

Material Contravention Statement

Bailey Gibson 2

Proposed Strategic Housing Development

June 2022



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1. Introduction

McCutcheon Halley Planning Consultants have prepared this Material Contravention Statement to accompany an application for permission for a proposed strategic housing development (SHD) on a site of approx. 5.5 hectares in Dublin 8.

The proposed development site includes all of the former Bailey Gibson site and a small portion of the former Player Wills site, both of which are owned by the Applicant, CWTC Multi Family ICAV acting solely in respect of its sub fund DTBR SCR1 Fund. The balance of the proposed development site relates to land owned by Dublin City Council (DCC) known locally as the 'Boys Brigade pitch' and part of the St. Teresa's Gardens site, together with DCC taken in charge public roads.

The application area is predominately within Strategic Development Regeneration Area (SDRA) 12, St. Teresa's Gardens & Environs. The part of the proposed development site not within SDRA 12 relate to areas where works are proposed in the public roads surrounding the site, namely, South Circular Road, Donore Avenue and Rehoboth Place.

The proposed development site is within the Dublin City Council's functional area and the relevant development plan is the Dublin City Development Plan (DCDP) 2016-2022. The proposed development site is not within an area subject to a Local Area Plan.

This report addresses 3 material contraventions of the DCDP identified during the process of preparing the Statement of Consistency (SoC) with the Dublin City Development Plan 2016-2022 which is included under separate cover. They are;

- i. Density
- ii. Unit mix
- iii. Apartments per core per floor

Under section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement:

"(I) setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and

(II) 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."

This material contravention statement is made pursuant to section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016.

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, as follows:

“(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.

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.”

We respectfully request that An Bord Pleanála adopt a precautionary approach with respect to the 3 material contraventions, density, unit mix and apartments per core per floor and invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) if a grant of permission is forthcoming.

1.1 Proposed Development

A comprehensive description of the proposed development is set out in the Planning Statement. The Statutory Notices should also be referenced.

Briefly, it is proposed to demolish the existing vacant buildings and structures on the Bailey Gibson site to make way for development of 345 new homes across 5 blocks, BG 1 - BG 5, ranging in height from 2-7 storeys. The residential blocks will be contained within the Bailey Gibson site. The typology is predominantly apartments with 4 townhouses proposed in block BG5.

This is a mixed tenure scheme, with 292 units proposed as Build to Rent (BtR) across blocks BG1-BG3 and 53 units proposed as Build to Sell (BtS) in blocks BG4 and BG5. It is proposed to deliver 34 social and affordable homes as part of the overall total.

All apartments have private amenity space. At ground floor this is in the form of terraces and on upper levels, balconies. Each of BG1-BG4 have communal amenity areas either as a courtyard or podium area.

Tenant amenities and facilities are proposed in the BtR blocks and include a gym, co-working space, kitchen/lounge areas, concierge, and waste facilities.

Over 2 hectares of public open space including a multi-sport play pitch, a playground, ‘St. Teresa’s Playground’, a boulevard, ‘St. Teresa’s Boulevard’, a park, ‘Players Park’, a plaza, ‘Rehoboth Plaza’.

The proposed non-residential uses include in blocks BG1 and BG2 commercial units that have the capacity to support daily living needs e.g., a shop, pharmacy and professional services. A creche with capacity for approx. 60 children. In block BG2 the design includes floorspace for a café/restaurant/bar together with storage for residents bulky items.

In total there are 89 car parking spaces allocated to the proposed apartments and all are contained within the Bailey Gibson site. Apart from 1 space at podium level, the parking is contained within a basement. Additionally, 10 'Go Car' spaces are proposed at podium level for residents use only. Each of the 4 townhouses has 1 on-curtilage car parking space.

Visitor parking is at street level and the proposed sport pitch will be serviced separately by new spaces on the public roads. The scheme includes set down parking for the creche, a loading bay for deliveries and coach parking area.

Provision is made for disabled parking, electric vehicle charging, a car sharing scheme and motorcycle parking.

784 spaces are proposed for cycle parking including secure residents parking, visitor parking and spaces for cargo bicycles.

Other works include the development of a network of streets across the proposed development site that will link with other sites within SDRA 12 and into the wider street network of Dublin 8. Improvement works within existing local streets to facilitate access and safe movement.

Ancillary development works includes the construction of electricity substations, meter rooms, plant rooms at basement level, waste storage areas, solar photovoltaics, drainage, landscaping, and lighting.

1.2 Overview of Material Contraventions

1.2.1 Density

Policy QH7 and QH8 of the DCDP support higher residential densities, subject to reasonable protection of existing residential amenities, providing the supporting documentation to prove that higher densities are acceptable on the site and having regard to the established character of surrounding area.

It is the Policy of Dublin City Council:

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Table E of the DCDP establishes that the estimated housing capacity for SDRA 12 is 800-1,000 units. Chapter 15 identifies that SDRA 12 includes St. Teresa's Gardens, the former Player Wills and Bailey Gibson sites and the Coombe Hospital site. Together it encompasses an area of 12.62 hectares. The overall guiding principles for SDRA 12 are set out under section 15.1.1.15 including a requirement to reserve 20% of the overall area as public open space (POS).

"That at least 20% of the SDRA 12 be retained for public open space, recreation & sporting facilities including an area to facilitate organised games."

Having regard to the POS requirement, the net developable area of SDRA 12 is 10.1ha i.e., the total area of 12.62ha– 2.524ha (20% POS). Therefore, the net density is 99 units per hectare (uph) i.e., 1,000/10.1.

The nett density of this proposed development is 225 uph and accordingly it represents a material contravention as it is an increase of 127 percent when compared with the inferred¹ nett density in the DCDP.

¹ Having regard to the SDRA 12 estimated housing capacity and the nett developable area

1.2.2 Unit Mix

Section 16.10.1 of the DCDP sets out details in relation to the mix of apartment units required for proposals of 15 units or more. Each apartment development shall generally² comprise;

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

This mix does not apply to managed 'build-to-let' apartment schemes of over 50 units located within 500m (walking distance) of centres of employment or adjoining major employment sites. In these cases, there is an allowance for 42-50% of the total units may be in the form of one bed or studio units.

The centres of employment are identified in Figure W in the DCDP Housing Strategy, Appendix 2A and relate to 14 Electoral Divisions (ED).

The proposed development site is in the Merchant Quay F ED and this is not identified as a centre of employment in the list of 14 EDs. Ushers F, ED which is a centre of employment is located just outside the 500m radius as illustrated in the Figure below.

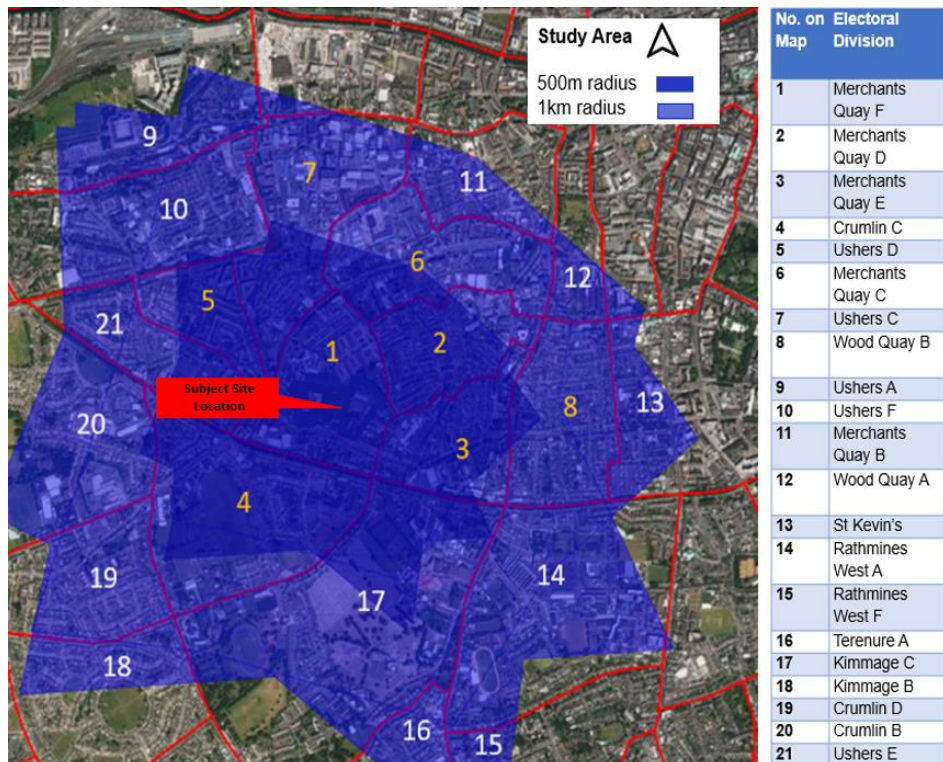


Figure 1 Electoral Divisions

Major employment sites are not identified in the DCDP. The proposed development site is adjacent to the Coombe Women & Infants University Hospital (CWIUH), the largest provider of women and infants healthcare in Ireland, and one of the largest in Europe. According to the Health Service

² Caveats apply none of which are relevant to this proposed development.

Executive's workforce report³ in April 2022, the headcount in the Coombe was 1,028. It is therefore reasonable to conclude that it represents a major employment site.

Excluding the houses in BG5, the total number of apartments proposed is 341 and the unit mix is;

- Studios – 10%
- 1 Bed Apartments – 58%
- 2 Bed Apartments – 31%
- 3 Bed Apartments – 1%

The scheme does not comply with the percentage requirements for 1 and 3 bedroom apartments established in the DCDP nor does it comply with the flexibility afforded to managed BtR schemes adjacent to major employment sites, max 50% studios and 1-beds. Therefore, it is concluded that a material contravention of the DCDP occurs.

1.2.3 Units per Core per Floor

Section 16.10.1 of the DCDP, under the heading 'Block Configuration' states;

"There shall be a maximum of 8 units per core per floor, subject to compliance with the dual aspect ratios specified above, and with building regulations."

The design of the proposed development is compliant with the building regulations which set performance requirements for the built environment, including apartments.

The reference to dual aspect ratios is set out under the heading 'Aspect, Natural Lighting, Ventilation and Sunlight Penetration' (also under section 16.10.1) of the DCDP. It states;

"It is a specific planning policy requirement in the 2015 Department Guidelines that the minimum number of dual aspect apartments that may be provided in any single apartment scheme shall be 50%. In certain circumstances, usually on inner urban sites, this may be further reduced to an absolute minimum of 33% where it is necessary to ensure good street frontage and subject to high quality design."

The Sustainable Urban Housing: Design Standards for New Apartments (DSfNA) first published in 2018 and updated in 2020 include design quality safeguards such as internal space standards for different types of apartments, floor to ceiling height, apartments to stair/lift core ratios, internal storage and amenity space. The Housing Quality Audit submitted under separate cover includes an assessment of the scheme against each of the criteria and confirms that all of the minimum standards are met and in the majority of units are exceeded. Further, while there is specific planning

³ <https://www.hse.ie/eng/staff/resources/our-workforce/workforce-reporting/national-reports.html>

policy requirements, notably SPPR 8, that offers flexibility on some design standards for BtR tenure this is not taken up. For example, all apartments have private amenity space and these are predominantly balconies. This measure not only enhances the amenity of residents but it also enhances the elevations of the individual blocks, contributing to their visual interest as demonstrated in the CGIs and verified photomontages included with this application.

The design follows the best practice principles set out in the 2009 Urban Design Manual, A Best Practice Guide. This Guideline document is a companion document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

The core aim of the Guide is stated as being;

“to provide developers, designers and planners with the information and support they need to improve the design quality and sustainability of the development schemes with which they are involved.”

The Guide is based around 12 Criteria sub-divided into three groups: Neighbourhood/Site/Home, reflecting the sequence of spatial scales and order of priorities that is followed in a good design process.



Figure 2 Urban Design Manual's 12 Design Criteria

The Urban and Architectural Design Statement included under separate cover, includes under section 8 an analysis of the proposed development against the 12 criteria and concludes that for each criteria the proposed scheme is consistent with the Guide.

In terms of street frontage, the residential element of this proposed development will be delivered on the Bailey Gibson site. Its street frontage is with South Circular Road and Rehoboth Place/Avenue. Within the development site, a network of new streets is proposed.

The proposed development site is part of SDRA 12, a location identified for regeneration in the DCDP and that is mandated to deliver high density development, at least 99 units per hectare. Achieving high density development must be balanced with achieving a design that responds to the existing character of the area including the predominantly 2-storey height of the surrounding built environment, residential conservation areas and protected structures.

In responding to the above requirements of the DCDP and to achieve good street frontage with a coherent block form, the proposed development achieves 42% dual aspect on this inner urban site.

The following is the proposed units per floor per core in each block;

- Block BG1: 23 units and 2 cores
- Block BG2: 14 units and 2 cores
- Block BG3: 10 units and 1 core
- Block BG4: 14 units and 2 cores

Therefore, 2 of the proposed blocks, BG1 and BG3 breach the DCDP requirement of 8 units per core per floor and there is a material contravention.

2 Section 37(2) of the PDA 2000 (as amended)

Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers that one of the following criteria are met;

- 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.

2.1 Density - Application of Section 37(2)(b) Considerations

As set out in section 1.2 of this report, the nett density of the proposed scheme is 225 units per hectare and the nett density for the SDRA 12 area established in the DCDP is 99 units per hectare. Accordingly there is a material contravention of the Dublin City Development Plan 2016-2022.

This section presents a justification for the proposed density having regard to 37(2)(b)(i), 37(2)(b)(iii) and 37(2)(b)(iv).

2.1.1 37(2)(b)(i) The proposed development is of strategic importance.

In 2014, the Department of Environment, Community and Local Government, in conjunction with Local Authority Planning Departments, carried out a national survey of all lands zoned for residential development to determine the location and quantity of lands that may be regarded as being undeveloped and available for residential development purposes as of the 31st March 2014. The survey data is available to view online⁴ and in 2015 a Summary Report was published by the Department and it states;

"In effect, these lands are the areas within which much, if not all new urban housing in the state, is expected to be provided on over the next five or six years."

⁴

<https://www.geohive.ie/maps/fcc7d76a9e7b447fa141bc913efb55f7/explore?location=53.344935%2C-6.267850%2C12.84>

This is a clear indication of the strategic nature of the lands included in this study for the delivery of housing. With respect to the proposed development site, an extract from the mapping database is presented below.

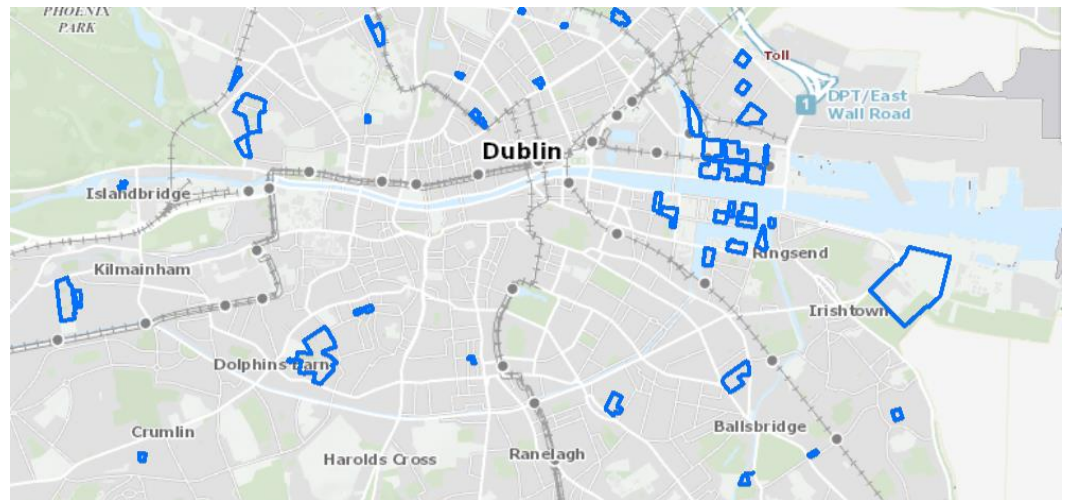


Figure 3 Residential Land Availability Survey 2014

The survey identifies that SDRA 12 is the largest undeveloped landbank south of the River Liffey and within the canal cordon. Having regard to this information there can be no doubt as to the strategic nature of this site in terms of its ability to contribute to the housing supply in the inner city area.

Following from this study, the DCDP came into effect in 2016 and the Core Strategy identifies a housing requirement for the 6 year development plan period, 2016-2022, as approx. 29,500.

Consistent with the policies and principles of the Regional Planning Guidelines in force at the time of making the DCDP, the Settlement Strategy (section 2.2.3 DCDP) seeks to gain maximum benefit from existing assets, such as public transport and social infrastructure, through consolidation and increasing densities within the existing built footprint of the city. The development plan incorporates these principles in a settlement hierarchy which prioritises the inner city, key district centres and strategic development and regeneration areas (SDRAs).

The proposed development site is within 1 of 18 areas designated as Strategic Development Regeneration Areas (SDRAs) in the DCDP.

The Core Strategy specifically targets future development to the SDRAs due to their location and capacity to absorb a greater intensification of development.

The DCDP states at section 2.3.12 under the heading 'Guiding Principles for Strategic Development and Regeneration Areas',

"these represent significant areas of the inner and outer city with substantial development capacity and the potential to deliver the residential, employment and recreational needs of the city."

The 18 SDRAs are predominantly brownfield infill sites within the footprint of the existing built environment and are strategically important in the context of delivering the DCDPs Housing Strategy. This is acknowledged in Chapter 2 which demonstrates that SDRAs are the Plan's strategic preferences to achieve new housing at the scale required to meet the population targets established at regional level. This is because the other primary residential zoning designations in the city, Z1 and Z2 are largely built out.

Combined the estimated housing capacity of the 18 sites is 29,300 units (see Table E of DCDP). This accounts for almost all of the housing need (29,500 units) identified for the plan period 2016-2022. Therefore, implementing the SDRAs is critical for the successful implementation of the core strategy.

The proposed development site is part of SDRA 12, St. Teresa's Gardens & Environs. It has an allocated capacity of approx. 1,000 units in the DCDP. To date, and almost at the end of the plan's life term, 54 new homes or approx. 5% of the overall target has been delivered. This proposal for 345 units would achieve approx. 34.5% of the SDRA 12 allocation. Therefore at a site level, the proposed development is strategically important to implementing the Core Strategy.

Examining the bigger picture, the Core Strategy in the Draft Dublin City Development Plan 2022-2028 identifies that the current development plan is expected to realise approx. 11,708 new units over its lifetime. This is approx. 60% below the identified housing need of 29,500 units.

Since the publication of the DCDP 2016-2022, the Eastern and Midlands Regional Spatial Economic Strategy (RSES) has been published. It includes a Metropolitan Area Strategic Plan (MASP) which confirms that the proposed development site is within Dublin City and suburbs. The MASP envisages a population of 1.65 million in the metropolitan area by 2031, an increase of 250,000 people or 18% from 2016.

The MASP includes a spatial framework that supports an integrated land use and transportation strategy for the sequential development of the metropolitan area, starting with the consolidation of Dublin City and suburbs. The Guiding Principles include;

"achieving a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs,

supporting a steady supply of sites and accelerating housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

focussing growth along existing and proposed high quality public transport corridors and nodes on the expanding public transport network."

This proposed development would deliver 345 new homes together with a wealth of public open space that would provide opportunities for active and passive use and play. The proposed childcare facility is designed with a capacity that would assist with augmenting a known deficit in supply locally as well as serving the need generated by the development. This high density development would occur at a location where high frequency and high

capacity public transport exists, namely the Cork Street Quality Bus Corridor (QBC) and the LUAS red line. The capacity of the public transport is confirmed in the Traffic and Transport Assessment, included under separate cover.

Having regard to the strategic spatial framework for the MASP established in the Regional Spatial Economic Strategy and the fact that SDRAs are clearly established as key to delivering the DCDPs core strategy 2016-2022, the strategic importance of implementing SDRA 12, St. Teresa's Gardens & Environs in the context of achieving a sustainable and resilient city is patent.

2.1.2 37(2)(b)(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.

Section 28 Guidelines

The Ministerial Guidelines relied upon are the Sustainable Residential Development in Urban Areas Guidelines, 2009 and the Design Standards for New Apartments – Guidelines for Planning Authorities, 2020.

The 2009 Sustainable Residential Development in Urban Areas Guidelines were issued by the Minister for the Environment, Heritage and Local Government under Section 28 of the Planning and Development Act 2000. The Guidelines identify that subject to defined criteria being met there should be no upper limit on the number of dwellings in an inner city site.

SDRA 12 is within the Inner City which is defined in the DCDP as that area *"bounded on the northside by the North Circular Road, Phibsborough Road, the Royal Canal, North Strand Road, and East Wall Road, and on the southside by the South Circular Road, Suir Road, the Grand Canal from Dolphin Road to Grand Canal Street Upper, Bath Avenue, Londonbridge Road, Church Avenue and Beach Road (See extract from Map K)."*

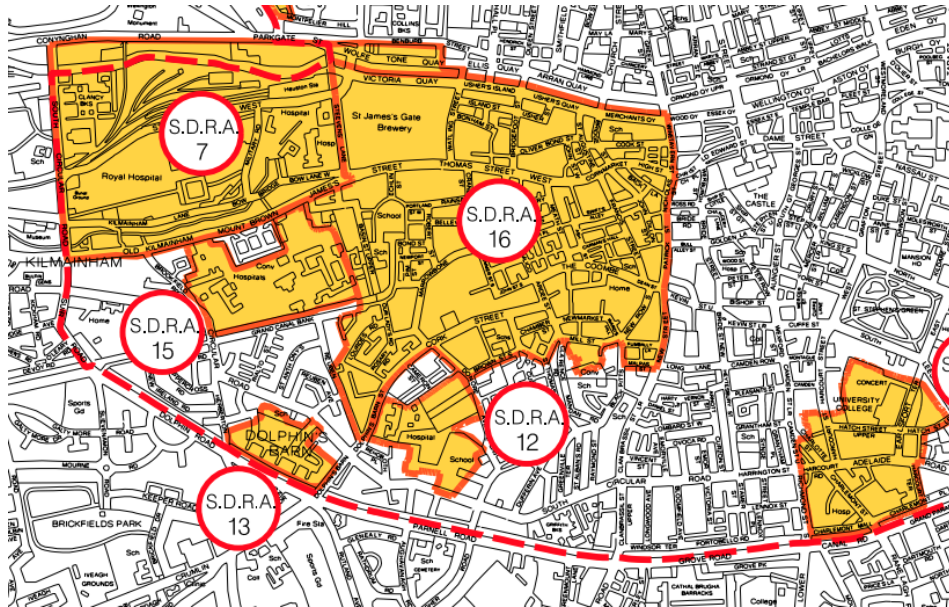


Figure 4 Inner City Area with SDR 12 (Extract from Map K)

Para. 5.6 of the 2009 Guidelines states;

*"In order to maximise **inner city** and town centre population growth, there should, **in principle, be no upper limit** on the number of dwellings that may be provided within any town or city centre site, subject to the following safeguards (note for clarity text for each safeguard is in blue font below):*

compliance with the policies and standards of public and private open space adopted by development plans;

Applicant Response: This is achieved and significantly exceeded in the proposed development. The proposed development site is 5.5ha which includes approx. 0.45ha that is not within SDR 12. This area relates to surrounding public roads where works are proposed to facilitate access and connections to municipal services.

The DCDP requires a 20% public open space allocation within SDR 12. Of the total application area, 5.05ha is within SDR 12 and accordingly 1.01ha is required to meet the Dublin City Development Plan requirement. The proposed development includes approx. 2.2ha, more than double the required amount. Indeed, this satisfies almost all of the POS requirement for the full SDR area which is approx. 2.5ha.

The scheme meets the DCDP private open space requirements, this is confirmed in the accompanying Housing Quality Audit. It is noted that the proposed development does not seek the flexibility provided for under SPPR 8(ii) of the 2020 Apartment Guidelines with respect to private open space provision for Build to Rent schemes. In this case, all apartments in the proposed development are designed with either terraces or balconies.

avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;

Applicant Response: The daylight and sunlight report and the microclimate report included with this application demonstrates that the amenities of existing residents on the boundaries of the proposed development site and future occupants of the permitted Player Wills development will continue to enjoy a high level of amenity with the proposed development in place.

good internal space standards of development;

Applicant Response: The design is fully compliant with the current standards for apartments and houses, and this is confirmed in the Housing Quality Audit.

conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;

Applicant Response: The guiding principles for SDRA 12 identifies that there is capacity for the area to accommodate 2 buildings of up to 50m. Having regard to the extant Player Wills development which includes buildings that exceed this height and the more general height strategy for the city area, this proposed development is low rise defined in the DCDP as being up to 24m for residential development.

recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;

Applicant Response: The proposed development site does not encompass a Protected Structure nor is it within a designated ACA. The design does however respond to protected structures in the wider area including the Player Wills factory building within SDRA 12. It is also cognisant of the residential conservation areas (Z2 zoning) that exists locally. In this regard, increased scale is concentrated toward the centre of the site and the proposed materiality reflects the heritage that exists in the area including red brick and the Dolphin Barn yellow brick. The Built Heritage chapter of the Environmental Impact Assessment Report (EIAR) concludes that the proposed development is acceptable in the context of the exiting built heritage that exists locally and within the wider city area.

compliance with plot ratio and site coverage standards adopted in development plans .

Applicant Response: The standards for plot ratio and site coverage in the DCDP are indicative and not absolute standards. The Statement of Consistency confirms that they are observed in this proposed development.

Having regard to the fact that SDRA 12 is within the Inner City and that the 2009 Guidelines expressly states that there is no upper limit on density in inner city sites subject to the various safeguards being met (evidenced above and in the suite of supporting information included with this application), it is submitted that the material contravention of density is justified having regard to the 2009 Sustainable Residential Development in Urban Areas

Guidelines published under section 28 of the Planning and Development Act 2000 as amended.

The Sustainable Urban Housing: Design Standards for New Apartments (DSfNA) were first published in 2018 and updated in 2020. They establish 3 broad locations in cities and towns that would be suitable for apartment developments;

- 1) central and or accessible urban areas;
- 2) intermediate urban areas; and
- 3) peripheral or less accessible urban areas

Section 2.4 of the DSfNA define central and or accessible urban locations as follows;

“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.”

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.”

Applicant Response: The application site is located between South Circular Road, Dolphins Barn Street/Cork Street and Donore Avenue. It is within a 5-minute walk of a numerous high frequency Dublin Bus & Go-Ahead services operating along Dolphin’s Barn Street/Cork Street, a dedicated Quality Bus Corridor, and the South Circular Road. It is also a 9-minute walk to the Fatima Red line Luas stop.

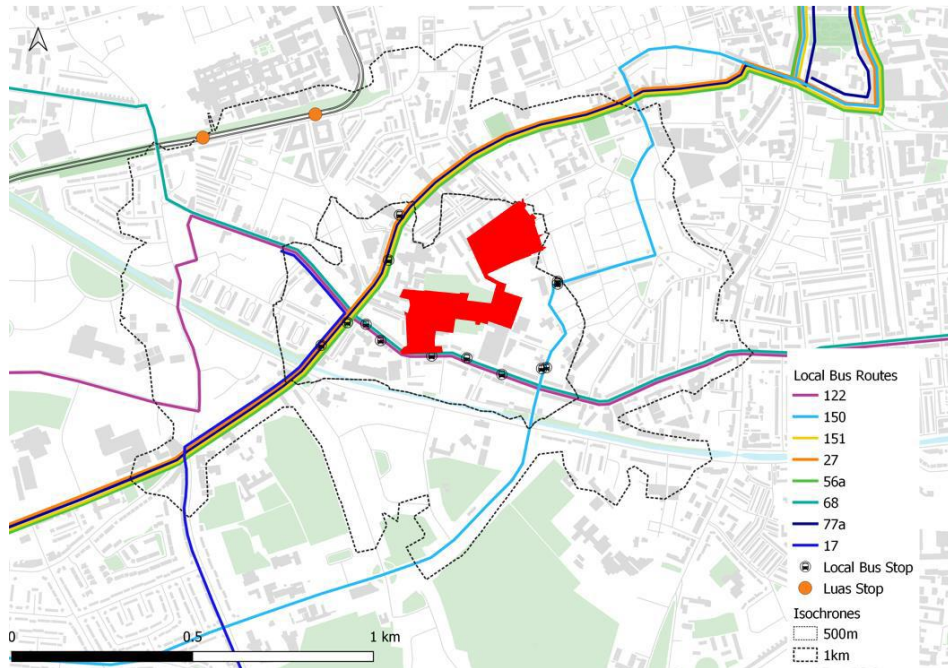


Figure 5 Public Transport (Extract from Traffic & Transportation Assessment)

The Traffic & Transport Assessment that accompanies this application includes an analysis of both frequency and capacity. It confirms that there is spare capacity on all available public transport modes sufficient to meet the demand generated by the proposed development. The TTA also confirms the frequency of the public transport available and an extract is presented below.

Route		Weekday		Weekend	
		AM Peak	Interpeak	Saturday	Sunday
68	Hawkins St./Newcastle	60	60	60	45-90
122	Ashington/Drimnagh	10	20	20	20
27	Clarehall/Jobstown	10	10	10	15
56a	Ringsend/Tallaght	60	75	75	75
77a	Ringsend/Citywest	20	20	20	30
151	Docklands/Foxborough	20	20	20	30
150	Hawkins St/Rossmore	15	20	20	30
17	Blackrock/UCD/Rialto	20	20	20	30
Luas Red Line	Tallaght/Saggart/City west-Connolly/Point	3	9	10	10

Figure 6 Frequency of Public Transport (Extract from Traffic & Transportation Assessment)

The proposed development site is adjacent to the Coombe Hospital and St. James's Hospital is within a 15-minute walk time as is Griffith College on South Circular Road.

As outlined above the site satisfies a number of the locational descriptions set out in the Apartment Guidelines for Central and / or Accessible Urban Locations.

The Apartment Guidelines suggest that Central and / or Accessible Urban Locations are suitable for small- to large-scale and high density development, with a caveat that acceptable density levels should be informed by a local assessment and other relevant planning factors.

Section 4.5.3.1 of the DCDP deals with Urban Density and states;

*“Higher densities will be promoted in the city centre, within KDCs, **SDRAs** and **within the catchment of high capacity public transport.**”* (emp. added)

Applicant Response: The proposed development site is within SDRA 12. To support this application, the traffic consultant, Systra, have undertaken a public transport capacity assessment to identify if the existing public transport capacity can accommodate the current and future trips that will be generated by the development. The results are presented in the TTA.

In summary, it concludes that;

- the main routes used by the local residents to access the City Centre, would be the services along Cork Street (northbound) and along South Circular Road (eastbound).
- there is enough capacity to accommodate future PT trips generated by the development as there is currently 400 spaces free on the peak hour Cork Street services.
- the capacity along the South Circular Road, eastbound services are capable of accommodating the future PT trips generated by the development as there is currently 600 spaces free on the peak hour Cork Street services.

Section 5.5.2 of the DCDP, entitled Sustainable Residential Areas, states;

“Building at higher densities makes more efficient use of land and energy resources, creating a consolidated urban form which fosters the development of compact neighbourhoods and a critical mass which contributes to the viability of economic, social, and transport infrastructure.”

This is underpinned by Policy QH8 which having regard to the nature of this proposed development site has direct relevance:

“To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.”

Applicant Response: The Social Infrastructure Audit included with this application confirms that there is a good mix of commercial and community uses in the local area. It identified that there is a need for additional childcare spaces and floorspace to accommodate local services, retail, health etc. This is addressed in the proposed development and the scheme includes a creche with a capacity for approx. 60 childcare spaces together with commercial units that will accommodate local neighbourhood services.

The DCDP establishes standards and design guidelines to safeguard against the negative effects of excessive density. This is achieved through a variety of mechanisms such as contextual streetscapes, urban form, stepped heights, together with open space standards and amenity standards. All of these performance based criteria have been considered in the design of this proposed development and while it is not possible or practical to reiterate the detail here, we would refer the reader to some key supporting information with respect to the design including the Urban and Architectural Design Statement, the Housing Quality Audit, the Landscape Design Statement, the Daylight & Sunlight Report and the EIAR. Together these reports confirm that the proposed scheme, notwithstanding its high density, is of a high quality and contributes to consolidating this area of the city and optimising the efficient use of scarce urban land.

National Planning Framework and Eastern & Midlands Regional and Spatial Economic Strategy

Since the adoption of the DCDP, both national and regional planning policy has changed with the publication of Project Ireland 2040 - National Planning Framework (NPF) and the Eastern and Midlands Regional Spatial Economic Strategy (RSES).

National planning policy supports compact growth through implementation of effective density and consolidation thereby counteracting urban sprawl.

National Policy Objective (NPO) 3a requires that 40% of all new homes nationally are to be delivered within the built-up footprint of existing settlements.

NPO 35 seeks 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. This NPO is underpinned by recognition that; *“Historically, low-density housing development has been a feature of Ireland’s housing landscape in cities, towns, villages, and the countryside. 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 objectives of the NPF (NPO2a & NPO3b) and RSES (RPO 3.1 & RPO 4.3) require compact growth, focused on the five cities and on the existing built up areas. They also require a higher proportion of residential development within the cities and their suburbs to comprise infill (50% under NPO 3b).

The RSES RPO 5.5 requires, inter alia, the future residential development within the Dublin Metropolitan Area (DMA) to follow a clear sequential approach with a primary focus on the consolidation of Dublin City and Suburbs, which is recognised as a key future planning and development priority for the region under the NPF.

Compact growth is set as one of the 10 National Strategic Outcomes (NSO 1) of the NPF. Many of the specific objectives of the NPF (NPO 2a, NPO 3a-3c, RPO 7, RPO 9, NPO 13) and of the RSES (RPO 3.1, 3.2, 4.3, 5.4 & 5.5) require or otherwise support the implementation of compact growth, including

through the consolidation and maximising the development potential of infill sites to provide higher density. This is relevant to all urban areas in the settlement hierarchy and is critical to the implementation of the NPF at local level.

The proposed development would provide housing at an appropriate density in an appropriate form on a zoned infill site within the built-up area and on a public transport corridor. It is thus in line with the National Planning Framework, in particular objectives 3a, 13 and 35. It would also be in keeping with objective RSO1 of the RSES.

For the reasons set out above, it is our professional opinion that the proposed development satisfies policy and objectives contained in the National Planning Framework and the Eastern and Midlands Regional Spatial Economic Strategy, the Sustainable Residential Development in Urban Areas Guidelines, 2009 and the Design Standards for New Apartments – Guidelines for Planning Authorities, 2020 so that the application meets the criterion set out under Section 37(2)(b)(iii) so that the Board can grant permission for development.

2.1.3 37(2)(b)(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.

The proposed development site is within the South Central Area, this is one of five administrative areas used by Dublin City Council to co-ordinate the delivery of services in the city. It generally encompasses the south-west quadrant of Dublin City, south of the Liffey and stretches from Lower Kimmage Road/Sundrive Road/Clogher Road to Chapelizod.

This area of the city is undergoing significant change with low intensity plots being permitted for high density development. A selection of permissions granted in the area since the making of the 2016 DCDP are set out below.

- 2022: Heuston South Quarter, St. John's Road West/Military Road, Kilmainham, Dublin 8. SHD Permission (ABP Ref. 311591) for 399 no. build-to-rent apartments, retail unit and associated site works. The building height ranged from 3-18 storeys and the density permitted is **369 units per hectare**.
- 2020: IDA Ireland Small Business Centre/Newmarket Industrial Estate Dublin 8. SHD Permission (ABP Ref. 307067) for 413 Build to Rent (BTR) units, 2 no. retail units, 1 no café/restaurant, artist studio and associated works. The building height ranged from 6-13 storeys and the density permitted is **625.7 units per hectare**.
- 2019: Former Dulux Factory Site, Davitt Road, Dublin 12: SHD Permission (ABP Ref. 303435) for 265 Build to Rent apartments, retail/cafe unit and associated site works. The building height ranged from 3-7 storeys and the density permitted is **321 units per hectare**.

The 3 examples cited above are a small selection of the intensification and densification that is occurring in the South Central Area.

It is submitted that having regard to these extant permissions, all of which are high density and significantly exceed the proposed density of 225 units per hectare in this application, this proposed development is justified having regard to these decisions and the fact that these permissions have changed the pattern of development locally to a high density environment in response to the national policy objective for compact growth Section 37(2)(b)(iv).

It is noted that this new pattern of development has accelerated following the introduction of the NPF, Eastern and Midlands RSES, section 28 Guidelines and post the adoption of the 2016 Dublin City Development Plan.

2.2 Unit Mix – Application of Section 37(2)(b) Considerations

The proposed development is mixed tenure, it includes 292 built to rent (BtR) units and 53 build to sell (BtS) units. The BtR homes are proposed across blocks BG1-BG3 and the BtS in BG4 and BG5⁵.

The proposed unit mix is informed by profiling a 1km study area surrounding the site in terms of population trends, age cohort, household formation, existing housing stock typology and commuter flow information. The analysis of this information is presented in the Unit Mix Justification report included with this application.

Contrary to prevailing trends in the study area, Dublin City and nationally, the Merchants Quay F ED has actually experienced population decline, likely attributable to deficiencies in the availability of suitable housing stock to meet demand.

The analysis concludes that consistent with the national trend of smaller household sizes generally, 69% of households within the Merchants Quay F ED are comprised of 1-2 person households, even greater than the surrounding study area (66%), Dublin City (60%) and the State (52%).

The available data regarding families with adult children showed that both within the application area (situated within the Merchants Quay F ED) and the wider region, there is a prevalence of adult children residing in the family home. This is borne out in the breakdown of families where the youngest child is 20 years of age or more, being 14% in the application area and 26% in the 1km study area. The statistics regarding families by 'family cycle' also show the extent to which this has become a phenomenon with 11.8% of families in the Merchants Quay F ED made up of families where the oldest child is an adult (20 years or over) and this figure is even greater in the wider area comprising Dublin South Central, being 28%.

Decreases in vacancy rates within the application area of Merchants Quay F ED, the 1km study area and Dublin City were identified, reflecting the increased demand for available accommodation to meet housing need.

Despite the increased take up of vacant housing stock, the data shows that the largest proportion of housing stock in the Merchants Quay F ED (application area) was built prior to 1919 (36.5%), compared with 21.5% in the study area. Of the existing housing stock in the application area, 53% were identified as houses / bungalows, on par with the study area (54%), despite the significant proportion of households comprising 1-2 persons, 69% and 66% respectively.

CSO mapping of 'Workplace Zones' and commuter flows indicates that there is a significant concentration of jobs in the immediate locality, with more people travelling into the area for work and study purposes than travel out.

⁵ BG5 encompasses houses and not apartments and is therefore not relevant.

This demographic profile highlights the importance of providing additional housing within this location to counter the persistent decrease in population since 2006, cater to the significant number of 1-2 person households, the local working population and to assist young working adults who are increasingly continuing to reside in the family home.

Section 16.10.1 of the DCDP sets out details in relation to the mix of apartment units required for proposals of 15 units or more. Each apartment development shall generally comprise;

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

For Build to Let developments adjacent to major employment centres the DCDP allows 50% of the total units as studios or 1-beds.

The proposed development includes 341 apartment units with;

- 10% (33 no.) studio units
- 58% (197 no.) 1-bedroom units and
- 1% (5 no.) 3 bedroom units

Accordingly, a material contravention of the DCDP occurs having regard to the fact that;

- i. The scheme exceeds the max. 30% 1 bedroom units, having 58%.
- ii. The scheme does not achieve the min. 15% 3+ bedroom units, having 1%.
- iii. The scheme exceeds the max 50% studio or 1-bed for Build to Let developments, having a combined 68%.

The following sections present a justification for the proposed unit mix having regard to 37(2)(b)(i), 37(2)(b)(iii) and 37(2)(b)(iv).

2.2.1 37(2)(b)(i) The proposed development is of strategic importance.

The strategic importance of this site is established in section 2.1.1 above and reliance is being placed on (i) for the same reasons which are identified in that section. Note: It is not deemed necessary to repeat the narrative here.

2.2.2 37(2)(b)(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 Design Standards for New Apartments - Guidelines for Planning Authorities (DSfNA) which were first published in 2018 and updated in 2020 postdate the adoption of the DCDP in 2016.

In terms of meeting future housing need, Section 2.6 of the 2020 DSfNA states "*demographic trends indicate that two-thirds of households added to those in Ireland since 1996 comprise 1-2 person, yet only 21% of dwellings completed in Ireland since then comprise apartments of any type. The 2016 Census also indicates that, if the number of 1-2 person dwellings is compared to the number of 1-2 person households, there is a deficit of approximately 150%, i.e. there are approximately two and half times as many 1-2 person households as there are 1-2 person homes*". This coupled with the Unit Mix Justification Report is evidence that there exists a strong demand for 1-2 person households within the region and that such a demand is likely to intensify over the coming years. In which case there is a strong justification for accelerating the delivery of smaller unit typologies.

The DSfNA include 2 Specific Planning Policy Requirements (SPPRs) for unit mix. They are SPPR 1 which applies to Build to Sell schemes and SPPR8 (i) which applies to Build to Rent schemes.

This proposed development is mixed tenure (BtR and BtS) and so both SPPRs are relevant.

SPPR 1 states;

"Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for 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 Dublin City Development Plan 2016-2022 does not include a HNDA. This is because the concept was introduced in the National Planning Framework which came after the adoption of the DCDP and the methodology for the preparation of HNDAs 'Guidance on the Preparation of a 'Housing Need and Demand Assessment' was published in 2021.

It is noted that the DCDP 2026-2022 is under review and the published draft included a HNDA. However, given the draft status of the plan it does not have statutory footing. According to the programme set out in the *Chief Executive's Report on Draft Development Plan Public Submissions*, a special council meeting will be held at the end of October 2022 to adopt the plan and it will take effect 6 weeks after i.e. mid December 2022. The Board must decide SHD applications within 16 weeks unless (i) there is an oral hearing in which case this is extended to 24 weeks and (ii) the Minister introduces regulations to extend the timeline by virtue of exceptional circumstances.

Having regard to the timing of the lodging of this application, early June 2022, and the fact that on review of SHD applications made to An Bord Pleanála, oral hearings are the exception not the norm, and Ministerial regulations extending timelines are also only under exceptional circumstances, it is reasonable to conclude that this application will be decided before the new development plan takes effect.

It is noted that in the exceptional event that a new plan did take effect during the processing of this application, while the draft Plan does specify a unit mix for 2 sub-city areas, including the Liberties in Dublin 8, the proposed development site is not within that sub area.

Therefore based on the published draft DCDP 2022-2028, the unit mix requirement would be aligned with the SPPRs in the DSfNA i.e. SPPR 1 for the BtS element and for the BtR units, SPPR 8(i) no restriction on dwelling mix would apply.

This proposed development includes 49 build to sell apartments contained in blocks BG4 and the mix as a percentage of the BtS total is;

- 31% (15 no.) 1 bedroom units
- 69% (34 no.) 2 bedroom units

SPPR 1 restricts 1 bedroom apartments to 50% of the total and states there is no minimum requirement for apartments with three or more bedrooms. The proposed BtS mix is therefore justified in the context of SPPR 1 of the DSfNA.

It is noted that, having regard to the fact that the 33 studios proposed are BtR tenure, they are subject to SPPR 8(i) and the restriction in SPPR 1 that no more than 20-25% of the total proposed development as studios does not apply. It is however noted that in any case the number of studios is approx. 10% of the overall 341 proposed apartments.

Regarding the proposed 292 build to rent units, SPPR 8 (i) is applicable. It states;

“For proposals that qualify as specific BTR development in accordance with SPPR 7: (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;”

So, SPPR 8(i) can only apply if the proposed development satisfies SPPR 7 and the information below demonstrates that blocks BG1, BG2 and BG3 qualify as BtR tenure.

“BTR development must be:

(a) Described in the public notices associated with a planning application specifically as a ‘Build-To-Rent’ housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;

Applicant Response: The proposed development is part Build to Rent and part Build to Sell and this is identified in the public notices for this application. A draft proposed covenant is included with the application. It is confirmed that the applicant anticipates that in the event that permission for development is granted a condition of the permission would require the development to be owned and operated by an institutional entity for a minimum period of not less than 15 years and no individual residential units would be sold or rented separately for that period.

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as: (i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc. (ii) Resident Services and Amenities - comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.”

Applicant Response: Across the 3 BtR blocks, the design includes resident support facilities, services and amenities. The facilities proposed are waste concierge/management offices and waste management areas. Resident services and amenities include a gym, coworking space, communal living/kitchen areas and residents lounges. The Urban and Architectural Design Statement provides should be referenced for further details.

BG1-BG3 qualify as BtR under SPPR 7 and thus SPPR (8)(i) is applicable i.e. no restriction on dwelling mix. Notably, SPPRs take precedence over any conflicting policies and objectives of development plans.

2.2.3 37(2)(b)(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.

The proposed development site is within the South Central Area, this is one of five administrative areas used by Dublin City Council to co-ordinate the delivery of services in the city. It generally encompasses the south-west quadrant of Dublin City, south of the Liffey and stretches from Lower Kimmage Road/Sundrive Road/Clogher Road to Chapelizod.

A selection of permissions granted in the area since the making of the 2016 DCDP are set out below.

- i. 2022: Heuston South Quarter, St. John's Road West/Military Road, Kilmainham, Dublin 8. SHD Permission (ABP Ref. 311591) for 399 no. build-to-rent apartments, retail unit and associated site works. The permitted unit mix is set out below. This mix does not accord with the standards set out in Section 16.10.1 of the DCDP but was deemed appropriate in the context of SPPR 8(i) by An Bord Pleanála and permission was granted.

	Studio	1 bed	2 bed	3 bed	Total
Apartments	46	250	103	-	399
As % of total	11.5%	62.7%	25.8%	-	100%

- ii. 2020: IDA Ireland Small Business Centre/Newmarket Industrial Estate Dublin 8. SHD Permission (ABP Ref. 307067) for 413 Build to Rent (BTR) units, 2 no. retail units, 1 no café/restaurant, artist studio and associated works. The permitted unit mix is set out below.

Unit Type	No. of Units	Percentage
Studio	203	48.9
One bed	136	33.5
Two bed	72	17.1
Three bed	2	0.5
Total	413	100

- iii. 2019: Former Dulux Factory Site, Davitt Road, Dublin 12: SHD Permission (ABP Ref. 303435) for 265 Build to Rent apartments, retail/cafe unit and associated site works. The permitted unit mix is set out below.

Units Type	No of units	% of each Unit type
1 bed	127	48%
2 bed – 3 person	17	6%
2 bed – 4 person	121	46%
Total	265 Units	100%

In each of the 3 permissions presented above, the proposed unit mix is at variance with Section 16.10.1 of the DCDP. Notwithstanding, An Bord Pleanála considered it appropriate to grant permission having regard to the fact that SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply and therefore the units mix for each development was deemed acceptable, notwithstanding that in each case the scheme did not comply with the DCDP standards.

2.3 Units per Floor per Core – Application of Section 37(2)(b) Considerations

The proposed development includes more than 8 units per floor per core and this conflicts with the development management standard set out at Section 16.10.1 of the DCDP, under the heading ‘Block Configuration’ ;

“There shall be a maximum of 8 units per core per floor, subject to compliance with the dual aspect ratios specified above, and with building regulations.”

2 of the proposed blocks exceed the stated 8 units per floor per core;

- Block BG1: 23 units and 2 cores
- Block BG3: 10 units and 1 core

As established in section 1.2.3 above, the proposed dual aspect ratio is compliant with the applicable 33% standard of the DCDP.

The following section presents a justification for the proposed unit mix having regard to 37(2)(b)(i) and 37(2)(b)(iii).

2.3.1 37(2)(b)(i) The proposed development is of strategic importance.

The strategic importance of this site is established in section 2.1.1 above and reliance is being placed on (i) for the same reasons which are identified in that section. Note: It is not deemed necessary to repeat the narrative here.

2.3.2 37(2)(b)(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 2020 DSfNA highlight that the number of cores is largely governed by the dual aspect ratios specified in the guidelines. Section 2.1.2 of this report confirms that the proposed development site meets the locational criteria of a central and or accessible area and the dual aspect ratio is 33% in line with Specific Planning Policy Requirement 4 (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.”

The DSfNA postdate the DCDP. In addition to achieving the required dual aspect ratios in the design, at para. 3.26 the Guidelines acknowledge that the number of cores in a design is also a product of balancing the financial cost of providing and maintaining lift and stair cores with appropriate building circulation and compliance with building regulations, particularly in relation to fire safety.

The Guidelines highlight at para 3.28 that maximising the number of apartments per floor per stair/ lift core will assist in ensuring that service charges and maintenance costs faced by residents into the future are kept at reasonable levels.

Specific Planning Policy Requirement 6 states;

“A maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , subject to overall design quality and compliance with building regulations.”

Both BG 1 and BG 2 satisfy this maximum;

- Block BG1: 23 units and 2 cores = 11.5 apartments per floor per core
- Block BG3: 10 units and 1 core

It is noted that blocks BG1 and BG3 meet the requirement to qualify as Build to Rent blocks as per SPPR 7 of the 2020 DSfNA. This is confirmed in section 2.2.2 above.

Having established this Specific Planning Policy Requirement 8 (v) applies;

“The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations”

It is noted that all blocks including BG1 and BG3 are designed to meeting the building regulations which provide for the safety and welfare of people in and about buildings. While the regulations are a separate code to planning, the designers must ensure that the scheme progressed for planning meet the required standards as the primary responsibility for compliance rests with designers, builders and building owners. The Regulations comprise a set of legal requirements, expressed in functional statements, Part A-M (note the Regs do not inc. a Part I).

- Part A - Structure
- Part B – Fire safety
- Part C – Site Preparation & Resistance to Moisture
- Part D – Materials & Workmanship
- Part E – Sound
- Part F – Ventilation
- Part G - Hygiene
- Part H – Drainage & Wastewater Disposal
- Part J – Heat Producing Appliances
- Part K – Stairways, Ladders, Ramps & Guards
- Part L – Conservation of Fuel & Energy
- Part M – Access & Use

All of the above are relevant to the proposed development and it is confirmed that in so far as is necessary for this stage of the design process, the scheme submitted for planning permission satisfies the requirements of the Regulations.

As the design progresses through the detailed design stage and prior to construction, there are 2 important control arrangements that ensure the scheme is compliant with the Building Regulations, the Commencement Notice process and the requirement to secure a Fire Safety Certificate.

In terms of design, the Housing Quality Audit confirms that all blocks including BG1 and BG3, meet all the required apartment design standards set out in sections 3-5 and in Appendix 1 of the DSfNA, 2020. These standards relate to apartment floor areas, floor to ceiling height, internal storage, private and communal amenity space.

As a whole the scheme achieves 42% dual aspect and this exceeds the required 33% as per SPPR 4(i);

“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.”

Section 4 encourages the provision of communal rooms within large apartment schemes and as block BG 2 is proposed as BtR tenure this is a requirement under SPPT 7 (b) in order that it can qualify for this tenure. In this regard, BG1 includes a concierge office and waste management facilities and BG3 includes a residents lounge and waste management facilities.

With respect to refuse storage, communal facilities are provided in the basement and they are sized to facilitate 3-bin systems with adequate ventilation and washdown facilities. Care has been taken to ensure that these areas are accessible and well lit. Please refer to Operational Waste Management Plan.

With respect to communal amenity space, the scheme meets the requirements of Appendix 1 of the DsFNA. The sunlight analysis demonstrates that these outdoor spaces will receive very good levels of sunlight, the minimum BRE standard of 2 hours over 50% of the area on the reference date of 21st March is met and exceeded.

While SPPR 8(ii) indicates that flexibility can be applied for BtR developments with respect to private amenity space, this proposed development does not seek this flexibility and all units across the scheme including BG1 and BG3 benefit from private open space, balconies and at ground floor terraces.

Children's play is catered for in the communal amenity spaces and these areas benefit from a high degree of surveillance. The quantitative standards set out in section 4.14 of the DSfNA are achieved across the scheme and the detail is included in the Landscape Design Report.

The quantity of carparking proposed is compliant with section 4.19 of the DSfNA where in central and/or accessible locations, such as this proposed site, the default policy is for parking to be minimised, substantially reduced or wholly eliminated. The ratio of parking proposed is 0.26 spaces per unit and the justification for this is set out in the Traffic and Transport Assessment.

With respect to bicycle parking, the DSfNA highlights that the general minimum standard is 1 cycle space per bedroom and this is provided. Cycle parking for BG2 residents is provided in the basement. In total, there are 203 spaces in the basement and they are for occupants of BG2 and BG3. Combined the number of spaces provided in the basement is compliant with the general minimum standard. Other qualitative standards of the DSfNA as they relate to cycle parking are met in this scheme including, general location with convenient access to the public road and within the building footprint.

Having regard to the information presented above and within the wider application it is submitted that the proposed development complies with SPPR 6 and SPPR 8(v) and they take precedence over any conflicting policies and objectives of development plans.

3. Conclusion

The delivery of 1,000 housing units at strategic development regeneration area 12, St. Teresa's Gardens & Environs, is part of the Core Strategy of the Dublin City Development Plan 2016-2022. To date, approx. 5% of this target housing number has been delivered. The proposed 345 units would realise approx. 35% of the Core Strategy's objective for SDRA 12.

This Material Contravention Statement establishes that with respect to each of the three identified material contravention, a justification can be advanced having regard to at least one of the criteria listed under section 37(2) (b) of the Planning and Development Act 2000, as amended.

It is submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the DCDP, in accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and by reference to section 37(2)(b) of the 2000 Act (as amended) for the reasons set out above.