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PROJECT: SANTRY AVENUE STRATEGIC HOUSING DEVELOPMENT

REPORT: MATERIAL CONTRAVENTION STATEMENT

CLIENT: DWYER NOLAN DEVELOPMENTS LTD

DATE: 20/06/22

**Planning &
Development
Consultants**

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1.0. Introduction

1.1. Purpose of Report

- 1.1.1. This Material Contravention Statement has been prepared by Armstrong Fenton Associates, Planning & Development Consultants, on behalf of Dwyer Nolan Developments Ltd. (the applicant) to accompany the application for Strategic Housing Development submitted to An Bord Pleanála in respect of a site measuring c. 1.5 hectares located at the junction of Santry Avenue & Swords Road, Santry, Dublin 9.
- 1.1.2. The subject application comprises a strategic housing development as defined within Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereafter 'Act of 2016') and has been prepared in accordance with the requirements of the Planning and Development (Strategic Housing Development) Regulations 2017.
- 1.1.3. Under Section 8(1)(a)(iv)(II) of the Act of 2016, an applicant for a strategic housing development is directed to submit a statement indicating why permission should be granted in cases where a proposed development may materially contravene the relevant development plans and/or local area plan other than in relation to the zoning of the land. This Material Contravention Statement is submitted to An Bord Pleanála in accordance with same.
- 1.1.4. In accordance with Section 9(6) of the Act of 2016, An Board Pleanála (hereafter 'the Board') may grant permission for a proposed strategic housing development that materially contravenes the development plan and/or local area plan, other than in relation to zoning, i.e. *"(6)(a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned."*
- 1.1.5. Furthermore, Section 9(6)(c) of the Act of 2016 states the Board may only grant permission for a development that materially contravenes a development plan (other than in relation to the zoning of the land) where it considers that, if Section 37(2)(b) of the Planning and Development Act 2000 (as amended) (hereafter 'Act of 2000') were to apply, it would grant permission for the proposed development.
- 1.1.6. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan / local area plan, the Board may grant permission where it considers that:
- "(i) the proposed development is of strategic or national importance,*
 - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
 - (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan"*
- 1.1.7. This Material Contravention Statement has been prepared in order to address a matter which may be deemed by the Board to materially contravene the provisions of the existing Dublin City Development Plan 2016-2022, in accordance with Section 8(1)(a)(iv)(II) of the Act of 2016.

2.0. Proposed Development

2.1. The subject application for Strategic Housing Development is detailed in full below, as per the public notices:

Dwyer Nolan Developments Ltd. intend to apply to An Bord Pleanála for permission for a strategic housing development, on a site of c. 1.5 hectares, located at the junction of Santry Avenue and Swords Road, Santry, Dublin 9. The development site is bounded to the north by Santry Avenue, to the east by Swords Road, to the west by Santry Avenue Industrial Estate, and to the south by the permitted Santry Place development (granted under Dublin City Council Ref's. 2713/17 & 2737/19).

The proposed development provides for 350 no. apartments, comprised of 113 no. 1 bed, 218 no. 2 bed, & 19 no. 3 bed dwellings, in 4 no. seven to fourteen storey buildings, over basement level, with 5 no. retail / commercial units and a community use unit located at ground floor level facing onto Santry Avenue and Swords Road. A one storey residential amenity unit, facing onto Santry Avenue, is also provided for between Blocks A & D.

The development consists of the following:

- (1) Demolition of the existing building on site i.e. the existing Chadwicks Builders Merchants (c. 4,196.8m²).
- (2) Construction of 350 no. 1, 2, & 3 bed apartments, retail / commercial and community uses in 4 no. buildings that are subdivided into Blocks A-G as follows:
 - Block A is a 7 to 14 storey block consisting of 59 no. apartments comprised of 26 no. 1 bed, 27 no. 2 bed & 6 no. 3 bed dwellings, with 2 no. commercial/retail units located on the ground floor (c. 132.4m² & 173m² respectively). Adjoining same is Block B, which is a 7 storey block consisting of 38 no. apartments comprised of 6 no. 1 bed, 26 no. 2 bed, & 6 no. 3 bed dwellings, with 1 no. commercial/retail unit and 1 no. medical suite / GP Practice unit located on the ground floor (c. 162.3m² & 130.4m² respectively). Refuse storage areas are also provided for at ground floor level.
 - Block C is a 7 storey block consisting of 55 no. apartments comprised of 13 no. 1 bed & 42 no. 2 bed dwellings. Refuse storage areas are provided for at ground floor level. Adjoining same is Block D which is a 7 to 10 storey block consisting of 51 no. apartments comprised of 25 no. 1 bed, 19 no. 2 bed, & 7 no. 3 bed dwellings, with 1 no. commercial unit / café located on the ground floor (c. 163.3m²). A refuse storage area is also provided for at ground floor level.
 - Block E is a 7 to 10 storey block consisting of 58 no. apartments comprised of 10 no. 1 bed & 48 no. 2 bed dwellings, with 1 no. community use unit located on the ground floor (c. 188.1m²). A refuse storage area, substation, & switchroom are also provided for at ground floor level. Adjoining same is Block F which is a 7 storey block consisting of 55 no. apartments comprised of 13 no. 1 bed & 42 no. 2 bed dwellings. A refuse storage area & bicycle storage area are also provided for at ground floor level.
 - Block G is a 7 storey block consisting of 34 no. apartments comprised of 20 no. 1 bed & 14 no. 2 bed dwellings. A refuse storage area & bicycle storage area are also provided for at ground floor level.
- (3) Construction of a 1 storey residential amenity unit (c. 187.9m²) located between Blocks A & D.
- (4) Construction of basement level car parking (c.5,470.8m²) accommodating 173 no. car parking spaces & 719 no. bicycle parking spaces. Internal access to the basement level is provided from the cores of

Blocks A, B, C, D, E, & F. External vehicular access to the basement level is from the south, between Blocks B & C. 36 no. car parking spaces & 58 no. bicycle parking spaces are also provided for within the site at surface level.

- (5) Public open space of c. 1,915m² is provided for between Blocks C, D, E, & F. Communal open space of c. 3,122m² provided for between (i) Blocks E, F, & G, (ii) Blocks A, B, C, & D, and (iii) in the form of roof gardens located on Blocks A, C, & F and the proposed residential amenity use unit. The development includes for hard and soft landscaping & boundary treatments. Private open spaces are provided as terraces at ground floor level of each block and balconies at all upper levels.
- (6) Vehicular access to the development will be via 2 no. existing / permitted access points: (i) on Santry Avenue in the north-west of the site (ii) off Swords Road in the south-east of the site, as permitted under the adjoining Santry Place development (Ref. 2713/17).
- (7) The development includes for all associated site development works above and below ground, bin & bicycle storage, plant (M&E), sub-stations, public lighting, servicing, signage, surface water attenuation facilities etc.

The application contains a statement setting out how the proposal is consistent with the objectives of the Dublin City Development Plan 2016-2022, and also contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

An Environmental Impact Assessment Report (EIAR) has been prepared in respect of the development proposal and accompanies the application. The application, together with the Environmental Impact Assessment Report, may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, during public opening hours at the offices of An Bord Pleanála and Dublin City Council. The application may also be inspected online at the following website set up by the applicant: www.santryavenueshd2.ie.

3.0. Material Contravention

3.1 In the context of Section 9(6) of the Act of 2016, the proposed development may be deemed by the Board to represent a material contravention of the 2016-2022 Dublin City Development Plan (hereafter CDP) in relation to:

- **Building Height:** Section 16.7.2 of the Dublin City Development Plan identifies building heights for the city and identifies a building height cap of 24m for residential development in this location. The Section 28 Ministerial Guidelines *Urban Development and Building Heights – Guidelines for Planning Authorities* published in December 2018 establish the principle for the re-examination of height limits and should be considered over the Development Plan height limits on a site specific contextual basis.
- **Unit Mix:** Section 16.10.1 of the Development Plan, which refers to unit mix and floor areas, and it is considered that the Development Plan predated the introduction of Specific Planning Policy Requirements (SPPRs) in the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2020) and as such is considered in terms of a Material Contravention.

This potential material contravention is detailed in Sections 3.2 and 3.3 below.

3.2 Building Heights

Section 4.5.4 of the existing Dublin City Development Plan 2016-2022 (hereafter ‘CDP’) has regard to “*Taller Buildings as Part of the Urban Form and Spatial Structure of Dublin*”.

While the CDP states that Dublin City Council recognises the merits of taller buildings, and acknowledges that taller buildings can have an important visual role, capable of making a positive contribution to the skyline, it is stated that the ‘*Managing Intensification and Change: A Strategy for Dublin Building Height*’ (DEGW, 2000) study commissioned by Dublin City Council: “*identified character areas and locations within the city which would allow for largescale growth, including height clusters, particularly close to major public transport nodes.*”

Section 4.5.4.1 of the CDP also states: “*Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only.*”

As such, it is a policy of the existing CDP to provide for taller buildings in limited locations as identified in the ‘Building Height in Dublin’ map of the CDP.

Figure 39 of Section 16.7. of the CDP, “*Building Height in Dublin Context*”, identifies the 14 no. specific areas across Dublin City Council’s administrative area for mid-rise (up to 50m) and taller (above 50m) buildings to be developed. Outside of these identified areas, the CDP states that it is policy: “*to retain the remaining areas of the city to a maximum height of between 16m to 28m depending on location.*”

To this end, Section 16.7.2. of the CDP identifies the subject site as being an ‘Outer City’ location, in an area designated as low-rise development, with a building height limit of 16 metres for both residential and commercial development.

The proposed development includes for 4 no. buildings, sub-divided into 7 no. blocks (Blocks A-G), that range from c. 22.9m (7 storeys - Blocks B & G) to c. 48.3 meters (14 storeys - Block A). The proposed building heights are above the stated 16 metre height for the subject site’s location, as stated in the CDP, and therefore, the exceedance of the proposed building heights in relation to the CDP height parameters may be deemed by the Board to constitute a material contravention of the CDP.

As required in legislation, it is submitted that the proposed building heights can be justified under Section

37(2)(b) of the Act of 2000 where the Board may determine under this section, to grant a permission, even if the proposed development contravenes materially the CDP. This justification is detailed in Section 4 of this statement.

3.3 Unit Mix

Section 16.10.1 of the Dublin City Council Development Plan 2016 – 2022 sets out the requirements in relation to the mix of residential units provided as part of new apartment developments, which are as follows:

- *A maximum of 25 - 30% one-bedroom units*
- *A minimum of 15% three or more bedroom units*

The residential unit mix proposed as part of this development is as follows:

Block	Total No. of Dwellings	No. of 1 beds	No. of 2 beds	No. of 3 beds
Block A	59	26 (44%)	27 (46%)	6(10%)
Block B	38	6 (16%)	26 (68%)	6 (16%)
Block C	55	13 (24%)	42 (76%)	N/A
Block D	51	25 (49%)	19 (37%)	7 (14%)
Block E	58	10 (17%)	48 (83%)	N/A
Block F	55	13 (24%)	42 (76%)	N/A
Block G	34	20 (59%)	14 (41%)	N/A
Total	350	113 (32%)	218 (62%)	19 (6%)

Table 1: Proposed Dwelling Mix

We note, however, that the Section 28 Ministerial Guidelines *‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020)* contains a “Specific Planning Policy Requirement” in relation to dwelling mix requirements, i.e. SPPR 1 which takes precedence over any conflicting policies and objectives of Development Plans.

SPPR 1 of the Apartment Guidelines (2020), states: *‘Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)’.*

The proposed mix of units is therefore in accordance with the more recent SPPR 1 of the Apartment Guidelines, which would take precedent over the Development Plan where there is a conflict between them. Current national planning policy documents such as the National Planning Framework would also support this mix of units for the proposed development given its location 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.

4.0. Material Contravention Justification

4.1. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan and/or local area plan, the Board may grant permission where it considers that:

- i. “the proposed development is of strategic or national importance,*
- ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- iii. permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan”.*

In the context of Section 37(2)(b) of the Act of 2000, it is considered that the proposed development can be granted permission by the Board notwithstanding the material contravention of the existing CDP detailed in Section 3 of this statement. The following subsections detail the justification for same.

4.2. Developments of Strategic or National Importance

4.2.1. The Act of 2016 provides a statutory definition of “strategic housing development” in Section 3 to mean:

- a) “the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,*
- b) the development of student accommodation units which, when combined, contain 200 or more bed spaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses thereon,*
- c) development that includes developments of the type referred to in paragraph (a) and of the type referred to in paragraph (b), or*
- d) the alteration of an existing planning permission granted under section 34 (other than under subsection (3A)) where the proposed alteration relates to development specified in paragraph (a), (b) or (c).” (our emphasis added).*

4.2.2. The strategic housing development application process was introduced as part of the Government’s Rebuilding Ireland programme to accelerate delivery of larger housing proposals to alleviate the pressures on housing

supply in the country. The delivery of new homes in appropriate locations across the country is a fundamental principle of Rebuilding Ireland, with the programme setting out a range of measures to facilitate the construction of new homes and an increase of social housing.

- 4.2.3.** It is considered that the proposed development fully supports the policies of Rebuilding Ireland by delivering 350 no. new homes in an existing urban area, with 35 no. of the proposed dwellings being delivered for social housing in compliance with the requirements of Section 96 of Part V of the Act of 2000. As such, it is considered that the proposed development is of strategic importance to deliver the national objectives of Rebuilding Ireland programme.
- 4.2.4.** The strategic goals of the Government in relation to delivering new residential development, and their national importance, are also reflected in the policies and objectives of the National Planning Framework (hereafter 'NPF'). The NPF is the Government's high level strategic plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland, and the half a million extra homes needed in Ireland, by the year 2040.
- 4.2.5.** The NPF sets out the importance of delivering new developments within existing urban areas by: *"making better use of under-utilised land and buildings, including 'infill', 'brownfield' and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport."*

National Policy Objective 3a of the NPF states that it is national policy to: *"Deliver at least 40% of all new homes nationally within the built up envelope of existing urban settlements."*

The subject site is an underutilised, brownfield site, identified as a Neighbourhood Centre in the existing CDP, and strategically located at a prominent corner junction within an existing urban settlement. The site is located adjacent to the Swords Road Quality Bus Corridor (QBC), which is proposed to form part of a future BusConnects Corridor, and is in close proximity to both Dublin Airport and M50 / M1 motorways. The proposed development caters for a gross and net density of c. 233 dwellings per hectare and provides for non-residential uses at ground floor level which can act as employment centres for the locality, It is therefore considered that the proposed development fully complies with National Policy Objective 3a of the NPF.

- 4.2.6.** National Policy Objective 4 of the NPF states that it is national policy to: *"Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and wellbeing."*

The proposed development provides for a high quality of residential living, with all the dwellings designed to comply with the standards of the 2018 Sustainable Urban Housing: Design Standards for New Apartments Guidelines. The proposed materials and finishes are considered to be of high quality standard, with the proposed design, layout, and building form considered to create a landmark development, at an important junction, on an established entrance route into Dublin city. The proposed development provides for 5 no. retail / commercial units along with a dedicated community use unit at ground floor level which will integrate the existing and future residential communities in the area, and create a unique, vibrant, quality urban place on what is currently an underutilised brownfield site. It is considered that the proposed development caters for an attractive, high quality, sustainable new mixed-use development within the existing urban environs of Dublin, thus the proposed development accords with National Policy Objective 4 of the NPF.

- 4.2.7.** National Policy Objective 11 of the NPF states that: *"In meeting urban development requirements, there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth."*

The proposed development provides for a high density residential development in an existing urban area and will strengthen the vitality and role for the area. The subject site is well served by both existing and proposed public transport infrastructure. The proposed development also provides for mixed uses appropriate in scale

to the site's designation as a Neighbourhood Centre which will encourage more people, jobs, and activity within the built-up environs of Santry. The subject application is accompanied by a number of documents which demonstrate how the proposed development meets appropriate planning standards and supports the targeted growth figures for Dublin. It is therefore considered that the proposed development fully complies with National Policy Objective 11 of the NPF.

- 4.2.8.** A key priority of the NPF is the need to move away from rigid planning standards to a more flexible, performance based, design standards. Of particular relevance to the subject application, the NPF states in relation to the development of brownfield sites:

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

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

The above guidance is reflected in National Policy Objective 13 which states: *"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."*

The proposed development is located along one of the main routes into Dublin city centre from the north of the city, at an important corner location, and is well served by both existing and proposed public transport routes.

The subject site is a brownfield site which is greatly underutilised given the locational context of the site and the availability of existing infrastructure in the vicinity. It is considered that the site presents an ideal opportunity for redevelopment to more efficient use, in compliance with national policy objectives. The proposed building heights range from 7 no. to 14 no. storeys with the proposed gross and net density being c. 233 dwellings per hectare. The proposed building heights and density are wholly appropriate given the contextual location of the subject site and the availability of public transport facilities in the area, and it is considered that the site can readily support same without any detriment to existing residential amenity in the area. It is therefore considered that the proposed development is in fully in accordance with the aforementioned guidance of the NPF and complies with National Policy Objective 13.

- 4.2.9.** The NPF also states that: *"To avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas."*

The above guidance is reflected in National Policy Objective 35 which states that it is an objective to: *"Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights"*.

The proposed development consists of a mixed use scheme, on an underutilised brownfield site which represents an ideal opportunity to provide for increased densities and increased heights in accordance with the NPF objectives, without detriment to existing residential amenity in the area. The NPF places a strong emphasis on the need to increase building heights in appropriate locations, within existing urban centres and along public transport corridors. Given the contextual location of the subject site, it is considered that the

proposed development, being located within the existing urban environs of Santry and adjacent to both existing and proposed public transport routes, is wholly appropriate in terms of height and density and ought to be granted permission as it supports the national policy objectives of the NPF.

- 4.2.10. In addition to the above, it should be noted that the subject application is also accompanied by a Statement of Consistency, prepared by Armstrong Fenton Associates and submitted as a separate standalone document, which demonstrates in further detail the proposed development's compliance with the objectives of the NPF - please refer to same for details.
- 4.2.11. On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development is clearly of both strategic and national importance, supports the national planning policy and objectives of both Rebuilding Ireland and the NPF, and therefore can be granted permission by the Board under the provisions of Section 37(2)(b)(i) of the Act of 2000.

4.3. Section 28 Ministerial Guidelines

4.3.1. The 2018 Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (as amended in 2020).

- 4.3.1.1. *The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* were published in 2018 and updated in December 2020 (in respect of Shared Accommodation only). The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (hereafter 'Apartment Guidelines') were adopted in consideration of the policies and objectives of both Rebuilding Ireland and the NPF, and in response to the growing demand for apartment living in the State.
- 4.3.1.2. The Apartments Guidelines reiterate that to meet housing demand in the country it is necessary to significantly increase supply, stating that: ***"increased housing supply must include a dramatic increase in the provision of apartment development."*** (our emphasis added).

With regard to the location of new apartment schemes, the Apartments Guidelines state that:

"In general terms, 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." (our emphasis added).

The Apartments Guidelines also state that planning authorities and development plans should appropriately reflect the above:

"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." (our emphasis added).

- 4.3.1.3. Section 2.4 of the Apartments Guidelines identifies the types of location in cities and towns that may be suitable for apartment development. In this context, the subject site can be classified as a 'Central and/or Accessible Urban Location'. The Apartments Guidelines state in relation to same, that:

"Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

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

4.3.1.4. The subject site is located adjacent to the existing Swords Road QBC and the proposed BusConnects Corridor on Swords Road. The site is well served by existing bus stops on both Swords Road and Santry Avenue. In light of same, it is considered that the proposed development is within easy walking distance to/from high frequency urban bus services and, therefore, the proposed density and building heights are justified in the context of the Section 28 Apartments Guidelines. The proposed development will deliver increased urban density, in the form of apartment development, on an underutilised brownfield site located next to existing public transport infrastructure, and therefore supports national policy contained in the Apartment Guidelines.

4.3.1.5. The Apartment 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.’*

4.3.1.6. 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.’*

4.3.1.7. 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 located adjacent to the existing Swords Road QBC and the proposed BusConnects Corridor on Swords Road.

4.3.1.8. As stated in Section 1.11 of the Introduction of the Apartment Guidelines: *‘these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes’.*

4.3.1.9. In addition, Section 1.21 states *‘accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements’.*

4.3.1.10. The Development Plan was adopted before the publication of the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* (2020). Therefore, the principal justification for the Board in contravening the Development Plan standards relating to dwelling mix, if this is considered a material contravention, would be to ensure that strategic level planning policy and the Specific Planning Policy Requirements of Ministerial Guidelines relevant to the proposed development at this site are implemented.

4.3.1.11. In addition to the above, it should be noted that the subject application is also accompanied by a Statement of Consistency, prepared by Armstrong Fenton Associates and submitted as a separate standalone document, which demonstrates in further detail the proposed development's compliance with the objectives and specific planning policy requirements of the Apartment Guidelines – please refer to same for details.

4.3.1.12. On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development clearly complies with the policies and objectives of the Section 28 Apartment Guidelines, which put forward national policy objectives, and therefore can be granted permission by the Board under the provisions of Section 37(2)(b)(iii) of the Act of 2000.

4.3.2. The 2018 Urban Development and Building Heights Guidelines for Planning Authorities

4.3.2.1. The 2018 Urban Development and Building Heights Guidelines for Planning Authorities (hereafter 'UD&BHG') set out national planning policy guidelines on building heights in urban areas and carry forward the National Policy Objectives of the NPF in relation to securing more compact forms of development. In summary, the UD&BHG seek to reinforce the need to consolidate and strengthen existing built-up areas, move away from blanket limitations on building height, increase densities within existing urban areas, and promote increased building height in locations with good public transport services.

4.3.2.2. As Section 28 Guidelines, the UD&BHG clearly state, 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 city and town cores and in other urban locations with good public transport accessibility.**

4.3.2.3. The UD&BHG also clearly state that Planning Authorities and An Bord Pleanála are required to have regard to, and apply, any specific planning policy requirements (SPPRs) of the UD&BHG, in carrying out their functions, and that **the SPPRs stated in the UD&BHG take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.** In this regard, Section 9(3) of the Act of 2016 provides as follows:

“(3)(a) 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 under section 28 of the Act of 2000.

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) 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.

(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”

Therefore, SPPRs as stated in the UD&BHG, take precedence over any conflicting, policies and objectives of development plans / local areas plans. Where such conflicts arise, Section 9(3)(b) of the Act of 2016 provides that to the extent that they differ from the provisions of the development plan / local area plan, the provisions of SPPRs must be applied instead.

4.3.2.4. The UD&BHG also state that the implementation of the NPF requires increased density, scale, and height of development in town and city cores with an appropriate mix of uses. In relation to redevelopment and enhancement of the city core, the UD&BHG state that:

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

Significant emphasis is also placed on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks:

“In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks”.

The UD&BHG further states that *“the preparation of development plans, local area plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth **through a combination of both facilitating increased densities and building heights**”.* (our emphasis added).

4.3.2.5. It is considered that the proposed development fully supports the objectives of the UD&BHG. The proposed development will efficiently reuse / redevelop an underutilised brownfield site located within an existing urban environment, with the proposed development providing for a level of density and building heights that are capable of being supported by the site. The proposed development includes for non-residential uses at ground floor level, which will provide for employment opportunities, and includes for an appropriate mix of housing options which will increase variety in the area.

4.3.2.6. As previously noted, the UD&BHG clearly state that Planning Authorities and An Bord Pleanála are required to have regard to, and apply, any SPPRs of the UD&BHG in carrying out their functions, and that the SPPRs stated in the UD&BHG take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. The UD&BHG contain 4 no. SPPRs which are discussed in the following sub-sections, together with the proposed development’s compliance with same.

4.3.2.7. SPPR 1 of UD&BHG is as follows:

SPPR 1

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

In accordance with SPPR 1, the proposed development is located on a prominent junction, between Santry Avenue and Swords Road, within the existing built-up urban environs of Dublin. Swords Road, which abuts the

subject site to the east, is an established entrance route into Dublin city centre from the north of city and caters for high frequency public transport i.e. the Swords Road QBC, while the proposed BusConnects Corridor is also planned at this route. It should also be noted that the subject site is easily accessibility to the M50 / M1 motorways and within 400 metres of a large regional park (Santry Demesne Park).

The proposed development will regenerate / redevelop an underutilised brownfield site, in compliance with the Z3 land use zoning attached to the site. The proposed development is therefore considered to represent an ideal opportunity to provide for increased building heights and densities in order to achieve the objectives of the NPF. Having regard to the foregoing, the proposed development is considered to be fully compliant with SPPR 1 of the UD&BHG and the proposed building heights are justified in this context.

4.3.2.8. SPPR 2 of the UD&BHG is as follows:

SPPR 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 plans² 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 subject site is zoned Z3 (Neighbourhood Centres) in the existing CDP. Permissible uses for the Z3 zoning include for, inter alia: residential, community facilities, cultural/ recreational building and uses, enterprise centre, medical and related consultants, office (max 300sq. m), open space, primary health, care centre, restaurant, shop (neighbourhood). The CDP’s vision for Z3 lands seeks to develop such lands for the provision of local facilities, accessible via walking, with a limited range of services. It is stated in the CDP that Z3 lands: *“may include an element of housing, particularly at higher densities, and above ground floor level.”*

The proposed development consists of a mixed use scheme comprising 350 no. residential apartments, with non-residential uses located at ground floor level. The proposed non-residential uses comprise of 5 no. retail / commercial units, a community unit, and a residential amenity use unit. It is therefore considered that the proposed development caters for an appropriate mix of uses, in compliance with SPPR 2 of the UD&BHG, which will enable redevelopment of the subject site to comprehensively meet contemporary social and economic needs. All the proposed non-residential uses are located at ground floor level, fronting onto both Swords Road and Santry Avenue, in order to promote activity and bring a new vibrancy to the area. In compliance with the Z3 zoning, high density residential development is located alongside and above these non-residential uses.

Having regard to the above, the proposed development is considered to be fully compliant with SPPR 2 of the UD&BHG and the proposed building heights are justified in this context.

4.3.2.9. SPPR 3 of the UD&BHG is as follows:

SPPR 3

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.

- (B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme*
- (C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.*

The criteria referenced in part (A)(1) of SPPR 3 refers to assessment at 3 no. scales, being:

- At the scale of the relevant city/town
- At the scale of district/ neighbourhood/ street
- At the scale of the site/building

It is noted that specific assessments may also be required at some or all the above scales to support development proposals at some or all of these scales.

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

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

The subject site is located on a prominent junction, between Santry Avenue and Swords Road, within the existing built-up urban environs of Dublin. Swords Road, which abuts the subject site to the east, is an established entrance route into Dublin city centre from the north of city and caters for high frequency public transport i.e. the Swords Road QBC, while the proposed BusConnects Corridor is also planned at this route. Dublin Bus operates a frequent service c. every 10 minutes at peak hours. Existing bus stops are also located on Santry Avenue, as well as Swords Road. The subject site is also easily accessibility to the M50/M1 motorways, providing wider connectivity to other public transport options in the city. The site is considered to

be very well served by high capacity, frequent, public transport services, with excellent links to the wider Dublin area and therefore compliant with the above criteria.

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

The proposed development has been designed with careful consideration to the surrounding environs of the site. The tallest element of the scheme (14 storeys - Block A) is located at the corner of the junction, giving a landmark element to the development at this prominent corner location. To the west of Block A, Blocks D & E, as they front onto Santry Avenue, provide for 10 storeys giving strong frontage and definition to the Santry Avenue streetscape, both complimenting and contrasting with the large regional park on the opposite side of the road (Santry Demesne). The locational context of Blocks A, D, & E, adjacent to existing roads and open space, create an ideal opportunity for increased heights which will not be detrimental any existing residential amenity in the vicinity.

To the rear, Blocks B, C, & F cater for 7 storeys. Blocks B, C, & F are aligned with the permitted 7 storey blocks of the Santry Place development to the south. The proposed setting and heights of Blocks B, C, & F, together with the setting of the proposed public and communal space within the development, provide for full integration between adjoining permitted and proposed developments, allowing for an new, integrated, urban quarter to be developed the the junction of Swords Road and Santry Avenue.

To the south-west of the site, the proposed 7 storey height of Block G appropriately addresses the corner of the site and caters for efficient and appropriate use without any detriment to existing residential amenity given the existing uses located to the immediate west/ south-west.

At ground floor level, the proposed development provides for 5 no. retail / commercial units, a community use unit, and a residential amenity use. These non-residential uses front onto Swords Road and Santry Avenue, allowing for activity to be promoted along these streetscapes, and are put forward in compliance with the Z3 zoning attached to the site.

A Landscape and Visual Impact Assessment (LVIA) has been prepared by Dermot Foley Landscape Architects and is submitted as part Environmental Impact Assessment Report which accompanies the application – please refer to same for full details. The LVIA considers that the proposed development will make a significant and positive contribution to the new emerging townscape of wider area and the future context of the surrounding lands. It the LVIA also considers the proposed network of open spaces will make a significant and positive contribution to the emerging landscape character, biodiversity, amenity and recreational opportunities of the area.

Furthermore, CGI's and verified views have been prepared by 3D Design Bureau and are also submitted with the application. The CGI's and verified views are considered to fully demonstrate that the proposed building heights will positively contribute to the area, appropriately addressing the corner location of the site, and protecting key views.

It is considered that the proposed development will make a positive contribution to the public realm / character of the area, improving to the existing scenario by transforming an underutilised brownfield site in private commercial use into a high quality, residentially led, mix-use development, which will improve the visual attractiveness of the area, and cater for a wider variety of uses. It is therefore considered that the proposed development is compliant with the above criteria.

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

developments and create visual interest in the streetscape.”

The proposed development has been designed to address the existing streetscapes of both Swords Road and Santry Avenue. Activity is promoted at ground floor level of the blocks through the provision of retail / commercial uses, as well as community and residential amenity uses, fronting onto these surrounding roads, which will provide for community services and facilities thereby creating a sense of place and vibrancy.

The vehicular accesses to the development are put forward with cognisance to the already permitted vehicular accesses for the Santry Place development (granted under Dublin City Council Ref. 2713/17), with the internal road network being located to the west and south of the blocks in order to ensure that the development is not dominated by vehicles, which again aids the creation of a sense of place within the development.

The proposed layout has been carefully considered to allow for integration of proposed public and communal open spaces with the adjoining permitted public and communal open spaces for the Santry Place development to the south. The centrally located public open space for the development also allows for connectivity to Santry Demesne to the north of the site.

The proposed development provides for a variety in massing and height which addresses the contextual location of the site and its surrounding environs, placing the tallest element of the scheme at the junction of Swords Road and Santry Avenue, with strong urban form addressing the large Santry Demesne Park to the north. To the rear, the heights of Blocks B, C, F, & G correspond with the permitted 7 storey heights at Santry Place. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

4.3.2.11. The criteria for assessment of developments at the scale of district / neighbourhood / street are addressed below:

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

The proposed development caters for buildings which range in height from 7 no. storeys to 14 no. storeys. The range in building heights takes account of the surrounding environs of the site. The tallest element of the development (Block A) is put forward to address the corner setting of the site and provide for a landmark element to the proposed scheme. It is considered that the nature / size of the existing road junction, together with the large regional park to the immediate north (Santry Demesne) and the small area of open space to the north-east at Santry Villas, allows for the proposed 14 storey height of Block A to be easily accommodated without any detriment to existing amenity.

To the west of Block A, the 10 storey Blocks D & E create definition to the Santry Avenue streetscape and provide for a visually pleasant juxtaposition with Santry Demesne to the north. To the rear, 7 storey heights are catered for in Blocks B, C, F, & G to allow for integration with the permitted 7 storey Santry Place development to the south.

The proposed layout has carefully considered the location of proposed public and communal open spaces to allow for coherent development of the site through the integration of proposed public and communal open spaces with the permitted public and communal open spaces of Santry Place.

It is considered that the proposed development, through its layout, design and mix of uses, caters for a sense of place which will make a positive contribution to the existing urban neighbourhood and streetscape, and is therefore considered to be compliant with the above criteria.

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

The proposed development consists of 4 no. buildings, sub-divided into 7 no. blocks. The proposed layout has been informed by the nature of the existing streets surrounding the site and the layout of the permitted Santry Place development to the south. The proposed block layout allows for an ample provision of public and communal open space which will be aligned / integrated with the permitted public and communal open space of Santry Place, allowing for a greater sense of openness and space to be created between the blocks.

At ground floor level, 5 no. retail /commercial uses and a community use unit are catered for in Blocks A, B, D & E, with a residential amenity use also located between Blocks A & D. These non-residential elements address the existing Santry Avenue and Swords Road streetscapes, bringing activity and vibrancy to the street, and avoiding long uninterrupted walls at street level. Private amenity spaces for the proposed apartments, in the form of terraces at ground floor level and balconies on the upper floors, also ensure activity and passive surveillance throughout the proposed scheme.

The proposed development caters for an appropriate range in building heights put forward in response to the surrounding environs, as previously detailed. The variation in the building heights provides for visual interest and avoids a monolithic visual appearance. The proposed materials and finishes are considered to ensure a high architectural standard is put forward, and are consistent with the surrounding developments and material palette in the locality. Given all the foregoing, it is considered that the proposed development is compliant with the above criteria.

“The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).”

It is considered that the proposed development enhances the urban design context for public spaces by catering for new public and communal open spaces in accordance with the required standards of the existing CDP and the relevant Section 28 Ministerial Guidelines. Public and communal open space, and indeed the proposed block layout, has been strategically designed to allow for integration with the permitted public and communal open spaces at Santry Place to the south, creating a greater sense of openness at an appropriate scale. The proposed centrally located public open space provision for the development allows for easy navigation to / from Santry Demesne to the north.

It is considered that the development further contributes to enhancing the overall character and quality of the public realm by catering for a more efficient use of the site subject and creating an animation at ground floor with generous setbacks from the roadway, to allow for the creation of an enhanced public realm.

The proposed development has been subject to a Site Specific Flood Risk Assessment in line with the requirements of *“The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).* The Site Specific Flood Risk Assessment has been prepared by DBFL Consulting Engineers and is enclosed with the application as a separate document – please refer to same for further details. Given all the foregoing, it is considered that the proposed development is compliant with the above criteria.

“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.”

In its existing state, the subject site is in private use by Chadwicks Builders Merchants and is currently fenced off from the public, with the existing boundary to the Swords Road comprising a steel fence and mature hedging and the boundary to Santry Avenue consisting of a low wall with a steel fence on top.

It is considered that the proposed development will significantly enhance the existing public realm and street frontage by opening up to the site for new, residentially led, mix use development. The provision of ground

floor active uses within the development caters for a strong urban design character and will bring a new vibrancy to both Swords Road and Santry Avenue. The development also significantly improves the pedestrian quality of these streetscapes and creates a more appropriate use by providing active retail /commercial uses at ground level with high quality residential accommodation on the upper levels.

The proposed blocks are arranging in a north-south orientation, allowing the development to fully integrate with the Santry Place development to the south, and for pedestrians / cyclists to easily navigate their way from Santry Demesne to the north through the proposed development and into Santry Place to the south. The proposed pedestrian routes through the site are considered to create new connections for the existing residents of the area which promote more sustainable modes of transport such as walking and cycling. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

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

The proposed development provides for a mix of uses which include for 350 no. residential dwellings, 5 no. retails / commercial uses, a residential amenity use unit, and a community use unit. The proposed mix of uses is considered to be appropriate and compliant with the Z3 zoning attached to the site which seeks to cater for a variety of convenience type units at ground floor level, with high density residential development above. It is considered that the development will significantly increase variety and choice in the area.

Paragraph 3.6 of the UD&BHG states that *“development should include an effective mix of 2, 3 and 4 storey development which integrates will into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/ sea frontage and along wider streets”*. (Our emphasis added).

The proposed development provides for a range of building heights adjacent to the Swords Road QBC and within walking distance to a large regional park (Santry Demesne). It is considered that the existing nature of the junction at Swords Road and Santry Avenue, which is of a large size, is more than capable of supporting taller buildings. In addition, immediately to the south of the subject site is the permitted 7 storey Santry Place development and it is therefore considered that the proposed development will integrate into its surroundings in an appropriate manner. The proposed development is therefore considered to be in accordance with the parameters for achieving 4 no. storeys or more in accordance with paragraph 3.6 above of the UD&BHG. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

4.3.2.12. The criteria for assessment of developments at the scale of site / building are addressed below:

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

A daylight / sunlight assessment for the proposed development has been prepared by Chris Shackleton Consulting and is submitted the application as a separate document – for further details please refer to same. The enclosed assessment addresses the availability, quality, and receipt of light within the development, including for access to adequate sunlight / daylight within the proposed public and communal open spaces. Initial designs of the proposed development were altered to appropriately accommodate required changes as recommended by initial feedback received from the daylight / sunlight assessment. It is considered that, given the surrounding context and orientation of the site, overshadowing and loss of light to existing residential amenity will be negligible. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

“Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning

for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

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“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.”

A daylight / sunlight assessment has been prepared by Chris Shackleton Consulting and is submitted the application as a separate document – for further details please refer to same. The enclosed assessment considers that: *“Future occupants of the development will enjoy great levels of both daylight and sunlight within the proposed units and while having access to a number of amenity areas that are capable of receiving excellent levels of sunlight.....The results find that any impact on the sunlight received by individual apartments would be minimal in the overall context of the urban setting of the proposed development. There is a sufficient good quality of daylight in the apartments analysed and the amenity areas all have sufficient sunlight to be bright and pleasant spaces.”* The assessment also includes for details of architect's compensatory measures / justification as required. These can be summarised as follows:

- The (over)provision and wide variety of communal amenity areas catered for within the scheme. which can be likened to a compensatory measure for certain apartments receiving below the BRE recommendations. All amenity spaces surpass the sun-lighting requirement by substantial margins.
- The design and large size of the private balconies which provide shelter and protection from the wind in addition to any sun lighting requirement. Recessed or partially recessed balconies ultimately contribute to a more user-friendly and comfortable private amenity space for residents.
- The quantum of apartments (98%) receiving above the required levels of daylighting and the analysis shows that all private spaces and living rooms also receive sunlight. There are no single north-facing single-aspect apartments.
- The floor to ceiling height of the ground floor units and the ground floor windows which are of a generous size above the minimum standards required

Chris Shackleton Consulting has been involved in the design process since the beginning of the project. A number of design changes were made throughout the design process to ensure that all of the proposed units and public / communal open spaces achieve acceptable level of daylight /sunlight. Please refer to the Daylight and Sunlight Analysis prepared by Chris Shackleton Consulting for further information on the results of the assessment. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

4.3.2.13. The criteria for specific assessments at some or all of the scales are addressed below:

“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.”

A Bat Survey Report has been prepared by ASH Ecology & Environmental, for the proposed development and is enclosed with the application. The Bat Survey Report concludes that there is an absence of bat activity onsite and that the site itself is considered to be of lower importance for bats. It is therefore concluded that the overall impact on bats, arising from the proposed development, will be most likely negligible if the general

recommendations and specific lighting mitigation measures are implemented. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

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

As directed by An Bord Pleanála in their Notice of Pre-Application Consultation Opinion both the Irish Aviation Authority and the Dublin Airport Operator have been sent a copy of the application for their consideration. If a favourable decision is received from An Bord Pleanála the applicant will consult directly with the Irish Aviation Authority and / or the Dublin Airport Operator regarding the utilisation of cranes to ensure safe air navigation. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

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

An Architectural Design Statement has been prepared by Davey & Smith Architects and is enclosed with the application as separate document – please refer to same for further details. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

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

The proposed development has been subject to an AA Screening prepared by Enviroguide Consulting. The AA screening concludes that upon the examination, analysis and evaluation of the relevant information and applying the precautionary principle, that, on the basis of objective information; the possibility **may be excluded** that the proposed development will have a significant effect on any of the European sites listed above. Enviroguide Consulting also concludes that *“these complete, precise and definitive findings, based on the best available scientific evidence, remove all reasonable scientific doubt that the Proposed Development will have any significant effect on the Natura 2000 sites detailed above. It is also noted that, no avoidance or preventative/mitigation measures have been taken into account in this Appropriate Assessment Screening Report and its conclusions. Accordingly, a Stage 2 Appropriate Assessment is not required to be carried out in relation to the Proposed Development”*.

The proposed development has also been subject to a comprehensive Environmental Impact Assessment Report (EIAR). The EIAR has considered the likely, significant, and adverse effects of the proposed project on the receiving environment. Mitigation measures are included for to reduce impacts on the environment where considered necessary. These mitigation measures have been incorporated into the design of the proposed development to avoid or reduce the effects on the environment, as appropriate. For full details please refer to the EIAR which accompanies the application. Given all the foregoing, It is considered that the proposed development is compliant with the above criteria.

4.3.2.14. SPPR 4 of the UD&BHG is as follows:

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 caters for 350 no. dwellings on a site measuring c. 1.5 hectares. The development therefore puts forward a proposed gross and net density of c. 233 dwellings per hectare.

In the context of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) the application site can be considered a 'Brownfield' or 'Public transport corridor' site. In relation to brownfield sites, the guidelines state that higher densities should be promoted subject to appropriate safeguards, while in relation to public transport corridors 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".

The proposed development puts forward a proposed gross and net density of c. 233 dwellings per hectare and therefore secures the minimum densities required for such a site as detailed in aforementioned guidelines. The proposed development also secures an appropriate mix of building heights and avoids mono-type building typologies.

4.3.2.15. On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development clearly complies with the policies, objectives, and SPPRs of the UD&BHG and therefore can be granted permission by the Board under the provisions of Section 37(2)(b)(iii) of the Act of 2000.

4.3.3. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)

4.3.3.1. 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.

4.3.3.2. The guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The guidelines also recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the guidelines are accompanied by an Urban Design Manual which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.

4.3.3.3. The guidelines support a plan-led approach to development as provided for in the Act of 2000. Section 2.1 of

the guidelines note 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.”*

4.3.3.4. The guidelines reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 that: *“the sequential approach as set out in the Departments 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...”*

4.3.3.5. Taking the above into consideration, the subject site is a brownfield site zoned Z3 in the existing CDP, which caters for mixed uses. The CDP has adopted a sequential approach when zoning the land for development, therefore the location of the site and the land use zoning objective attached to the site is appropriate for the proposed development.

4.3.3.6. Section 5.8 of the guidelines recommends 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.”*

It is considered that these standards set in the guidelines are the most relevant for the purposes of assessing the appropriateness of a proposed density, with the guidelines referenced in SPPR 4 of the UD&BHG.

The proposed development provides for a gross and net density of c. 233 dwellings per hectare. The proposed density is in excess of the recommended minimum of 50 dwellings per hectare; however, the subject site is located on a high quality public transport route and within an existing urban area, and therefore has the capacity to achieve higher densities to complement the surrounding services and reflect emerging patterns of permitted and proposed similar type developments. The proposed density is therefore considered appropriate due to the location of the proposed development adjacent to high quality public transport provision, the existing urban environment and the locational context of the site.

The guidelines clearly state that increased densities should be provided on site within 500m of a bus stop. The subject fits within this criterion, with existing bus stops located on both Santry Avenue and Swords Road, therefore is considered appropriate for higher densities.

4.3.3.7. It is clear that it is national policy to promote increased densities in excess of 50 dwellings per hectare on zoned lands adjacent to public transport corridors. Achieving this increased density in a sustainable manner requires increased building heights to make the most of the zoned lands available. As such, in order to sustainably deliver increased densities for residential development within existing urban areas, without increasing urban sprawl then increased heights must be considered in appropriate locations.

4.3.3.8. In response to the national policy initiatives, the proposed development provides for a gross and net density of c. 233 dwellings per hectare which can only be achieved through the provision of increased building heights. It is considered that if the proposed development should comply with the national policies for increased densities in close proximity to public transport nodes, then increased heights are required. As such, it is considered that the proposed building heights, which range from 7 no. to 14 no. storeys, are appropriate for the subject site and are compliant with national planning guidance and policy.

4.3.3.9. The existing CDP sets out a building height limit of 16 metres for residential development in the outer city; however, given the context of the proposed development in urban design terms and the location of the site within an existing urban area and adjacent to quality public transport routes, including the proposed BusConnects Corridor, the proposed heights are considered appropriate.

4.3.3.10. It is also demonstrated as part within the accompanying application documentation that proposed increase in

heights does not materially affect the surrounding lands in terms of daylight / sunlight and overlooking. Therefore, it is considered that the proposed increase in height is in accordance with national policy guidance and is appropriate given the context of the subject site at this key corner location.

- 4.3.3.11.** On the basis of all the above, it is considered reasonable to conclude that the proposed strategic housing development clearly complies with the policies and objectives of the Sustainable Residential Development in Urban Areas Guidelines and therefore can be granted permission by the Board under the provisions of Section 37(2)(b)(iii) of the Act of 2000.

5.0. Conclusions

- 5.1** In summary, it is submitted that the proposed development can be granted permission, notwithstanding that An Board Pleanála may consider it to be a material contravention of the Dublin City Development Plan 2016-2022, and its objectives in relation to building height and residential unit mix.
- 5.2** It is respectfully put forward that under Section 37(2)(b)(i) of the Act of 2000 that the Board can grant permission for the proposed development having regard to the strategic national important of delivering new housing on sites in appropriate locations.
- 5.3** It is also respectfully put forward that under Section 37(2)(b)(iii) of the Act of 2000 that the Board can grant permission for the proposed development having regard to the proposed development's compliance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020).
- 5.4** We also note that under Section 9(3)(b) of the 2016 Act (as amended), provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead. Under the current proposal, the most relevant of these requirements is SPPR 3(A) of the Building Height Guidelines which applies to the assessment of this proposal to the Board. It is submitted that the performance criteria under Section 3.1 and 3.2 of the Building Height Guidelines have been satisfied in this regard by the current development proposal. It is also submitted that the performance criteria under "Housing Mix", as set out in the Apartment Guidelines, and specifically SPPR1 and SPPR 3 of same have been satisfied in this regard by the current development proposal.
- 5.5** In these circumstances the Board is advised that the proposed building heights of the subject development are in keeping with the proper planning and sustainable development of the area and that permission may be granted for the proposed development under Section 37(2)(b)(i) & (iii) of the Act of 2000.

