

DOWNEY

29 Merrion Square, D02RW64

Material Contravention Statement

**Proposed Strategic Housing Development
Lands at Belcamp Hall (Protected Structure),
Malahide Road, Dublin 17**

Applicant: Gerard Gannon Properties

May 2022

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1.0 INTRODUCTION

Downey Planning, Chartered Town Planners, 29 Merrion Square, Dublin 2, have prepared this material contravention statement, on behalf of the proposed applicant, Gerard Gannon Properties, Kinvara House, 52 Northumberland Road, Ballsbridge, Dublin 4. This report accompanies an application to An Bord Pleanála for a proposed strategic housing development on lands at Belcamp, Northern Cross, Dublin 17.

This statement outlines the justification of the proposed strategic housing development on lands at the subject site, which materially contravene the Dublin City Development Plan 2016-2022 as it relates to permitted building heights in the outer city, unit mix and car parking. The Proposed development also materially contravenes the Fingal County Development Plan 2017-2023 as it relates to car parking and Objective Balgriffin/Belcamp 6 regarding the preparation of a Local Area Plan. An argument may also be made that the development materially contravenes map-based road objectives under both Development Plans as well as other objectives of the pertaining Plans.

The Statement of Consistency with Planning Policy and Planning Report, prepared by Downey Planning, which are submitted under separate cover as part of the planning application, outline that the development complies with all other relevant policies and objectives of the Dublin City Development Plan 2016-2022, the Clongriffin-Belmayne Local Area Plan 2012-2018 (as extended) and the Fingal County Development Plan 2017-2023 as they relate to the proposed development (noting that these are the statutory plans in effect at this time as the Draft Plans have not been adopted to date¹).

2.0 THE LEGISLATIVE CONTEXT

This statement is being submitted having regard to section 8(1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:

“8. (1)(a)(iv) Where the proposed development materially contravenes the said plan, other than in relation to the zoning of the land, indicating why permission should nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”

and section 37(2)(b) of the Planning and Development Act, 2000 (as amended) which read as follows:

“(2) (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,

¹ These are the statutory development plans in force at the time of submission of this application. While both plans are set to be replaced by new development plans in 2022 (Dublin City Council) and 2023 (Fingal County Council) and a draft development plan has been published in respect of Dublin City Council (Draft Dublin City Development Plan 2022 to 2028) and Fingal County Council (Draft Fingal County Development Plan 2023-2029), these draft plans are not yet in force and are not likely to be in force when a decision is being made in respect of the proposed development.

(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.”

3.0 MATERIAL CONTRAVENTION OF THE DUBLIN CITY DEVELOPMENT PLAN 2016-2022

This section of the report outlines how the proposed development may be considered to materially contravene parts of the Dublin City Development Plan 2016-2022.

3.1 Material Contravention of Building Height

The local planning policy context in respect to building height is summarised below, with an explanation for why this Material Contravention Statement is included with the subject application. The Dublin City Development Plan 2016-2022 (DCCDP) sets out in Section 16.7 maximum heights of up to 16 metres in the outer city, within which the application site is located.

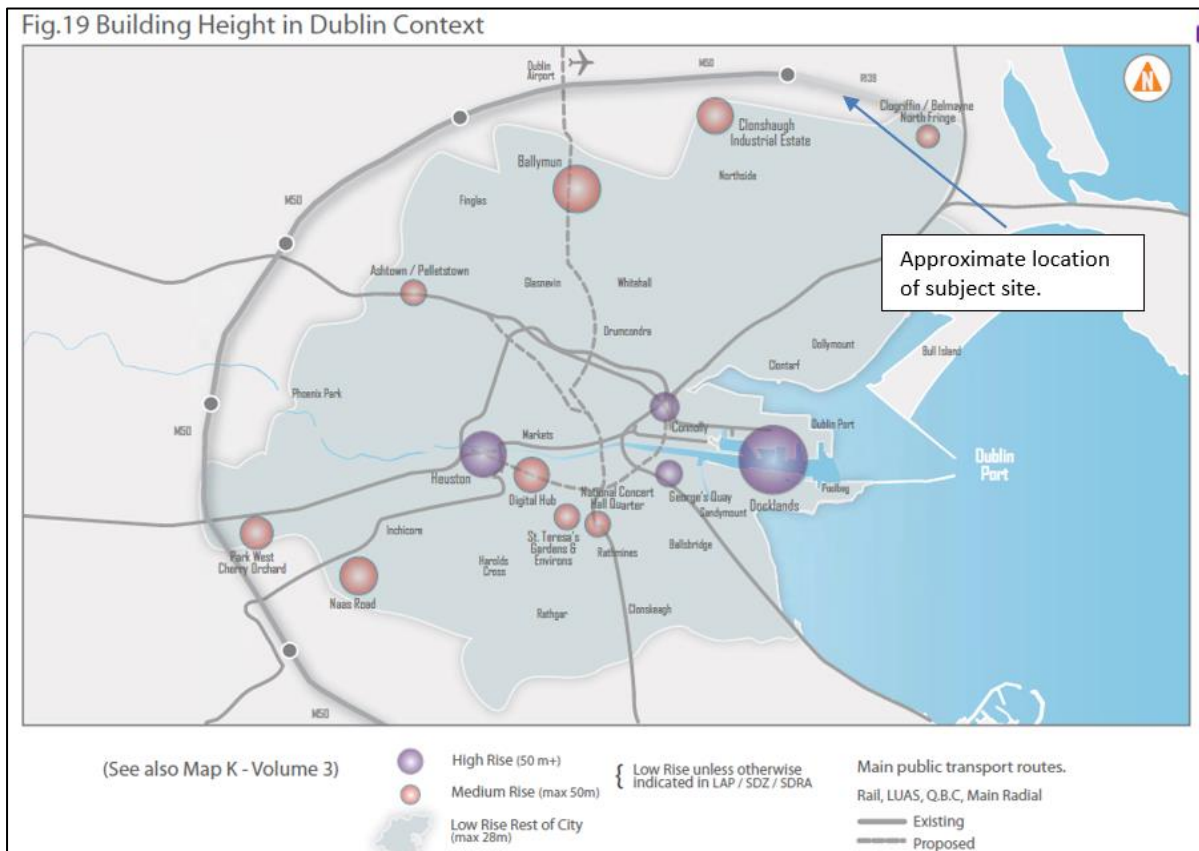


Fig. 1 – Subject site in context of Building Heights in Dublin (Source Dublin City Development Plan 2016-2022)

However, the parts of the proposed development that is within the administrative boundary of Dublin City Council will have a maximum building height of 32.85 metres with building heights ranging from 1 storey up to 9 storeys in height, but generally between 6-9 storeys.

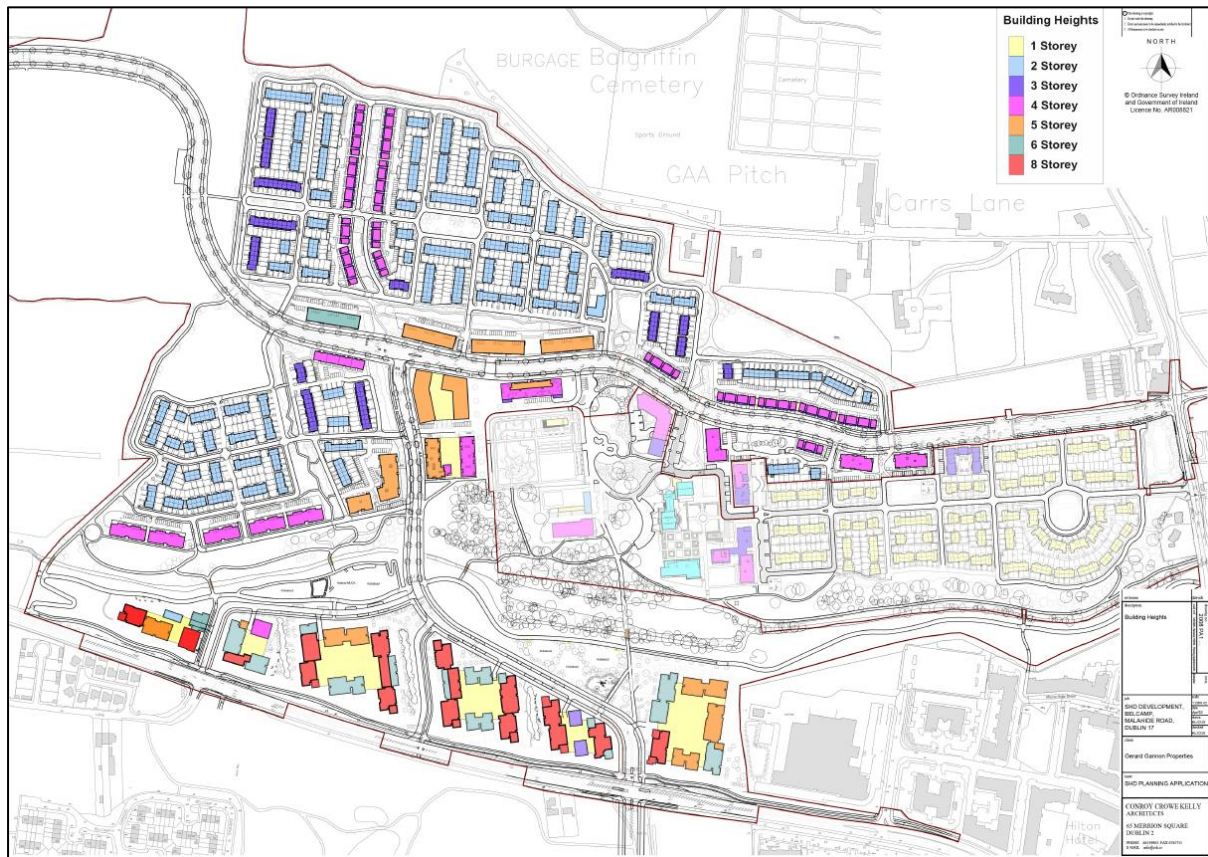


Fig. 2 – Proposed Building Heights for development (Source: CCK)

An argument may also be made that the proposed development may materially contravene Objective UD07 of the Clongriffin-Belmayne Local Area Plan 2012-2018 (as extended to 2022), which states:

Objective - UD07: “The height strategy for the LAP will seek positive integration of new building height with established character. Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys). Heights of 2-6 storeys (including a set back at the top floor of a 5/6 storey building) may be facilitated subject to quality design criteria and set back requirements along the river corridor to complete the urban form of pavilion buildings to complete Marrsfield. One location for a landmark profiled building (10-14 storey office height equivalent) is designed adjacent to Clongriffin train station. In other locations, where 4 storeys residential height is proposed, some flexibility will be allowed on height equivalent (13m) to achieve design improvements to the façade.”

Justification

Downey Planning note that the Dublin City Development Plan has been superseded by National Planning Guidelines – *Urban Development and Building Height Guidelines for Planning Authorities* (2018), which removed a blanket limit or cap on building heights and instead seeks to provide for a

qualitative assessment for building heights. It is submitted that the proposed development in this instance justifies the building heights being proposed as it is in accordance with national planning policy, is suitable for the location of the site and there are numerous planning precedents for similar developments being permitted during the lifetime of the current Development Plan, which are referenced later within this section of the Material Contravention Statement. This justification shall now be outlined in greater detail.

Subject Site Location

The subject site is strategically located within the Metropolitan Area of Dublin City and is readily served by and accessible to a range of employment areas as well as public transportation offerings, including high-frequency bus and also DART (Clongriffin Station). This application has been supported by a range of transportation studies and assessments, prepared by Waterman Moylan, Systra and Derry O’Leary (submitted under separate cover), which confirms that there is suitable capacity and frequency of existing public transportation to facilitate the development. These documents shall be discussed in more detail further on in this Material Contravention Statement.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 3 of these criteria as follows:

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

The proposed development involves the provision of 2,527 no. residential units as well as 4,427 sq.m. of retail, commercial and other uses along with associated support services and amenities on strategically located lands on the juxtaposition of Dublin City and Fingal. Downey Planning note that the while term “*strategic or national importance*” is not expressly defined in Irish planning legislation, this proposed application and development does meet the thresholds to constitute a strategic housing development. In this regard, Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 defines Strategic Housing Development as, the “*development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses.*” The proposed development therefore falls within the definition of a Strategic Housing Development as set out under the 2016 Act, and is, therefore, strategic in nature.

There is a clear and urgent need for housing at a national level within Ireland, which is particularly prevalent within the larger cities and towns, including Dublin. This is acknowledged by the Government as well as planning authorities and other such bodies. The result of this crisis has been a significant change in planning policy and guidance, which seeks to increase the output of housing with a focus being on increased densities within appropriate urban locations and zoned and serviceable sites. Key policy changes include:

- Housing for All (2021).
- Project Ireland 2040 – National Planning Framework.
- Rebuilding Ireland – Action Plan for Housing and Homelessness (2016)
- Sustainable Urban Housing: Design Standards for New Apartments (2020); and

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

The 2016 Act in fact introduced the Strategic Housing Development process in order to “facilitate the implementation of the document entitled Rebuilding Ireland – Action Plan for Housing and Homelessness”. Amongst other things, that Plan sought to remove unnecessary delays in the delivery of housing through a streamlined planning process.

All of these documents acknowledge the current need and demand for additional housing and seek to bring forward the delivery of housing units. Housing for All (2021) has a target of an average of 33,000 housing units being delivered annually during the lifetime of the Plan. This current proposal offers the opportunity to bring forward 2,527 housing units (1,230 units within the Dublin City Council administrative area).

The subject site itself can also be considered strategically located for such a development, noting that it is ideally situated at the juxtaposition at the administrative boundary between Dublin City Council and Fingal County Council and as such is the closest part of Fingal County Council to the city centre. Furthermore, the site is well served by public transport, such as rail at Clongriffin Train Station as well as Dublin Bus services, with future improvements forthcoming as part of BusConnects, which directly serve the site. The lands are located beside significant employment centres, such as Dublin Airport as well as the IDA lands to the immediate west and as such will be able to offer good levels of employment to the future residents. The delivery of housing and retail/commercial uses within the site are strategically important to the viability and security required for the restoration of Belcamp Hall, which has already been significantly damaged by arson on at least 2 occasions.

The development itself will also facilitate the delivery by the applicant/developer of part of the strategic road infrastructure, including the East-West Link Road, which are indicated as map-based objectives of the land use zoning maps contained within the current Fingal County Development Plan 2017-2023 and the Dublin City Development Plan 2016-2022 as they pertain to the site.

Having regard to the above, it is respectfully considered that the proposed development can be considered to constitute a development of strategic importance and thus the Board would be entitled to grant permission under Section 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended).

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), which shall be discussed later in this Statement.

Project Ireland 2040: National Planning Framework

The National Planning Framework (NPF) seeks to direct development into established urban areas of the country, particularly the 5 identified cities (Dublin, Cork, Limerick, Galway and Waterford). The

NPF focussing on compact, sequential and sustainable development of the larger urban areas along the Dublin – Belfast economic and transport corridor.

There are a number of National Policy objectives within the NPF which support the development of the subject lands with taller buildings and increased density including:

In terms of Dublin City and the Metropolitan Area, the National Planning Framework 2040 states that: *“At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.”*

“The National Planning Framework targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. This is applicable to all scales of settlement, from the largest city to the smallest village. This means encouraging more people, jobs and activity generally within our existing urban areas, rather than mainly ‘greenfield’ development and requires a change in outlook.”

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

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

“National Policy Objective 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”.*

It is evident that there is a strong emphasis placed on increased building heights in appropriate locations within existing urban centres and along public transport corridors. As such, it is respectfully submitted that the height proposed for the development of up to 9 storeys (32.85 metres) is in line with Government guidance and evolving trends for sustainable residential developments in urban areas.

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

The ‘Urban Development and Building Heights, Guidelines for Planning Authorities’ are intended to set out national planning policy guidelines on building heights in relation to urban areas, building from the strategic policy framework set out in the National Planning Framework 2040 (NPF). This document recognises that in recent years local authorities, through the statutory plan processes, have begun to set generic maximum height limits. However, such limits if inflexibly and unreasonably applied, can undermine national policy objectives to provide more compact urban forms as outlined in the National Planning Framework and instead can continue unsustainable patterns of development.

These Guidelines reinforce that *“a key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels”*.

The document states that it is critically important that development plans identify and provide policy support for specific geographic locations or precincts where increased building height is not only desirable but a fundamental policy requirement. Locations with the potential for comprehensive urban development or redevelopment should be identified where, for example, a cluster of higher buildings can be accommodated as a new neighbourhood or urban district or precinct.

Section 1.10 of the Guidelines state *“the rationale (...) for consolidation and densification in meeting our accommodation needs into the future must also be applied in relation to locations that development plans and local area plans would regard as city and town centre areas”*. It continues, *“in such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines, for example on suitably configured sites, where there are particular concentrations of enabling infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality”*.

Section 1.11 states *“these guidelines therefore set out national planning policy that:*

- *Expand on the requirements of the National Planning Framework; and*
- *Applies those requirements in setting out relevant planning criteria for considering increased building height in various locations but principally (a) urban and city-centre locations and (b) suburban and wider town locations”*.

The Guidelines go on to state that *“in relation to the assessment of individual planning applications and appeals, 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.”*

Alternatively, as set out below, the Board could grant permission on the basis that Section 9(3)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 provides that when making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister. Where specific planning policy requirements in such Ministerial guidelines differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

It is respectfully submitted that even if the Board does not expressly grant permission on the basis of material contravention, the Board is required to dis-apply any provisions of the Dublin City Development Plan 2016-2022 to the extent that they differ from any specific planning policy requirements set out in Ministerial Guidelines.

In that regard, it is respectfully submitted that the requirements in SPPR2 and SPPR3 of the 2018 Building Height Guidelines are met, which shall be outlined below.

Specific Planning Policy Requirement 2 – *“In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities”.*

The proposed development seeks to provide for residential apartment units. Furthermore, there will be a mix of uses within the development itself comprising retail and childcare facilities as well as residential amenity facilities, that could include play areas, a gym and community rooms. This will all add to the variety and mix of the development as well as creating active frontages and animation to the development at street level. The residential development will create the critical mass of people required to support the existing town centre of Northern Cross and the wider North Fringe area.

SPPR3: *“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.”

It is submitted that this SHD application contains sufficient reports, documentation, plans and justification to support the proposed development and outlines how the development is in accordance with the relevant planning policies and guidelines pertaining to the area. Such documents include architectural plans and elevations, Design Statement (Architects Report), DMURS statements, Traffic Assessment, EIAR report, planning reports, and engineering reports. Furthermore, the development is compliant with the specific criteria set out within *Section 3.2* of the Building Height Guidelines which set out development management principles and criteria that proposals for higher buildings are to be assessed against, as follows:

Development Management Criteria in Section 3.2 of the Guidelines:	
At the scale of the relevant city/town	
Criteria of Guidelines	Evaluation and consistency of proposed development
<p>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</p>	<p>The subject site is well served by public transport, particularly Dublin Bus, which provides a QBC route within walking distance of the site. As outlined in Derry O’Leary’s Public Transport Capacity Report, the existing public transport serving the site is both high frequency and has high capacity, such that it can suitably serve the proposed development. Furthermore, the proposed Bus Connects and DART+ will further improve the public transportation offerings. It is anticipated that the BusConnects will be in place prior to the development being constructed. The site is also within approximately 2.5km walking distance of the Clongriffin DART station offering further transportation connections to and from the city centre and beyond. The public transport has the capacity to accommodate the development, as confirmed in Derry O’Leary’s Public Transport Capacity Report (submitted under separate cover). Furthermore, the development itself will facilitate improved public transport offerings, such as the future N8 BusConnects Route, which could operate through the site itself. The Board are also referred to Systra’s Sustainable Transport Report, which is also submitted under separate cover.</p>
<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</p>	<p>The taller buildings are removed from the more sensitive protected structures at Belcamp and have been designed such that views of the structures are retained.</p> <p>It is noted that a full suite of verified photomontages has been prepared by Digital Dimensions and are included as part of the development and a Visual Impact Assessment was carried out by The Big Space as part of the</p>

<p>undertake a landscape and visual assessment by a suitably qualified landscape architect.</p>	<p>Environmental Impact Assessment Report submitted with the application.</p> <p>There are no sensitive or protected views in the vicinity of the site, which would be affected by the proposed development and taller buildings.</p>
<p>On larger 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>It is noted that there is significant variety in the design approach, which has been achieved in part by the use of two architectural practices (CCK Architects and Wilson Architects) designing different elements of the scheme, albeit in a coherent manner.</p> <p>There is significant variation in height being proposed across the scheme. However, the taller elements of the scheme are within the Dublin City Council administrative area, where the buildings are further removed from the main heritage quarter of the scheme, which is centred around Belcamp Hall and its Walled Garden.</p> <p>The taller buildings within the southern part of the development provide for a strong urban edge along the R139 and thus create a sense of place. There is also improved legibility with these taller elements marking out main road connections between the site and the R139.</p> <p>The scheme involves the provision of new streets and connections within the scheme, which can potentially connect to adjoining lands, such as at Northern Cross and to the IDA landbank in the west.</p> <p>Furthermore, the development creates a large area of public open space and a linear park along the Mayne River and Belcamp's existing lakes and woodlands.</p> <p>The Board are invited to refer to the Design Strategy Overview, which has been prepared by the entire design team to set out the design approach and basis for the proposed development. Also, please refer to the architectural reports and landscape and public</p>

	<p>realm reports that are submitted under separate cover.</p>
<p>At the scale of the district/neighbourhood/street:</p>	
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</p>	<p>The proposal for the height in the Dublin City Council administrative area will help to create added visual interest at the R139, which will be supported by the provision of areas of public open space and connections to the riverside public park, which will be accessible to the wider public.</p> <p>The development utilises and integrates with the sites existing built and natural environment, including features such as the Mayne River, Lakes and woodlands, which form part of the overall public open space. The Walled Garden also forms an interesting extension of the proposed Town Square in the northern part of the site.</p> <p>It is respectfully considered that the proposal introduces a high-quality development at an underutilised site within an urban setting, which can act as a catalyst to further development of the surrounding lands, particularly the IDA lands to the west.</p>
<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials/building fabric well considered.</p>	<p>The increased height will help to create a stronger urban design response to what is essentially an underutilised site, particularly along the R139.</p> <p>The design has been prepared by two different architectural practices, which results in differences in the architectural approach and palette of materials being proposed.</p> <p>The most significant difference is the unit typology between the DCC lands to the south, which are all apartments, and the Fingal lands to the north, which contain a mix of houses, duplex blocks and apartments, noting the greater constraints of the Fingal lands as a result of the existing natural and built heritage of the site.</p>

	<p>Such constraints the protected structures within the Belcamp lands, including Belcamp Hall along with its Walled Garden and the Washington Monument. There are also protected structures to the immediate north of the site at Belcamp Hutchinson. The north western part of the site, where density is lowest may also be considered to be the furthest distance away from public transport and thus less appropriate for higher densities.</p> <p>The proposed design includes an appropriate palette of materials that are sensitive to the overall development and avoids the creation of monolithic blocks.</p>
<p>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 <i>“The Planning System and Flood Risk Management-Guidelines for Planning Authorities”</i> (2009).</p>	<p>The site makes use and will enhance the existing Mayne River and lake system as well as woodlands, which are within the Belcamp lands. The main areas of public open space for the Dublin City Council lands will be fronting onto and utilising these existing natural features.</p> <p>The sense of scale created by the taller buildings addressing this open space and natural features is to be welcomed.</p> <p>A site-specific flood risk assessment has been prepared by Waterman Moylan Consulting Engineers and is submitted under separate cover as part of the planning application, which confirms that the site and proposed development is not flood risk.</p>
<p>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.</p>	<p>As previously mentioned, the proposed development provides for a strong streetscape along the R139 Road to the south, which is currently lacking. It will also create new roads connecting the R139 and the Malahide Road (R107), which are indicated on the Development Plan zoning maps for both local authorities. This will improve the legibility of the scheme as a whole. The fact that these major road infrastructural works are to be carried out within</p>

	<p>Phase 1 ensure that the scheme will be developed in a cohesive manner.</p>
<p>The proposal positively contributes to the mix of uses and/or building/ dwelling typologies available in the neighbourhood.</p>	<p>The development as a whole provides for a mix of unit types including traditional houses, duplexes, apartments as well as childcare facilities, retail and commercial floor space such as restaurants and cafes.</p> <p>There will also be a mix of tenure in the form of Build to Sell (private residential) and some Build to Rent, which will also add to the mix and variety within the development.</p>
<p>At the scale of the site/building</p>	
<p>The form, massing and height of the proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p>	<p>The design of the development avoids long and uninterrupted blocks of apartments with a variation in the form and height of the buildings being a central element of the architectural design.</p>
<p>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guidelines like the Building Research Establishment’s ‘<i>Site Layout Planning for Daylight and Sunlight</i>’ (2nd Edition) or BS 8206-2:2008 – ‘<i>Layout for Buildings – Part 2 Code of Practice for Daylighting</i>’.</p>	<p>The proposed development will provide appropriate levels of daylight and sunlight and will not give rise to adverse overshadowing, as confirmed in the report prepared by DKPI for the Dublin City Council administrative part of the site, which is included as part of the application. The results of the assessment by DKPI found that the development is in accordance with the relevant ADF standards, with the 2% standard being applied for kitchen/living/dining rooms. All bedrooms and habitable rooms also achieved the required standard. Initially, 1 room that was tested was found to be marginally below the required standard, but a mitigating design measure of increase the size of the relevant window glazing by a mere 200mm ensured that the unit then met and indeed exceeded the required ADF figure set in the Guidelines.</p>
<p>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.</p>	<p>The development was also found to have no impact on third party lands or properties greater than that recommended in the relevant Guidelines. The Board are invited to refer to the</p>

	<p>DKPI assessment, submitted under separate cover, for full details.</p>
<p>Specific Assessment</p>	
<p>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 an assessment of the cumulative microclimatic effects where taller buildings are clustered.</p>	<p>A wind analysis report has also been prepared by IN2 engineering and submitted under separate cover as part of the application. The analysis from IN2 has helped to inform the design of the scheme. The Board can refer to the IN2 report for details, which found the scheme to be of a high quality in terms of micro-climate.</p>
<p>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.</p>	<p>Openfield Ecological Services have also prepared an Appropriate Assessment Screening Report and a Natura Impact Statement for the proposed development, which confirms that the development will not give rise to any adverse impacts on any European Site.</p> <p>The development itself will not result in any loss of protected species or their roosts, such as bats or badgers, which was confirmed within the reports prepared by Brian Keeley of Irish Wildlife Surveys, which are included under separate cover as part of this application.</p> <p>It is noted that the recommendations of the bat assessment have been taken into account by the design team, including light design and provision of bat boxes as part of the landscape design.</p> <p>In terms of any potential impact on flight lines or bird collisions, it is generally considered that the biggest risk to bird collision is the palette of materials to buildings with curtain glazing being the most serious generator of such risks. In this instance, the design team have chosen a palette of materials that would not give rise to increase bird collision. It is also important to note that the ecologists engaged as part of the design of the proposed development did not record the site as being within any noted bird flight paths. Furthermore, dark corridors are</p>

	<p>proposed within the development in order to protect birds and bats from artificial lighting. Such locations include along the Mayne River and at the proposed biodiversity Loop around the north and west site boundaries.</p> <p>An Environmental Impact Assessment Report has also been prepared as part of the application and confirms that the proposed development is acceptable from an environmental perspective.</p> <p>The Flood Risk Assessment included with the application also confirms that the development will not give rise to any flood risk either within the site or on third party lands.</p>
<p>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</p>	<p>There are no telecommunication structures located within the subject site itself.</p> <p>We note that the full extent of any impact that the proposed development may have on existing telecommunication channels would not be fully determined until detailed construction design state or operational phase of the development. It is noted that it is standard practice for telecoms operators to reconfigure their equipment where necessary in order to compensate for any potential impact that new buildings may have, which is common in an urban environment.</p> <p>There is sufficient space at roof level of the development to provide for any future telecommunication equipment should the need arise at detailed design stage, in consultation with the relevant telecommunication providers. The Board are invited to refer to the specific report prepared by DKP International on this matter for further details.</p>
<p>An assessment that the proposal maintains safe air navigation.</p>	<p>The proposed height of the development will not affect air navigation. Downey Planning previously engaged with the Irish Aviation Authority and have assessed the height of the proposed buildings and can confirm that they</p>

	will not impact the Dublin Airport Flight Procedures or Obstacle Limitation Surfaces.
An Urban Design Statement including as appropriate, impact on the historic building environment.	<p>An Urban Design Statement/Architects Statement has been prepared by both Wilson Architects (for the southern part of the Belcamp lands) and CCK Architects (for the northern part of the Belcamp Lands). An overall Design Strategy Overview report has also been prepared by the design team as part of the background and subsequent lodgement of this application. These are all submitted under separate cover as part of the application. This sets out the existing context of the site along with the rationale for design approach and assessment of receiving environment.</p> <p>As part of the EIAR, Courtney Deery also carried out an assessment of the archaeological/heritage environment for the site and the development, while Sheehan & Barry and CORA have assessed the architectural heritage for the site. The Board are invited to refer to these for further details.</p>
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	As previously noted, the planning application is being submitted along with the necessary Environmental Impact Assessment Report (including biodiversity chapter) and Appropriate Assessment screening report. A bat assessment was also prepared as part of the ecological and biodiversity assessments.

Specific Planning Policy Requirement 4 – *“It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:*

1. *The minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act, 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines.*
2. *A greater mix of building heights and typologies in planning for the future development of suburban locations; and*
3. *Avoid mono-type building typologies (e.g., two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more”.*

The proposed development provides for a high-density development of 1,230 units across 6 no. apartment blocks within the Dublin City area that will range in height from 1-9 storeys. It is respectfully submitted that the density proposed is in accordance with the national guidelines referred to in SPPR 4. Furthermore, the development will provide for a range of building types and heights.

In light of the above, it is considered that the proposed development is consistent with the requirements of these guidelines on building heights for urban developments and that greater heights and taller buildings are achievable. The proposed development at Belcamp is very well served by existing public transport and therefore can be expected to achieve high density residential development. Allowing for some tall buildings will help to achieve this aim.

Sustainable Urban Housing: Design Standards for New Apartments (2020)

The Guidelines state that ‘apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.’

In light of this, the Guidelines note that ‘City and County Development Plans must appropriately reflect this, in the context of the need to both sustainably increase housing supply and to ensure that a greater proportion of housing development takes place within the existing built-up areas of Ireland’s cities and towns. This means making provision for more residential development to take place on infill and brownfield sites and as refurbishment of existing buildings, to increase urban residential densities.’

Section 2.23 of the Guidelines also recognises that the National Planning Framework ‘signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance-based standards to ensure well-designed high-quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.’

Section 2.4 of the Guidelines also promotes higher density development in accessible, urban locations within easy walking distance to/from high frequency urban bus services. The subject site meets this criterion as it is within approximately 2.5 km walking distance of Clongriffin DART Station and a bus stop located on a QBC from Malahide into Dublin City Centre.

Sustainable Residential Development in Urban Areas & Design Manual (2009)

The role of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas is to ensure the sustainable delivery of new development throughout the country. The Guidelines provide clear guidance on the core principles of design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality development in policy documents and through the development management process. The Guidelines should be read in tandem with the Design Manual which demonstrates good design principles and their application in designing new residential developments.

The Guidelines also recognise the need to plan for sustainable neighbourhoods. In this regard, the proposed strategic housing development provides for community facilities in the form of childcare facilities as well as retail/commercial units and high-quality amenity spaces for the enjoyment of the local community. These will be centred around the proposed new Town Square, just north of the existing Walled Garden and also within Block 3 beside the R139. 2 no. childcare facilities are also being proposed (1 each within the DCC and FCC administrative areas of the site) along with a large area of public open space providing dedicated playing pitches.

Section 2.1 of the Guidelines state that *'the scale, location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy.'*

The sequential approach to land development is also recognised by the Guidelines within Section 3.2 which notes that *'the Department's Development Plan Guidelines (DoEHLG, 2007) specifies that zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities...'*

In this case, residential development is permitted in principle at this site under the Dublin City Development Plan 2016-2022. The Development Plan adopted a sequential approach when zoning lands for development. Thus, the location of the subject site and the zoning pertaining to the development is appropriate for the subject development proposal. Limiting or blanketing height will prevent sustainable, compact developments in the heart of such urban areas and will lead to 'leapfrogging' of developments and urban/suburban sprawl. Thus, the objectives capping height at the development sites conflict with National Planning Policy issued under Section 28 Guidelines, such as the Urban Development and Building Height Guidelines for Planning Authorities as well as the National Planning Framework.

The Guidelines also recognise the need to plan for sustainable neighbourhoods. In this regard, the proposed development provides commercial and community facilities as well as high-quality amenity spaces for the enjoyment of the local community. The proposed land uses are in accordance with the zoning at the site. It is important to note that the wider area, particularly at Northern Cross, also provides a wealth of services and amenities for the use and enjoyment of the community including local shops, supermarkets, schools, healthcare facilities, churches, community centres, public parks, swimming pool, etc. Further commercial activity will also take place within the Fingal administrative area of the site in a new Town Square area for Belcamp.

In terms of density, Section 5.8 of the Guidelines state that *'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.'* The proposed net density of for the scheme is c.77 units per hectare (across the DCC and FCC lands). The proposed density is in excess of the recommended minimum of 50 units per hectare. The subject lands are located on a high-quality transport route, which is due to be improved through BusConnects and therefore has the capacity to achieve higher densities. The proposed density is therefore considered appropriate due to the site's strategic location adjoining a high-quality transport corridor and the context of the site within the M50 ring. The Guidelines do not prescribe a maximum density and as such the densities set out above are minimum densities only. Higher density development is encouraged within these Guidelines.

The Guidelines clearly state that increased densities should be provided on sites within 500m of a bus stop or within 1km of a light rail or rail station. The subject site meets this criterion as it is within approximately 2.5km walking distance of Clongriffin DART station and there are bus stops located on a QBC from Malahide into Dublin City Centre and along the adjoining R139, which as previously stated is to be improved through BusConnects. The Board are invited to refer to the Traffic and Transport assessments have been carried out by Waterman Moylan, Systra and Derry O’Leary, which confirms that the existing public transport has sufficient capacity and frequency to cater for the proposed development.

Downey Planning are of the considered opinion that the proposed development is in accordance with national planning policy and will provide for the proper planning and sustainable development of the area.

(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.

There is significant precedent whereby An Bord Pleanála have granted permission for developments that exceed the permitted heights outlined in the Dublin City Development Plan 2016-2022. These precedent cases are summarised below:

Northern Cross SHD – ABP Ref. 307887-20

An Bord Pleanála recently granted permission for an SHD scheme comprising 191 no. apartments on adjoining lands at Site 2, Mayne River Avenue, Northern Cross, Malahide Road, Dublin 17. The height of this development extended to 9 storeys.

Clongriffin SHD – ABP Ref. ABP-305316-19

An Bord Pleanála granted permission at Clongriffin for 2 no. concurrent SHD applications with this referenced SHD materially contravening the Development Plan in terms of building height.

Malahide Road – ABP Ref. ABP-304346-19

An Bord Pleanála recently granted permission for a development at the former Chivers factory site. The permitted development ranged in height from 4-9 storeys and the site was within the Outer City. In making their decision, the Board stated the following:

“The height of the proposed building exceeds the limit of 16m for this area set down by section 16.7.2 of the Dublin City Development Plan and that the proposed development would materially contravene this provision of the plan. Nevertheless the Board considered that a grant of permission is warranted in accordance with section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Minister under section 28 of the Act in December 2018 and the compliance of the proposed development with SPPR 3 of those guidelines”.

Clarehall – ABP Ref. ABP-304196-19

An Bord Pleanála granted permission for a development of 123 no. BTR apartments with the scheme ranging in height from 4-9 storeys. The site was within the Outer City also and the majority of the site was not within a KDC or LAP area defining increased heights for the site. In granting permission, the Board stated:

“The height the proposed building exceeds the limit of 16m for this area set down by section 16.7.2 of the city development plan and that the proposed development would materially contravene this provision of the plan. Nevertheless the Board considered that a grant of permission is warranted in accordance with section 37(2) (b) (iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the minister under section 28 of the act in December 2018 and the compliance of the proposed development with SPPR 3 of those guidelines”.

It is evident therefore that this current proposed development could be granted planning permission having regard to the pattern of development in the area and permissions granted in the area since the making of the current Development Plan.

3.2 Material Contravention of Unit Mix

Section 16.10.1 of the Dublin City Development Plan 2016-2022 sets out requirements in terms of the mix of dwellings provided as part of new apartment schemes. This provides for a maximum of 25-30% 1-bedroom units and a maximum of 15% of 3 or more-bedroom units. The proposed development seeks to provide a total of 1,230 no. apartments within the Dublin City Council administrative area of the site comprising 387 no. 1-bedroom units, 697 no. 2-bedroom units and 146 no. 3-bedroom units. The current proposal therefore provides for a mix above the maximum of 1-bedroom units (please refer to Table 1 below). It may be argued that while the proposal exceeds the requirement of the Dublin City Development Plan, the contravention is arguably ‘de-minimus’. Nonetheless, justification for it shall be outlined hereunder.

	Unit Mix				
	Studio	1-Bed	2-Bed	3-Bed	4-Bed
No. of Units	0	387	697	146	0
Unit Mix (%)	0%	31.5%	56.7%	11.9%	0%
Total	1,230 Apartments				

Table 1: Unit Mix within the DCC Administrative Area

Justification

As noted earlier, the contravention is arguably de minimus, and the Development Plan does provide for flexibility in this respect (p. 329 which states that “where an applicant cannot fully meet all of the requirements set out above and in the 2015 Department Guidelines, this must be clearly identified and a rationale for any alternative, compensatory design solution set out. This may arise due to a design constraint associated with the site or location. In such cases the proposals will be considered having regard to the mitigating design features proposed, e.g., on a constrained inner urban site it may not be possible to provide communal amenity space, but it might be acceptable to provide more private amenity space than would be required and/or more individual apartment living space”). In this regard, we note that there are compensatory measures provided for within the development, including the fact that the apartments themselves exceed the minimum floor area and private amenity space standards set out in the Plan and therefore offer a higher quality level of residential amenity. Furthermore, the site enjoys a large area of public open space, which includes a riverside walk as well as play facilities for children and kickabout spaces. This exceeds the minimum of 10% of the site area and again emphasises the fact that this development will provide for a high level of quality and amenity for future residents.

However, should the Board still take the view that a material contravention of the Plan still occurs, this Material Contravention Statement shall now set out the grounds which enables the Board to still grant permission having regard to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 2 of these criteria as set out in section 3.1 of this Material Contravention Statement.

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), specifically the ‘Sustainable Urban Housing: Design Standards for New Apartments (2020), which were written and adopted after the adoption of the Dublin City Development Plan 2016 and as such supersede the requirement from the Development Plan for apartments.

The Guidelines have a number of specific planning policy requirements (SPPRs), which include:

Specific Planning Policy Requirement 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).*

In this regard, the proposed development will consist of 1,230 no. apartments as set out in Table 1 above. Of these units, 387 (31.5%) of the units within the Dublin City Council administrative area are 1-bedroom units and thus are consistent with SPPR1 of these Guidelines.

Specific Planning Policy Requirement 3 – *Minimum Apartment Floor Areas:*

- *Studio apartment (1 person) 37 sqm*
- *1-bedroom apartment (2 persons) 45 sqm*
- *2-bedroom apartment (4 persons) 73 sqm*
- *3-bedroom apartment (5 persons) 90 sqm*

The proposed apartments all meet or exceed the minimum floor areas required under SPPR 3 of the Guidelines and thus is consistent with SPPR 3.

It is respectfully submitted that these Guidelines take precedent over the Development Plan where there is a conflict between them. The policy documents outlined in Section 3.1 of this report would also support this mix of units for the proposed development given its location, planning history and proximity to public transport. In this regard, the Board would be entitled to grant permission under Section 37(2)(b) of the Planning and Development Act, 2000 as amended.

Alternatively, the Board could grant permission on the basis that Section 9(3)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 provides that when making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister. Where specific planning policy requirements in such Ministerial guidelines differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

It is respectfully submitted that even if the Board does not expressly grant permission on the basis of material contravention, the Board is required to dis-apply any provisions of the Dublin City Development Plan 2016-2022 to the extent that they differ from any specific planning policy requirements set out in Ministerial Guidelines, which has been set out above.

3.3 Material Contravention of Car Parking Standards

The subject site is located within parking Zone 2 and maximum parking requirements set out in the Development Plan for the pertaining uses (apartments/residential, retail and childcare facilities) are as follows:

Land Use Category	Parking Standard	No. of Units (DCC Lands Only)	Parking Requirement	Max/ Norm ?
Residential (Houses, Apartments and Duplexes)	1.5 per unit	1,230	1,845.0	Max
Pre-school facilities/crèche	1.0 per classroom	6 no. classrooms	6.0	Max
Café	1 per 150m ² Seating	417.8m ²	3	Max
Retail	1 per 75m ² GFA	417.8m ²	6	Max
Total	-	-	1,857	-

The current Dublin City Development Plan 2016-2022 requires that the development has a maximum of 1,857 no. car parking spaces within the DCC element of the scheme. However, the proposed development proposes a total of 525 no. car parking spaces within the DCC lands of the overall scheme. This is below the maximum standards in the Development Plan and as such materially contravenes the Development Plan.

Description		No. of Units	No. of Spaces	Location	Ratio
Dublin City Council	Block 1	273	128	On-Street	0.5
	Block 2	160	48	On-Street/Curtilage	0.3
	Block 3	297	91	On-Street/Under Podium	0.3
	Block 4	285	163	On-Street/Under Podium	0.6
	Block 5	96	52	Under Podium/Basement	0.5
	Block 6	119	23	Under Podium	0.2
	Com-merc Crèche	6 Classrooms	7	On-Street	-
	Block 3 Café/Retail	393.4m ²	13	Under Podium	-
DCC Subtotal		1,230	525	-	0.4

Justification

It is important that this section is read in conjunction with the Car Parking Strategy Report, prepared under separate cover by Waterman Moylan Consulting Engineers. Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies all 4 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

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

It is evident that the objectives within the Dublin City Development Plan relating to car parking standards are not clearly stated in relation to this proposed development. Specifically, the Development Plan has set a maximum standard for car parking, but states that car parking standards for apartments may be reduced in certain instances.

The Development Plan goes on to state that proposals will be informed by a Transport Assessment, the scope of which must be agreed by Dublin City Council prior to the submission of a planning application. It is noted that Waterman Moylan Consulting Engineers engaged with the Planning Authority in advance of lodging this application and have prepared such a Transport and Traffic Assessment (TTA), along with a Residential Travel Plan and Parking Management Strategy, which are submitted under separate cover as part of this application. Separately, Systra have prepared a Sustainable Transport Strategy while Derry O'Leary has prepared a Public Transport Capacity Assessment report, which are submitted under separate cover. The reports help to justify and support this proposed development and confirm that the proposed development is adequately served by car parking and public transport such that reduced car usage and ownership can be planned as part of this proposed development. In this regard, Derry O'Leary's Public Transport Capacity Assessment report concludes that:

1. *"The Belcamp SHD site is well positioned to both the existing and the proposed, enhanced, Bus Connects and DART+ public transport network.*
2. *There are significant levels of spare capacity on the current bus network in the immediate area of the subject site, as shown by the bus stop surveys undertaken for this report.*
3. *The detailed layout of the SHD scheme contains key infrastructure of immense benefit to buses, both in the short and long term.*
4. *The NTA's BusConnects project proposals include attractive new orbital and radial routes of direct benefit to the development".*

It is important to note that the location of the proposed development within a town centre and in close proximity to a DART line and a high-frequency and capacity bus network, allows for car parking provision standards to be minimised, substantially reduced or eliminated in certain circumstances. Therefore, it is considered that the proposed development is consistent with the aforementioned standards.

In this regard, Downey Planning are of the considered opinion that the Board are entitled to grant permission under Section 37(2)(b)(ii) of the Act.

(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

It is respectfully submitted that the provisions of the car parking standards set out in the Dublin City Development Plan 2016-2022 differ from recommendations and requirements set out in Ministerial Guidelines, specifically section 4 of the *Sustainable Urban Housing: Design Standards for New Apartments* (2020). It is submitted that the subject site is located at a Central and/or Accessible Urban

Location, as defined by the Guidelines, and therefore SPPR8 of the Guidelines set a default policy for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances, such as for Build to Rent schemes, which part of this development includes and complies with SPPR 7 of the Guidelines (as outlined within the Statement of Consistency with Planning Policy document prepared under separate cover).

It is respectfully submitted that the parking provided as part of this application is wholly in accordance with the policy set out in the Apartment Guidelines and national policy.

In light of the foregoing, Downey Planning are of the considered opinion that the Board are entitled to grant permission under Section 37(2)(b)(iii) of the Act.

(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.

We refer the Board to the recent decision to grant permission for the *Northern Cross SHD – ABP Ref. 307887-20*, to the east of this development. That permitted a total of 118 no. car parking spaces serving 191 no. apartments (ratio of 0.62 spaces per unit).

In light of the foregoing, Downey Planning are of the considered opinion that the Board are entitled to grant permission under Section 37(2)(b)(iv) of the Act.

3.4 Material Contravention of Dual Aspect Ratio

Apartment Block 3 contains a total of 297 no. units, of which 137 are dual aspect (i.e., 46.13%). An argument may be made that this falls below the requirement of the Development Plan for 50% of the units to be dual aspect.

Justification

Having noted the fact that the quantum of dual aspect units within Block 3 is below the Development Plan standard of 50%, Downey Planning wish to outline some mitigating and compensatory measures that apply to these units as follows:

- None of these units are north facing.
- All of the units are larger than the minimum required floor area for the unit sizes. For instance, Unit 3.713 (1 bedroom unit) has a floor area of 55.53 sq.m., which is significantly above the minimum standard of 45 sq.m.

Having identified a potential material contravention and set out some compensatory measures, Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 2 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies all 4 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

(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

The Sustainable Urban Housing Guidelines: Design Standards for New Apartments (2020) reference the standards that should apply in relation to dual aspect ratios. Specifically, Specific Planning Policy Requirement states:

“In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

- i. A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate.*
- ii. In suburban or intermediate locations, it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.*
- iii. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.”*

Given the unique juxtaposition of the subject site across two administrative areas and over a site extending to c. 67 hectares, it is respectfully submitted that the subject site falls within a Centrally/Accessible location for the DCC lands (i.e., Belcamp south) as it is within close proximity to employment and high-capacity public transport services, along the R139 and R107. Therefore, the apartments within the Dublin City Council administrative area would require a minimum of 33% of the units to be dual aspect. The provision of 46.13% of the units within Block 3 is therefore consistent with SPPR 4 of these Guidelines.

In light of the foregoing, Downey Planning are of the considered opinion that the Board are entitled to grant permission under Section 37(2)(b)(iii) of the Act.

4.0 MATERIAL CONTRAVENTION OF THE FINGAL COUNTY DEVELOPMENT PLAN 2017-2023

Having set out and justifying how the proposed development may contravene the Dublin City Development Plan 2016-2022, this Statement shall now set out how the development may be considered to materially contravene the current Fingal County Development Plan 2017-2023.

4.1 Material Contravention of Local Area Plan Objective (Objective Balgriffin/Belcamp 5 and Balgriffin/Belcamp 6)

The Fingal Development Plan sets an objective to prepare a Local Area Plan for the Belcamp lands as follows:

Objective BALGRIFFIN/BELCAMP 5: *“Consider a limited quantum of development on the Belcamp LAP lands to facilitate the rehabilitation and preservation of Belcamp House prior to the adoption of Belcamp LAP. A design brief including the quantum and location of any such development, which shall not prejudice any future road requirements, shall be agreed with the Planning Authority prior to a planning application being lodged. Not more than 50% of any residential units permitted shall be sold or occupied pending the full re-instatement of Belcamp House to the satisfaction of the Planning Authority.”*

Objective BALGRIFFIN/BELCAMP 6: *“Prepare a Local Area Plan for lands at Belcamp (see Map Sheet 9, LAP 9.B) to provide for a sustainable mixed use urban district including residential, community and recreational facilities subject to the delivery of the necessary infrastructure and rehabilitation and restoration of Belcamp House.”*

In relation to Local Area Plans, the Development Plan indicates that, *“the preparation of Local Area Plans will enable a high degree of flexibility in the application of zoning and planning policies and assist in the application of the Council’s policies in relation to:*

- *Ensuring appropriate residential densities, especially where near to public transport links, with a requirement for a high standard of layout design and a mix of housing types.*
- *Providing for industrial and commercial uses to a high standard of design.*
- *Providing for the implementation of the Council’s objectives in relation to Green Infrastructure which seeks to address provision for biodiversity, parks and open space, sustainable water management, landscape character, and architectural and archaeological heritage in a coherent and integrated manner.*
- *Considering the feasibility of facilitating specific uses to provide appropriate employment opportunities.*
- *Providing for appropriate, viable and sustainable uses of the Greenbelts.*
- *Providing for the development of land to be phased with the provision of infrastructural and social facilities.*
- *Ensuring an appropriate mix of social, affordable and private housing.*
- *Providing for the development of viable rural communities.”*

No such Local Area Plan has been prepared by the Planning Authority and Downey Planning shall set out the justification as to why this proposed development should be permitted in the absence of the LAP as set out under Objective Balgriffin/Belcamp 6 of the Fingal County Development Plan.

Justification

In the first instance, the Board are invited to refer to Section 2.1 of the Statement of Response document, prepared under separate cover by Downey Planning, which justifies why the proposed development should be permitted in the absence of a Local Area Plan having been prepared and having regard to the existing infrastructure serving these lands and the pattern of development in the area and the fact that the proposed development represents a unique opportunity to provide for a truly strategic housing development that includes lands across the administrative boundaries of 2 planning authorities. Furthermore, a sequential assessment carried out by Downey's confirms that these Belcamp lands are the next sequentially appropriate lands for development across the wider Clongriffin-Belmayne area. Notwithstanding this, we outline how the Board would be entitled to grant permission despite this material contravention of the Development Plan, having regard to Section 37(2)(b) of the Act.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies all 4 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

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

It is evident that there are conflicting objectives within the Development Plan which seeks to accord with national planning policy in terms of the delivery of housing, the density of development and indeed the permitted height of development.

With regards to the preparation of local areas plans, page 91 of the Development Plan states that local area plans for these lands shall be prepared and agreed by the Planning Authority prior to the submission of any planning application.

“Objectives are provided detailing locations where Local Area Plans (LAPs) and Masterplans are required in a number of urban areas. Details of these LAPs and Masterplans are identified below. In accordance with Objectives PM13 and PM14 (Chapter 3, Placemaking) the LAPs and Masterplans for these lands shall be prepared and agreed by the Planning Authority prior to the submission of any planning application. LAPs and Masterplans shall provide for the phased development of subject lands as appropriate.”

However, the Planning Authority have already granted planning permission on lands that are within the designated local area plan area prior to such a statutory LAP being prepared (Reg. Refs. F15A/0609; F18A/0058; F19A/0220 and F19A/0221 refers). In this regard, Reg. ref. F15A/0609 represents the initial phase of development for Belcamp and provided for housing between the Malahide Road and Belcamp Hall itself as well as the restoration of Belcamp Hall itself. Some amendments have since been made to that original parent permission. However, the precedent for allowing development on the subject lands in advance of an LAP being prepared.

It is further submitted that seeking to prepare the local area plan by the Planning Authority prior to the lodgement of this planning application can prevent the delivery of housing on appropriately zoned lands, whereby the Planning Authority are not in a position to prepare such a plan within the lifetime of the County Development Plan. Objective SS02 of the Development Plan seeks to

“Ensure that all proposals for residential development accord with the County’s Settlement Strategy and are consistent with Fingal’s identified hierarchy of settlement centres”.

The Core Strategy of the Development Plan (including Objective SS02) clearly seeks to have residential development take place during the lifetime of this Plan on appropriately zoned lands in the County. It is important to note that the current Development Plan is now under review and a new Plan is due to come into effect in February/March 2023. It is extremely unlikely that the LAP could be prepared prior to this, as the applicant has been verbally advised by the Council.

Objective PM14, seeking to have the Planning Authority first prepare a local area plan for these lands can be seen to conflict with Objective SS2 of the Development Plan. Therefore, it is submitted that there is a lack of clarity regarding the true intention of the Plan as well as conflicting objectives within it.

Therefore, it is submitted to the Board that there are conflicting objectives in the Development Plan and objectives not clearly stated with regards to the subject lands.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), which shall be discussed now.

Development Management Guidelines for Planning Authorities (2007)

The government’s guidelines on Development Management and state that development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame. It is considered that the same constraint applies with regard to the commitment in a development to the preparation of a masterplan.

Having regard to the advice given in the Development Management Guidelines and the absence of a demonstrable commitment by the Planning Authority to commence work on the local area plan, it is submitted to the Board that permission should be granted for the subject application noting that the lands are zoned for residential development and that the proposals comply with the objectives for a local area plan for the lands. It is submitted that it would be inappropriate to refuse permission for the proposed development on the grounds that the development is premature pending the preparation and adoption of a local area plan by the Council noting that the lands are in the sole control and ownership of the applicant and is not reliant upon third party landowners. Furthermore, the proposed development has been sensitively designed in a manner that does not prejudice the development of the surrounding lands or indeed does not prejudice the preparation of a local area plan by the Council.

(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.

There is recent precedent for residential development being granted on lands designated for the preparation of a local area plan where such a plan has not been prepared or adopted by the Council and indeed there is precedent on the Belcamp lands themselves.

The Planning Authority have already granted planning permission on lands that are within the designated local area plan area prior to such a statutory LAP being prepared (Reg. Refs. F15A/0609; F18A/0058; F19A/0220 and F19A/0221 refers).

It is evident therefore that this current proposed development could be granted planning permission having regard to the pattern of development in the area and permissions granted in the area since the making of the current Development Plan.

4.2 Material Contravention of Objective DMS73 - SUDS

Objective DMS73 of the Development Plan states:

“Ensure as far as practicable that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum 10% of open space provision shall be taken up by SuDS. The Council will give consideration to the provision of SuDS on existing open space, where appropriate”.

Waterman Moylan Consulting Engineers have designed a range of SuDS measures for the proposed scheme, in consultation with the Planning Authority and these are discussed in their Engineering Assessment Report and associated drawings, which are submitted under separate cover. These SuDS measures range from green roofs, detention basins, bio-retention and reedbeds as well as using the existing ponds/lakes.

Justification

While some of these measures are within the overall public open space, it is respectfully considered by Downey's and the design team to make a positive contribution to the overall public open space provision. Notwithstanding this, we outline how the Board would be entitled to grant permission despite this material contravention of the Development Plan, having regard to Section 37(2)(b) of the Act.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies all 3 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

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

It is evident that there are conflicting objectives within the Development Plan which seeks to accord with national planning policy in terms of the delivery of housing, the density of development and indeed the permitted height of development.

It is submitted that the above Objective DMS73 may be considered to conflict with the following Green Infrastructure – Sustainable Water Management Theme of the current Development Plan:

“GI32 – Seek the creation of new wetlands and/or enhancement of existing wetlands through provision for Sustainable Drainage Systems (SuDS)”.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended). Section 4.32 of the Guidelines for Planning Authorities on Sustainable Residential Development (2009) state that:

“From the initial design phases to subsequent consideration of planning issues and construction, every effort should be made to incorporate the principles of sustainable urban drainage into new development”.

It is respectfully submitted that the SuDS designs within this scheme has achieved this and thus is consistent with these Guidelines.

4.3 Material Contravention of Objective DMS113 and Table 12.8 - Car Parking Standards

Table 12.8 of the Fingal County Development Plan requires the following car parking standards:

Land Use Category	Parking Standard	No. of Units (FCC Lands Only)	Parking Requirement	Max/ Norm?
House - urban/suburban 1 or 2 bedrooms	1-2	16	16-32	Norm
House - urban/suburban 3 or more bedrooms	2	457	914.0	Norm
Apartment, townhouse 1 bedroom	1, plus 1 visitor space per 5 units	253	303.6	Norm
Apartment, townhouse 2 bedrooms	1.5, plus 1 visitor space per 5 units	348	591.6	Norm
Apartment, townhouse 3+ bedrooms	2, plus 1 visitor space per 5 units	223	490.6	Norm
Pre-school facilities/crèche	0.5 per classroom	6 no. classrooms	3.0	Max
Restaurant/Pub/Café	1 per 15m ²	479.0m ²	31.9	Norm
Retail	1 per 20m ²	2,315.5m ²	115.8	Max
Total	-	-	2,466.5	-

The current Fingal County Development Plan 2017-2023 therefore requires that the development would provide a total of 2,466.5 no. car parking spaces within the FCC element of the scheme. However, the proposal for car parking within the Fingal lands at a rate of 2 no. on-curtilage spaces per house, except in the 2-beds dwellings where a rate of 1 no. space per dwelling applies, and then at a rate generally of 1 space per duplex & apartment providing a total of 1,654 no. car parking spaces. This is below the Development Plan standard and as such may be considered to materially contravene the Development Plan in relation to car parking standards.

Fingal County Council	Houses	2-Bed	16	16	On-curtilage	1.0
		3-Bed	385	770	On-curtilage	2.0
		4-Bed	72	144	On-curtilage	2.0
	Duplexes	Block 1.1	18	18	Curtilage/Under-Croft	1.0
		Block 1.2	18	18	Curtilage/Under-Croft	1.0
		Block 1.3	18	18	Curtilage/Under-Croft	1.0
		Block 1.4	18	18	Curtilage/Under-Croft	1.0
		Block 1.5	18	18	Curtilage/Under-Croft	1.0
		Block 2.1	8	8	On-Street/Curtilage	1.0
		Block 2.2	16	16	On-curtilage	1.0
		Block 2.3	16	16	On-curtilage	1.0
		Block 2.4	8	8	On-curtilage	1.0
		Block 2.5	12	12	On-curtilage	1.0
		Block 2.6	16	16	On-Street/Curtilage	1.0
		Block 3.1	12	12	On-curtilage	1.0
		Block 3.2	12	12	On-curtilage	1.0
		Block 3.3	12	12	On-curtilage	1.0
		Block 3.4	12	12	On-curtilage	1.0

Description		No. of Units	No. of Spaces	Location	Ratio	
Fingal County Council	Block 3.5	12	12	On-curtilage	1.0	
	Block 3.6	16	16	On-curtilage	1.0	
	Block 3.7	16	16	On-curtilage	1.0	
	Block 3.8	8	8	On-curtilage	1.0	
	Block 3.9	8	8	On-curtilage	1.0	
	Apartments	Block A	23	16	On-Street/Curtilage	0.7
		Block B	23	16	On-Street/Curtilage	0.7
		Block C	27	18	On-Street/Curtilage	0.7
		Block D	42	12	On-Street	0.3
		Block F	103	91	Under Podium/Basement	0.9
		Block G	65	40	Under Podium	0.6
		Block H	46	32	On-Street/Curtilage/Under-Croft	0.7
		Block J	40	28	Curtilage/Under-Croft	0.7
		Block L	46	32	On-Street/Curtilage/Under-Croft	0.7
		Block M	56	39	Curtilage/Under-Croft	0.7
		Blocks N & P	79	58	On-Street/Curtilage	0.7
	Commercial	Crèche	6 Classrooms	7	On-Street	-
		Block F	1,163m ²	26	Under Podium	-
		Town Square Environs	1,603m ²	35	On-Street	-
FCC Subtotal		1,297	1,654	-	1.2	

JUSTIFICATION

It is important that this section is read in conjunction with the Car Parking Strategy Report, prepared under separate cover by Waterman Moylan Consulting Engineers. Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 3 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), which have been outlined above and include the Design Standards for New Apartments.

As outlined, the proposed development proposes to provide a total of 1,654 no. car parking spaces, for the Fingal lands. The rate of car parking for the housing element of the scheme is compliant with the Development Plan standards.

However, the reduction in car parking is related to the duplex/apartment element of the scheme and commercial areas. The reduced provision of between 0.6-1.0 car parking space per apartment unit reflects the location of the development in relation to public transport services. This is in line with the Design Standards for New Apartments (2020) which states:

“In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.”

Waterman-Moylan Consulting Engineers have prepared a Travel Plan and Car Parking Strategy, which clearly outlines a justification for the level of car parking being proposed as part of this development. Section 4.1 of the Car Parking Strategy states:

“The proposed development at Belcamp has been specifically designed to cater for alternative modes of transport with significant active travel infrastructure for pedestrians and cyclists, with dedicated bus lanes and a bus gate, with car sharing services to reduce

reliance on car ownership and with a central transport hub to allow residents and visitors to travel to Belcamp Town Centre by means other than private car”.

Section 4.3 of the Car Parking Strategy sets out a parking management strategy that will help to reduce the demand for parking within the scheme.

The Travel Plan and Car Parking Strategy are submitted under separate cover as part of the application and the Board are invited to refer to that report for further details.

(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.

We refer the Board to the recent decision to grant permission for the *Northern Cross SHD – ABP Ref. 307887-20*, to the southeast of this development. That permitted a total of 118 no. car parking spaces serving 191 no. apartments (ratio of 0.62 spaces per unit). This current proposal is at a ratio of 0.7 spaces per unit. In this regard, Downey Planning are of the considered opinion that the Board are entitled to grant permission under Section 37(2)(b)(iv) of the Act.

4.4 Material Contravention of Specific Objectives of the Fingal County Development Plan

An argument may be made that the proposed development may materially contravene the following objectives of the current Fingal County Development Plan

Objective PM64:

“Protect, preserve and ensure the effective management of trees and groups of trees”.

Objective NH27:

“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”.

Objective CH20:

“Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, is compatible with the special character, and is appropriate in terms of the proposed scale, mass, height, density, layout, materials, impact on architectural or historic features, and junction with the existing Protected Structure”.

Objective CH21:

“Seek that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any

complex of adjoining buildings, designed landscape features, or designed views or vistas from or to the structure is conserved”.

Objective DMS23 - Units Per Core

Objective DMS23 of the Fingal County Development Plan states the following:

“Permit up to 8 apartments per floor per individual stair/lift core within apartment schemes”.

With regards to permitting up to 8 apartments per floor per individual stair/lift core within apartment schemes, the proposed apartment developments may be considered to conflict with Objective DMS23 of the Development Plan as blocks F1 and F2 contain up to 12 units per core per floor.

JUSTIFICATION

It is respectfully submitted that the proposed development has sought to retain where possible all existing trees and hedgerows within the scheme. Significant effort has been made to retain perimeter hedgerow and habitats through the creation of a biodiversity loop.

Furthermore, the main Protected Structures within the Belcamp lands are not affected directly by this SHD application. In fact, an argument could be made that the proposed development will offer increased protection from anti-social behaviour through the establishment of a new residential community, which will offer increased passive surveillance and activity at and around these structures.

The landscape features have been successfully incorporated into the overall design for the scheme as illustrated within the landscape reports and architectural heritage impact assessments, which are submitted under separate cover as part of this application.

Notwithstanding this, an argument may still be made that the development materially contravenes these Objectives, and as such Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 2 of these criteria as follows:

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

As set out in Section 3.1 of this report, there is a clear and urgent need for housing at a national level within Ireland, which is particularly prevalent within the larger cities and towns, including Dublin. This is acknowledged by the Government as well as planning authorities and other such bodies. The result of this crisis has been a significant change in planning policy and guidance, which seeks to increase the output of housing with a focus being on increased densities within appropriate urban locations and zoned and serviceable sites. Key policy changes include:

- Rebuilding Ireland, an Action Plan for Housing and Homelessness (2016);
- Project Ireland 2040 – National Planning Framework;

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

All of these documents acknowledge the current need and demand for additional housing and seek to bring forward the delivery of housing units. This current proposal offers the opportunity to bring forward 2,527 no. new housing units as well as retail/commercial and childcare facilities.

Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act as amended. Therefore, should the Board determine that the proposed development is a material contravention of any of the policies of the Development Plan, then 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.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), which have been outlined above and include the Design Standards for New Apartments.

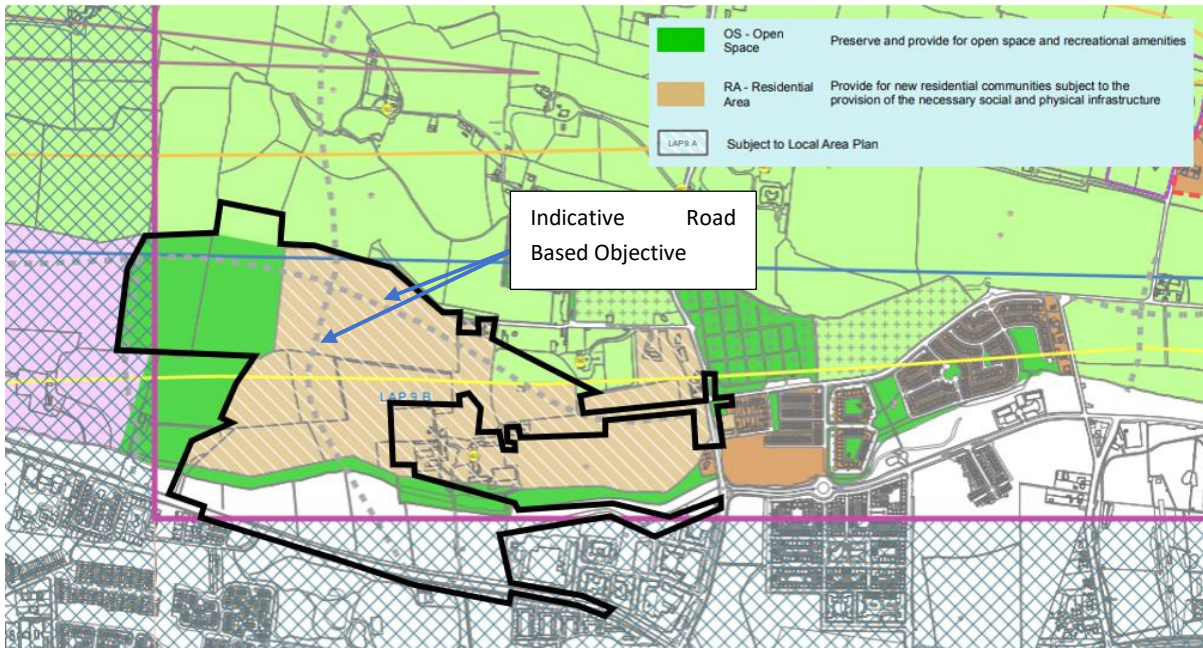
While the proposed development provides more than 8 no. apartments per floor/per floor within apartment blocks F1 and F2, the development and number of units per core/per floor is in accordance with the 'Design Standards for New Apartments Guidelines for Planning Authorities' (2020) and therefore meets criteria (iii) as set out above.

5.0 MATERIAL CONTRAVENTION OF MAP BASED ROAD OBJECTIVES (BOTH DUBLIN CITY DEVELOPMENT PLAN AND FINGAL COUNTY DEVELOPMENT PLAN)

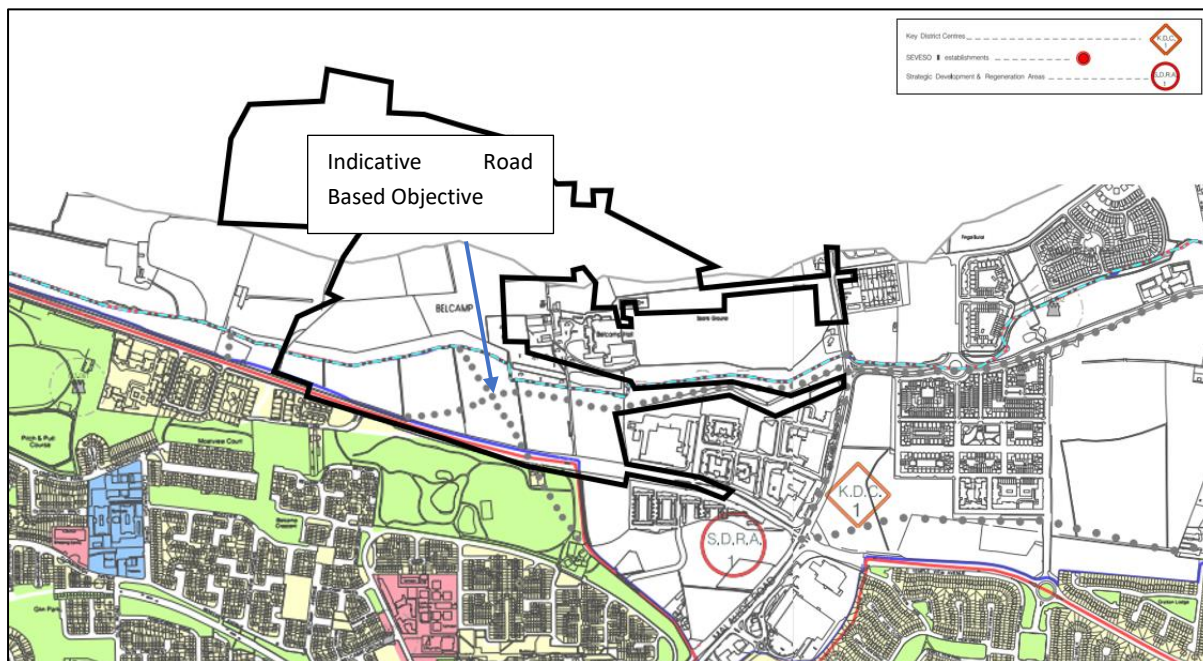
An argument may be made that the proposed development materially contravenes the map-based road objectives as they relate to the subject lands at Belcamp. These map-based road objectives are indicated on Land Use Zoning Map 9 of the Fingal County Development Plan 2017-2023 and Land Use Zoning Map B of the Dublin City Development Plan 2016-2022.

The alignments indicated on the 2 Development Plan zoning maps, were indicative only and subject to detailed design and consultation with various bodies, such as the local authorities, landowner (application in this instance) and others such as the National Transport Authority (NTA). Therefore, the alignments on the Development Plan zoning maps were subject to change and could not be considered as a final chosen design or alignment.

The planning application in this instance may be considered to materially contravene the Development Plans as the alignments shown on the land use zoning maps are not strictly followed through in the design of the roads submitted as part of the planning application.



Extract from Sheet 9 of the Fingal CDP Land Use Zoning Map (application lands outlined in black)



Extract from Sheet B of the Dublin City DP Land Use Zoning Map (application lands outlined in black)

JUSTIFICATION

The planning application in this instance may be considered to materially contravene both of the Development Plans as the alignments shown on the land use zoning maps are not strictly followed through in the design of the roads submitted as part of the planning application. In this regard, it is important to note that the applicant and design team have sought to engage with the NTA as well as Fingal County Council and Dublin City Council in relation to the design and alignment of these roads. The application does include for the provision of such roads albeit with different alignments to that shown in the Development Plan zoning maps.

It is also noted that the alignment of the roads has changed from that submitted to the Board as part of the Pre-Application Consultation stage. The previously proposed road alignment, at consultation stage, provided a straighter alignment for the proposed East West Link Road (EWLR). However, alternative design options have since been explored by the design team in consultation with key stakeholders, including the IDA, who are landowners of the strategic employment lands adjoining the western boundary of the application lands. Following this consultation, it was considered that the previous alignment did not represent the optimal design solution for the Belcamp lands and the surrounding context, including the adjoining IDA High Technology employed zoned lands to the west of the site. At a strategic and spatial level, the discussions took place with representatives of the IDA and it is the position of the IDA that the IDA have taken the Development Plan alignment as the default position of the road for their future proposals for their landholding. In order to facilitate the potential of a large single user on the site and maintain their landbank as a strategic whole, the IDA is not in a position to agree on the east-west alignment that divides their lands and thus there is a requirement for the EWLR to align as per the now preferred road design, i.e., to the northwest of the Belcamp lands. In light of this, the applicant has brought forward this preferred route, which is submitted as part of this planning application and is the preferred route for the application.

At a site level, the previous consultation stage road layout segregated the proposed school reserved site from the playing pitches and meant that students would have to cross this EWLR to access the playing pitches, which represented a safety risk. The 'S' bend now proposed in the road will act as a speed reducing measure for vehicles travelling from the west as it approaches the Belcamp school site and Town Square at the heart of the scheme. It is important to note that the realignment of the road means that the open space and playing fields are now connected to the future reserved school site and ensures that the school can use these facilities without the need to directly cross the EWLR".

For further details, the Board are also invited to refer to the TTA, Engineering Assessment Report all prepared by Waterman Moylan Consulting Engineers as well as the Sustainable Transport Report prepared by SYSTRA, which are all submitted under separate cover as part of this application.

Notwithstanding this, an argument may still be made that the development materially contravenes these Objectives, and as such Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 1 of these criteria as follows:

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

There is a clear and urgent need for housing at a national level within Ireland, which is particularly prevalent within the larger cities and towns, including Dublin. This is acknowledged by the Government as well as planning authorities and other such bodies. The result of this crisis has been a significant change in planning policy and guidance, which seeks to increase the output of housing with

a focus being on increased densities within appropriate urban locations and zoned and serviceable sites. Key policy changes include:

- Rebuilding Ireland, an Action Plan for Housing and Homelessness (2016);
- Project Ireland 2040 – National Planning Framework;
- Sustainable Urban Housing: Design Standards for New Apartments (2020);
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018); and
- Design Manual for Urban Roads and Streets (2013).

All of these documents acknowledge the current need and demand for additional housing and seek to bring forward the delivery of housing units. This current proposal offers the opportunity to bring forward 2,527 no. new housing units as well as retail/commercial and childcare facilities.

Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act as amended. Therefore, should the Board determine that the proposed development is a material contravention of any of the policies of the Development Plan, then 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.

6.0 POTENTIAL MATERIAL CONTRAVENTION OF BOTH DUBLIN CITY DEVELOPMENT PLAN AND FINGAL COUNTY DEVELOPMENT PLAN REGARDING CHILDCARE FACILITIES

The proposed development will also include the provision of 2 no. childcare facilities, which could accommodate approximately 165 no. children. An argument may be made that the proposed development does not provide sufficient childcare places having regard to the spirit of both the Dublin City Development Plan 2016-2022 and the Fingal County Development Plan 2017-2023, which generally refers to 2001 Planning Guidelines for Childcare Facilities, which recommend one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwellings. To the best of our knowledge, we note that neither Development Plan specifically reference this requirement in a specific objective or policy within the Plans, but there is a general spirit of the Plans that developments need to take into account the 2001 Guidelines.

JUSTIFICATION

Having set out that there may be a potential material contravention of the Development Plans in relation to the quantum of childcare facilities being provided, Downey Planning shall now set out justification for quantum of childcare being provided as part of this SHD application.

Government policy on childcare is to increase the number of childcare places and facilities available and to improve the quality of childcare services for the community. These Guidelines for Planning Authorities on Childcare Facilities provide a framework to guide both local authorities in preparing

development plans and assessing applications for planning permission, and developers and childcare providers in formulating development proposals.

The following definition of Childcare is included in the Guidelines:

“In these Guidelines, “childcare” is taken to mean full day-care and sessional facilities and services for pre-school children and school-going children out of school hours. It includes services involving care, education, and socialisation opportunities for children. Thus services such as pre-schools, naíonraí (Irish language playgroups), day-care services, crèches, playgroups, and after-school groups are encompassed by these Guidelines. Conversely childminding, schools, (primary, secondary and special) and residential centres for children are not covered by these Guidelines.”

For housing schemes, the Guidelines provide a benchmark provision of 1 no. 20 space childcare facility per 75 dwellings. The threshold for provision should be established having regard to existing location of facilities and the emerging demography of the area where new housing is proposed. The recommendations provided within the Guidelines must be considered in the context of the ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2020), which state that:

“Notwithstanding the Department’s Planning Guidelines for Childcare Facilities, which are currently subject to review and recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units, the threshold for provision in apartment scheme should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile for the area.”

As recommended in the Guidelines, 1 no. childcare facility may be required as part of the proposal to cater for the influx of population arising from the proposed scheme. It is worth noting that as stated within the apartment guidelines, “one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms”.

With respect to the average household size in the area, which stood at 2.8 in Census 2016, and regarding the household size mix, it is suggested that not all the 2-bedroom dwellings are to be family-occupied. To provide for a more accurate estimation, therefore, the 1-bed units and half of the 2-bed units were excluded from the calculations on the basis that these will not be occupied by families, instead these are foreseen to be occupied by young professionals or singles. As such, the proposed development comprises a total of 2,527 no. residential units. When calculating childcare demand, 1-beds and 40% of 2-beds may be excluded from the calculations (646 no. 1-beds + 412 no. as 40% of 2-beds = 1,058 no. units), as such, the proposed development comprises a total of 1,468 no. residential units which could be potentially family-occupied - and provision is therefore required for c. 501.3 children. This is calculated as follows:

$$(1,880 \div 75) \times 20 = 501.3 \text{ childcare places}$$

The proposed development provides for 2 no. childcare facilities; 1 no. 606.7msq creche in the Fingal County Council development area and 1 no. 500msq creche on the Dublin City Council development

area. These childcare facilities are intended to cater for 165 no. children which is 336 spaces below the Guidelines requirement. However, an assessment of the existing childcare facilities indicates an overall maximum potential capacity of 1,112 no. spaces and cumulative demand of 1,131 no. childcare spaces, which is 19 childcare spaces above the actual existing childcare facilities.

A Childcare Assessment Report has been prepared by Downey and has been submitted as part of this application. This provides a detailed assessment of the existing childcare facilities within the subject area, thus assessing the current capacity of the surrounding environs as well as whether the proposed childcare facility would be sufficient to cater for the proposed development. The report confirms that the proposed development generates a requirement of 346 no. childcare spaces with regards to the demographic trends in the area. The proposed childcare facility would provide c. 165 no. childcare spaces to cater for the proposed residential scheme. It is considered that given the demographics of the area within which the subject site is located, as well as the current characteristics and trends as per data from the CSO results and the childcare facilities survey as set out within the report, the construction of 2 no. childcare facilities on site is justified in this instance. Please refer to the enclosed report for further details.

In light of the above and noting the provision of a childcare facility within the scheme, it is submitted that the proposed development is consistent with the Childcare Facilities Guidelines.

Notwithstanding this, an argument may still be made that the development materially contravenes these Objectives, and as such Downey Planning shall now set out how the Board are entitled to grant permission under Section 37(2)(B) of the Act, despite the possible material contravention of the Development Plan.

Section 37(2)(b) Criteria

Section 37(2)(b) of the Act sets out 4 distinct criteria which at least 1 of which needs to apply in order for the Board to materially contravene a development plan. It is the opinion of Downey Planning that this current proposal satisfies at least 1 of these criteria as follows:

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

The justification under Section 37(2)(b)(i) has been discussed in section 3.1 of this Statement and in order to avoid repetition, the Board are invited to refer back to that section for details.

(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

The proposed development is in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended), which have been outlined above and which particularly include the Design Standards for New Apartments Guidelines for Planning Authorities (2020), which states:

“Notwithstanding the Department’s Planning Guidelines for Childcare Facilities, which are currently subject to review and recommend the provision of one childcare facility

(equivalent to a minimum of 20 child places) for every 75 dwelling units, the threshold for provision in apartment scheme should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile for the area.”

The Board are also invited to the Childcare Demand Assessment Report, prepared under separate cover by Downey Planning, which sets out the demand for childcare in the area and provides an evidence-based justification for the childcare provision within this application.

7.0 CONCLUSION

It is respectfully submitted that the justification set out within this statement clearly demonstrates that the proposed strategic housing development at Belcamp is in accordance with the development management standards set out within the Dublin City Development Plan, except for that of the building height limits set out in Section 16.7 of the Plan, the mix of units outlined in Section 16.10.1 of the Plan and parking provision set out in Table 16.1 of the Development Plan and also with the car parking standards in the Fingal County Development Plan 2017-2023.

In light of the foregoing, it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed height and unit mix contraventions of the Dublin City Council Development Plan 2016-2022 and the car parking standards in the Dublin City Development Plan 2016-2022 and the Fingal County Development Plan 2017-2023 having consideration to section 37(2)(b) (i), (ii), (iii) and (iv) of the Planning and Development Act, 2000 (as amended), specifically the policies and objectives set out within the Section 28 Guidelines and noting the national importance of delivering housing and sustainable neighbourhoods given the current housing crisis as well as planning precedent for permitting taller buildings and unit mixes within the surrounding area, which have been approved during the lifetime of the current Development Plans.

In light of the foregoing, it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed material contraventions of the Fingal County Development Plan 2017-2023 and Dublin City Development Plan 2016-2022 and Clongriffin-Belmayne LAP 2012-2018 (as extended to 2022), having consideration to section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended).

In the alternative, it is respectfully submitted that the Board is obliged to dis-apply any provisions of the Fingal County or Dublin City Development Plans in the event that there are conflicting strategic planning policy requirements. In this case, the application meets the criteria in SPPR1, SPPR2, SPPR3 and SPPR4 of the 2018 Building Height Guidelines (including by incorporation of the development management criteria in Section 3.2 of the Guidelines).