgan Business Park which has c 26,000 employees in approximately 1,000 companies and c 5,000 residents. Please refer to figure 6 below.</p> <p>Sandyford Industrial Estate has emerged into an office park with various headquarters of international companies such as Microsoft and Vodafone with the addition of a private hospital and a Children’s science destination. The area also houses large scale retail and motoring sales spaces. Please refer to figures 6, 7 and 8 below.</p> <p>While the site is not located on a larger urban redevelopment site as it is c 0.7 ha., the Planning Authority has previously permitted a high density</p>

Criteria	Response
	<p>development¹ on the site. The Board has also permitted development on the adjacent site².</p> <p>The applicant has now developed a Masterplan with Atlas GP in respect of the adjoining 'Avid' site to ensure that an integrated approach to adopted in respect of the two sites and ensure daylight and sunlight impacts are mitigated. The proposed design which was an iterative process has been developed with regard to the potential to integrate with the adjoining Avid site, the Board's Opinion on that site and consultations with the planning authority in respect of both sites. The proposed development will make a positive contribution to the Sandyford area by incorporating a new street between the subject and adjacent site which will introduce a street break between the sites and open the blocks at a pedestrian scale.</p> <p>The height elements of the design have been varied, using massing and highly articulated elevational presence to achieve the required higher density keeping to 8 storeys along Ravens Rock Road and 10 storeys on Carmanhall Road. The taller element creates a focal point and landmark to the junction area of Carmanhall Road and Ravensrock Road. The proposed design with the variety in scale and form responds positively to the permitted scale on the adjoining site and creates a strong visual interest in the streetscape.</p> <p>The application site is an appropriate place for a higher building at the intersection of three roads designed as an industrial estate and acts as an urban marker from different directions, reinforcing and contributing to a new urban residential quarter at this end of Carmanhall Road.</p>

¹ D05A/0566 (5/11/2005)

² TA06D.303467 (20/02/2019)

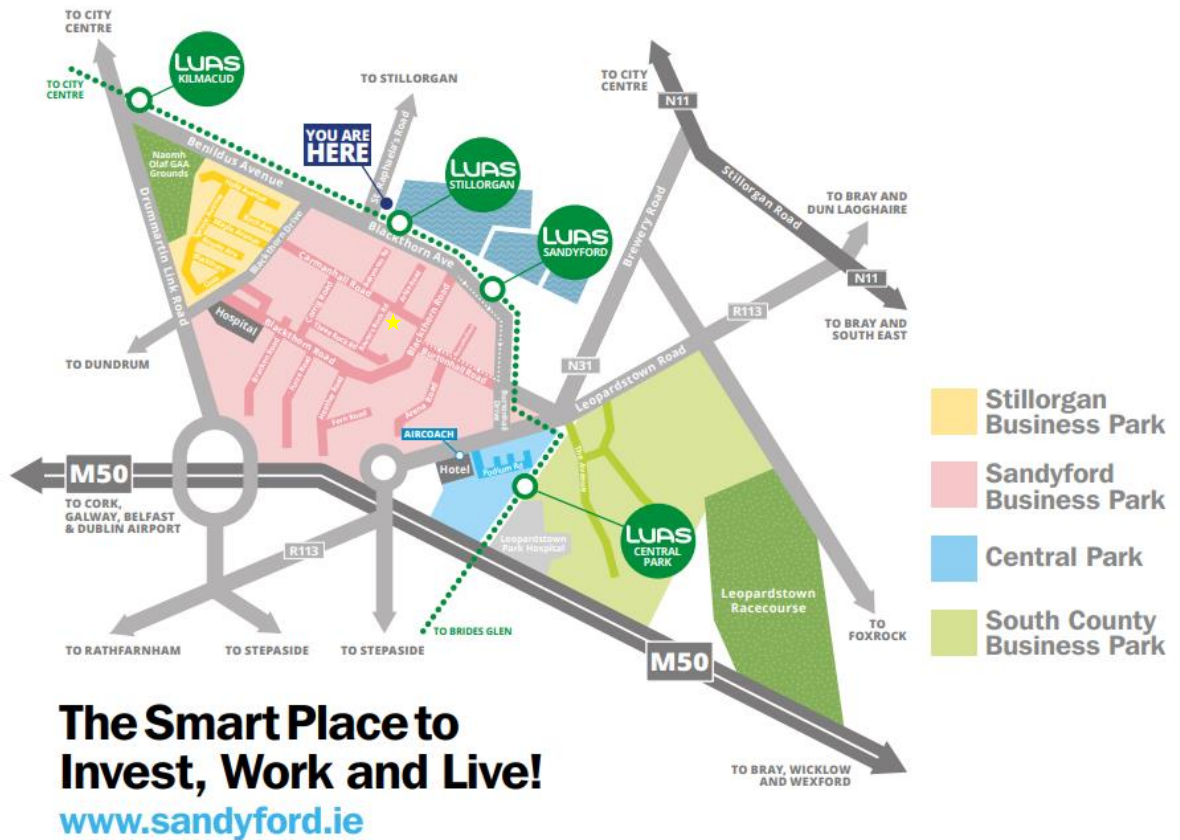


Figure 6: Extract from Sandyford Business District Review 2020.



Figure 7: Road layout source OpenMaps



Figure 8: Road layout - Google Earth

At the scale of district/ neighbourhood/ street

Criteria	Response
<i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</i>	The scale of the district/ neighbourhood/ street is illustrated in the MDO Architects Design Statement and overlaps with the criteria above. On this section of district/ neighbourhood/ street, the major new developments which inform the streetscape are

Criteria	Response
	<p>opposite the application site in the form of large office blocks located on Carmanhall Road. Opposite the application site is Arkle Road with two major office developments on either side. To the front of the Nova Aria buildings is a local shop with take away food and is a focus for office staff from the offices.</p> <p>To the west on Ravensrock Road is the Irish Village Market building HQ. The forecourt area served as a street food market serving take away food mostly to office staff in the vicinity. That market, pre-Covid 19, alternated between Ravensrock Road and the Luas stop and was a very popular and busy commercial operation. The proposed development fronting Carmanhall on this street will significantly improve the streetscape with the provision of an active ground floor design, linear greenway and park.</p> <p>Under ABP Ref. TA06D.313209 Ravensbrook Limited lodged an application on 4th April 2022 at IVM House, 31 Ravens Rock Road and 31a Ravens Rock Road for the Demolition of an existing building and construction of 101 no. Build to Rent apartments within a part 5, part 6 to part 11 no. storey building over partial basement. c. 514sqm of public open space provided fronting Carmanhall Road and resident support facilities/ services and amenities space are provided at ground and first floor levels</p> <p>The Urban Framework plan prohibits any commercial ground floor activity such as cafes or local shops and the design has incorporated resident activity uses and creche to animate the street. Further, own door units will be provided on Carmanhall Road, opposite the Village Market building and opposite the street market. The development will provide residential uses in accordance with the Council residential zoning objective.</p> <p>The scheme will provide active surveillance of the public and communal open spaces throughout the development including the provision of a creche and resident facilities at ground floor level to provide animated daytime uses.</p>
<p><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with</i></p>	<p>The proposed development has considered the layout and has been designed around three blocks of varying heights in order to avoid a monolithic block. The Design statement includes a section on the</p>

Criteria	Response
<i>materials / building fabric well considered.</i>	proposed Materials Strategy which sets out the fabric and materials. The response to this criterion is interrelated with the criteria of making a positive contribution to the urban neighbourhood and streetscape.
<i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</i>	The applicant will facilitate a greenway in front of their site. The open space and 8 storeys on Ravens Rock Road and Carmanhall Road are aligned with the Urban Framework Plan and provide scale and enclosure. We also refer the Board to the Flood Risk Assessment, and Engineering Assessment Report prepared by Waterman Moylan submitted as part of this application (which includes Surface Water measures and SUDS proposals).
<i>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i>	The site is c 0.7 ha and addresses both Ravens Rock Road and Carmanhall Road. Additionally, the site creates a new street to the west adjacent to the proposed lane on the Avid site. It is intended to develop the two sites subject to coherent and coordinated Masterplan (submitted as part of this SHD application).
<i>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</i>	The proposed development is for residential creche and resident facilities. This is a positive contribution in an area that has c 26,000 employees and is the main employment area of Dún Laoghaire Rathdown Council area. The Apartment Guidelines do not provide for any required mix of units in Build to Rent schemes.

At the scale of the site / building

Criteria	Response
<i>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.</i>	The form massing and height is modulated in several ways. The layout form is that of three blocks, essentially in a U-shape around an internal courtyard. The blocks also have a staggered roof profile with various setbacks on each block providing an attractive designed roof scape visible from distances. At the pedestrian level, own door access is provided at

Criteria	Response
	<p>ground floor level to residential apartments as well as the service units, to encourage street level activity and counter the potential for dead frontage.</p> <p>The proposed layout allows access to natural daylight and ventilation for all the proposed apartments. The internal courtyard faces south and under the current situation would enjoy excellent daylight.</p> <p>Please refer to figure 9 below.</p>
<p><i>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 of Practice for Daylighting'.</i></p>	<p>The scheme has been modified from the initial design and layout in order to improve the daylight and sunlight for the proposed development. A comprehensive daylight and sunlight assessment accompanies the application prepared by IN2 Consultants.</p>
<p><i>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</i></p>	<p>The daylight and sunlight report that accompanies the application by IN2 highlights provides considerable comfort regarding the positive performance of the proposed buildings.</p> <p>Section 5.0 details the results of sunlighting and shading to external amenity spaces within proposed developments. 65% of proposed communal open space is predicted to receive at least 2 hours of direct sunlight on the 21st March. Therefore, amenity spaces were found to be compliant with the guidelines.</p> <p>The impact of the proposed development on neighbouring buildings is assessed in Section 6.0. The proposed development is sited in the Sandyford Business District. The IN2 report notes that <i>the BRE Guide recommends that the guidelines outlined in the introduction and Section 5.1 should be applied to residential dwellings. However, all existing buildings surrounding the proposed development are commercial buildings, which have no expectation or requirement for sunlight or daylight. There are no existing residential dwellings within the zone of analysis.</i></p> <p>The internal daylight analysis, as detailed in section 7.0, has been undertaken for all units across the development. The analysis determined that 95% of rooms were in excess of the prescribed BRE/BS</p>

Criteria	Response
	<p>guidelines as set out within this report, for average daylight factors (ADF). This extent of compliance was achieved through design development, with increased glazing/ reduced balcony depths / balcony locations etc. applied to ensure the residences can benefit from maximised daylight availability.</p>

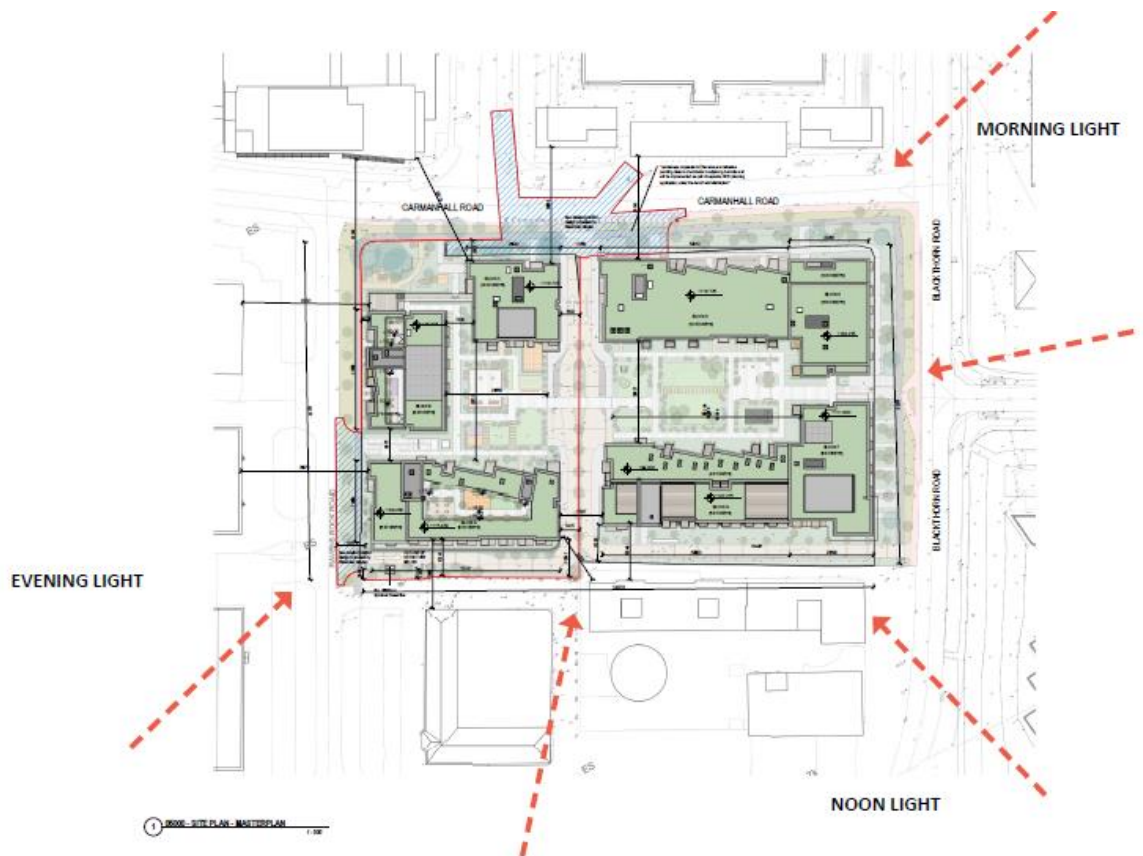


Figure 9 Solar Path Diagram (Source: MDO Architects Design Statement)

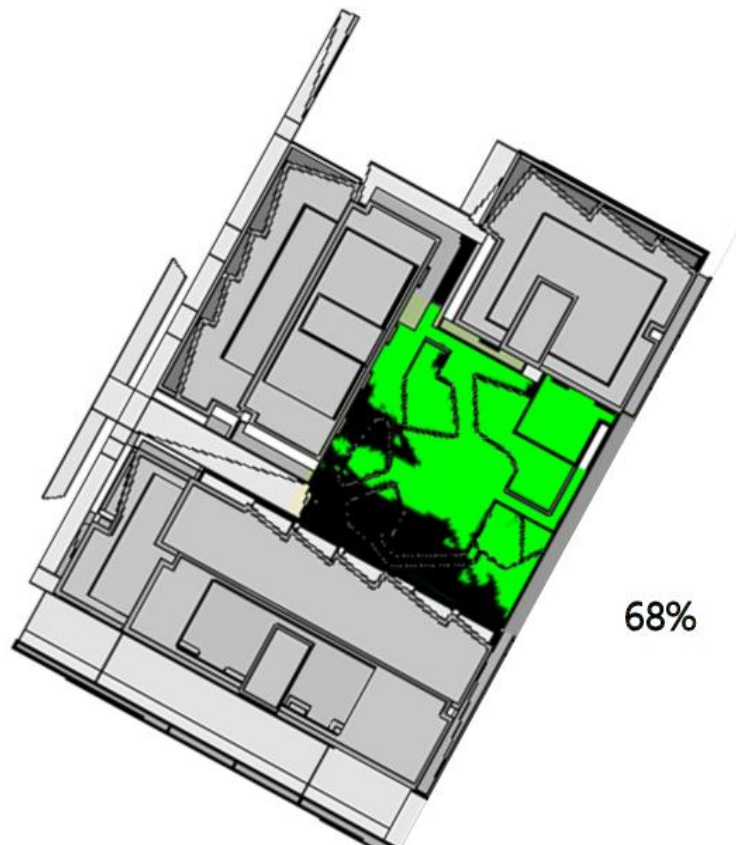


Figure 10 Extract from Sunlight and Daylight Report by IN2 Partnership showing the communal courtyard space is predicted to receive adequate sunlight, in excess of the 50% minimum requirement

Specific Assessments

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

Assessment	Response
<i>Impact assessment of the micro-climatic effects such as downdraft.</i>	A Microclimate assessment is included in Chapter 8 of the EIAR. This comprehensive assessment shows that this will be acceptable owing to the layout and variation of heights.
<i>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.</i>	The site is located in an urban area and is several kilometres from any protected areas. The surrounding habitats have low suitability for birds and bats, and the site is not on a flight line between any important areas for birds or bats. The site and its surroundings are not considered to be sensitive areas for birds or bats, and the risk of collision is considered to be negligible.

Assessment	Response
<i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i>	An assessment is included in the EIAR.
<i>An assessment that the proposal maintains safe air navigation.</i>	The subject site and proposed development are not within a flight path or within the vicinity of a aerodrome. Therefore, the proposal is not expected to impact on safe air navigation.
<i>An urban design statement including, as appropriate, impact on the historic built environment</i>	A design statement is enclosed. There is no historic environment. The statement shows how the design adapts to and complements the existing streetscape and built fabric of the area.
<i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i>	An AA screening and full EIAR report accompanies this SHD planning application.

Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply Strategic Planning Policy Requirement 3 under Section 28 (1C) of the Planning and Development Act 2000 (as amended)

Overall, the Board may consider that a Material Contravention does not apply in respect of height as policy BH5 SUFP (which qualifies SUFP 3) allows that additional height may be permitted where it can be demonstrated that additional height over the height limits identified on Map 3 accords with policy objective BHS1 and BHS2, of the Dun Laoghaire Rathdown County Development Plan 2022-2028, Appendix 5.

The safeguards outlined in these policies as set out in Table 5.1 are included in Appendix A of this submission. The criteria set out in Table 5.1 are fully addressed in this SHD application package in;

- ***The Design Statement***
- ***Landscape Design Statement***
- ***Building Life Cycle Report***
- ***DMURS report***
- ***Flood Risk Assessment***
- ***Landscape and Visual Assessment (included in the EIAR)***

3.2 Material Contravention Justification - Build to Rent mix of units

3.2.1 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

In relation to the 2016 CDP, it should be noted that standards have been superseded by SPPR 8(of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020).

In relation to the 2022 CDP, it is highlighted that in the OPR's submission on the Draft Plan, it considered that the proposed mix requirements for apartments which are set out in the Draft Plan to Build to Rent is in conflict with the statutory provisions under Sections 12(18) of the Act to ensure the Development Plan is consistent with SPPRs specified in Section 28 guidelines and, under Section 28(1C), to comply with the SPPRs in the carrying out of its functions.

The OPR advised that the Objective is inconsistent with SPPR 8(i) of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020).

SPPR 8 of the Apartment guidelines is clear that; *"For proposals that qualify as specific BTR development in accordance with SPPR 7: (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise"*.

The Apartment Guidelines 2020 clearly state: *"Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions"*.

Section 12 (18) of the Planning and Development Act 2000 (as amended) sets out the *"obligation to ensure that the Development Plan is consistent with —(a) the national and regional development objectives specified in (i) the National Planning Framework, and (ii) the regional spatial and economic strategy, and (b) specific planning policy requirements specified in guidelines under subsection (1) of section 28"*.

3.3 Material Contravention Justification – Car Parking - Residential

3.3.1 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

At the outset, it is important to note that the development would qualify as 'Central and/or Accessible Urban Location'. Under s.4.19 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2020), *'the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.'*

We also refer to SPPR 8(iii) which states: *'There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.'*

This supersedes the standards included in the development standards of the CDP as they apply to apartments.

3.3.2 *Justification of Material Contravention s.37(2)(iv) – Pattern of Development and Permissions Granted*

This SHD Planning application includes a comprehensive Traffic & Transport Assessment (T&TA) prepared by Waterman Moylan Consulting Engineers Ltd. Section 10 of the Report provides a detailed analysis of car parking policy and provision.

The proposed provision of car parking on the subject site will be 79 spaces calculated at the rate of 0.35 space per unit per unit for 207 units.

The provision of 79 spaces will include 4 spaces for disabled drivers (4%), 8 spaces with charging facilities for electric vehicles (10%) and 2 spaces for car sharing (GoCar).

A total of 56 spaces will be located at Lower Ground Level as shown in Figure 8 with a total of 23 spaces at Basement Level as shown in Figure 9 of the report.

The proposed development includes 288 cycle spaces comprising 48 spaces Short Stay (Visitor) and 240 Long Stay (Residents) spaces.

Section 10 highlights that in a number of recent decisions, An Bord Pleanála has approved a much-reduced provision of car parking when compared with the maximum standards set out in the various Development Plans. The contents of Table 12 are in broad agreement with the experience of existing BTR schemes where the demand for car parking is approximately 0.3 spaces per unit.

3.4 Material Contravention – External Storage

3.4.1 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

We refer the Board to section 12.3.5.3 ‘Internal Storage and External Storage’ of the 2022 CDP which requires in table 12.3b that the following external storage standards be complied with or exceeded.

Table 12.3b

Number of Bedrooms	Storage area (cubic metres)
Studio/1 bedroom	4m cubed
2 bedroom (3 person)	6m cubed
2 bedroom (4 person)	8m cubed
3 bedroom	10m cubed

The proposed development includes 13.75 sqm of external storage at basement level. Applying the requirement stated in the table above, the development would yield a requirement of 1,054 sqm of external storage.

We refer the Board to SPPR8 (i) of the Apartment Design Guidelines clearly states: ‘No restrictions on dwelling mix and **all other requirements** of these Guidelines shall apply, unless specified otherwise,’ in respect of Build to Rent developments.

On this basis, we contend that the proposed development, being a Built-to-Rent scheme complies with the Guidelines.

3.5 Material Contravention Justification – Tree Justification

3.5.1 Justification of Material Contravention s.37(2)(ii) – Conflicting Objectives

The 2016 and 2022 Map 1 of the Sandyford Urban Framework Plan 2022-2028 includes a site-specific objective on the site; *To protect and preserve Trees and Woodlands.*

The layout of the proposed development has been designed to meet the SUFP’s Urban Design Criteria to provide a street edge to the roads forming perimeter blocks. Drawing 11 ‘Design Principles and Character Areas’.

Objective DS3 of the SUFP states:

It is an objective of the Council to ensure where the plot ratio proposed is greater than 1:2, the layout should take the form of streets in order to contribute to the vibrancy of these core areas

It is therefore challenging to reconcile objectives to create perimeter blocks, streets and off-street service roads, with objectives to preserve trees.

Reference is also made to Policy PR5

PR5: It is an objective of the Council to endeavour to conserve all street and roadside trees where feasible and to replace all trees removed with an appropriate species, where the removal of street and roadside trees is necessary.

This SHD Planning application includes an Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report prepared by CMK Horticulture & Arboriculture Ltd.

NMP Landscape Architects have prepared a comprehensive landscape plan as part of the planning package. This outlines the planting to mitigate for the removal of existing trees.

Section 2.1 ‘Arboricultural Impact’ notes that *the direct impact of the proposed development will necessitate the removal of tree groups #G8-G15 including individually assessed trees #5-7 and #11. These groups provide screening to Mercury House to the south and the adjacent Ravens Rock Road. The loss of these trees is not considered particularly significant as they have reduced life expectancy due to their poor form. The mature alder (#G13) being the most pronounced example.*

The installation of underground services required to service the site, located outside the site’s perimeter will necessitate the removal of a public street tree (PUB10). Additional public street trees (PUB 1, 8 & 9) will require removal to accommodate proposed vehicle entrances on Ravens Rock and Carmanhall Roads.

The retention of the mature oak and beech (#1-4) through design accommodations in the proposed plan is welcomed, as these trees represent the highest value specimens within the site and indeed within the surrounding business Park. Within this space is proposed a pocket park containing a compacted gravel pathway that will be constructed using a no-dig method so as to mitigate impact on roots.

Mitigating the loss of existing trees will take time, however the younger age profile of trees being removed and the size specifications of the proposed replacement tree stock should reduce this time period significantly.

Overall, the Board may consider that having regard to Policy PR5 a Material Contravention does not arise in this case and that any loss in existing trees in the verge is addressed by a comprehensive landscape plan.

3.6 Material Contravention - Dual Aspect

3.6.1 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

Both plans appear to apply a dual aspect requirement of 70% (for 2016 plan) and 50% (for the 2022 plan). This is inconsistent with the SPPR8 (i) of the Apartment Design Guidelines clearly states: ‘No restrictions on dwelling mix and **all other requirements** of these Guidelines shall apply, unless specified otherwise,’ in respect of Build to Rent developments.

On this basis, we contend that the proposed development, being a Built-to-Rent scheme complies with the Guidelines.

We also wish to refer the Board to the Statement of Consistency which clearly set out why the application site should be considered as an accessible location and not as a suburban / intermediate location in accordance with the Guidelines.

3.7 Material Contravention – Public Open Space

3.7.1 *Justification of Material Contravention s.37(2)(ii) – Conflicting Objectives*

The proposed breakdown is as follows:

- Public open space: 438 sqm (pocket park)
- Communal open space – courtyard: 1,014 sqm
- Communal open space – roof terrace: 4,19 sqm.

Together they yield: 1,871 sqm of public and communal open space.

This appears to be in excess of the 10% public and/or communal open space to be provided under the development plan.

However, using the plan’s calculations using presumed occupancy, the development would require 6,250 sqm of open space. On this basis, the development would not comply.

There is a lack of clarity between what the plan considers to be an acceptable quantum and what it considers to be ‘an absolute default’. The applicants are of the view that they comply.

3.8 Material Contravention – Private Open Space

3.8.1 *Justification of Material Contravention s.37(2)(iii) Regard to s. 28 Guidelines and any Relevant Government Policy*

Section 8.2.7.4 on private open space has been largely superseded by the Apartment Design Guidelines. All of units have a private open space provision that aligns with that of the Guidelines. On this basis, the development complies.

4 Conclusion

Pursuant to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, An Bord Pleanála may grant permission for a Strategic Housing Development where

national policy takes precedence over the objectives of the Development Plan as prescribed in Section 37 (2)(b) of the Planning and Development Act (as amended).

As provided in this Material Contravention Statement, the *Sandyford Urban Framework Plan 2022-28* (included as Appendix 17 to the Dún Laoghaire - Rathdown Development Plan 2022 – 2028) includes Policy ‘SUPF 3’ which states that ‘it is Council policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3’.

The proposed scheme may represent a material contravention to the Sandyford Urban Framework Plan 2022, with regard to height and density however it is considered that increased height and associated density represents the principles of proper planning and sustainable development and is fully in accordance with National Policy which seeks to increase height and density in appropriate core urban areas.

SPPR 1 of the Building Height Guidelines notes that blanket numerical limitations on building height shall not be provided through statutory plans therefore the imposition of the height restriction at the subject site would be contrary to SPPR 1. The subject site is suitably located to accommodate additional height in line with National Policy due to its central and accessible location (as set out in the Apartment Guidelines, 2018) in close proximity to numerous substantial employers located within easy walking and cycling distance from the site and within reasonable walking distance of the Luas of high capacity urban public transport stops.

It may also be considered that having regard to certain development management standards as set out under both the 2016 and the 2022 are being contravened. In this case, we refer the Board to the Apartment Design Guidelines which requirements supersede development standards, particularly having regard to SPPR 8.

Having regard to the reasons set out in this Material Contravention Statement for increased height it is our respectful opinion that An Bord Pleanála should be favourably disposed to the subject scheme in accordance with Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended).

Appendix A

Dun Laoghaire Rathdown County Development Plan 2022-2028

Appendix 5

Table 5.1: Criteria for assessing proposals for increased height (Defined as building or buildings taller than prevailing building heights in the surrounding urban areas) or taller buildings or for a building that is higher than the parameters set out in any LAP or any specific guidance set out in this draft County Development plan.

Criteria for All Such Proposals	DM Requirement
At County Level	
Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth.	
Site must be well served by public transport – i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport.*	
Proposal must successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks.. In relation to character and public realm the proposal may enclose a street or cross roads or public transport interchange to the benefit of the legibility, appearance or character of the area.	Landscape and visual assessment by suitably qualified practitioner. Urban Design Statement. Street Design Audit (DMURS 2019).
Protected Views and Prospects: Proposals should not adversely affect the skyline, or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view.	
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.	
At District/Neighbourhood/Street Level	
Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.	Proposal should demonstrate compliance with the 12 criteria as set out in "Sustainable Residential Development in Urban areas, Guidelines for Planning Authorities" 2009. Street Design Audit (DMURS 2019).
Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks.	Design Statement.
Proposal must show use of high quality, well considered materials.	Design Statement. Building Life Cycle Report.
Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.	Must also meet the requirements of "The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009".
Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.	
Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area.	Design Statement.
Proposal should provide an appropriate level of enclosure of streets or spaces.	Design Statement.
Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.	

Criteria for All Such Proposals	DM Requirement
Proposal must make a positive contribution to the character and identity of the neighbourhood.	
Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties.	
At site/building scale	
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing.	Must address impact on adjoining properties/spaces/
Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met.	
Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing.	
Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure.	
County Specific Criteria	
Having regard to the County's outstanding architectural heritage which is located along the coast , where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	An urban design study and visual impact assessment study should be submitted and should address where appropriate views from the sea and/or piers.
Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive.	An urban design study and visual impact assessment study should be submitted.
Additional specific requirements (Applications are advised that requirement for same should be teased out at pre planning's stage).	
Specific assessments such as assessment of microclimatic impacts such as down draft.	
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas.	
Assessment that the proposals allows for the retention of telecommunications channels, such as microwave links.	
An assessment that the proposal maintains safe air navigation.	
Relevant environmental assessment requirements, including SEA, EIA (schedule 7 information if required), AA and Ecological Impact Assessment, as appropriate.	
Additional criteria for larger redevelopment sites with taller buildings	
Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development.	
For larger unconstrained redevelopment sties BRE standard for daylight and sunlight/any forthcoming EU standards on daylight sunlight should be met.	

