

**Statement of Material Contravention of Dublin City
Development Plan 2016-2022**

In respect of

**Site located to the north-west corner of the Omni Park
Shopping Centre, Santry and at Santry Hall Industrial
Estate, Santry, Dublin 9.**

Prepared by

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On behalf of

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1.0 INTRODUCTION

- 1.1. This statement outlines the justification for the material contraventions of the Dublin City Development Plan 2016-2022 for the proposed mixed-use development on lands located at the north-west corner of the Omni Park Shopping Centre, Santry and at Santry Hall Industrial Estate.
- 1.2. The **height** of the proposed development is considered to be a material contravention of the Dublin City Development Plan which identifies a maximum height of up to 28 m at the subject location. It should be noted that the proposed development rises to a maximum of 12 no. storeys (41.1 m) at the southern boundary of the site. A justification of the proposed height is set out in this report in accordance with SPPR 3 of the Urban Development and Building Height Guidelines. Furthermore, the established pattern of permitted development in the area, which has been permitted during the lifetime of the current 2016-2022 City Development Plan, provides further grounds for the material contravention.
- 1.3. The proposed development is also considered to constitute a material contravention of the current Dublin City Development Plan in terms of **unit mix** and **plot ratio**. This Contravention Statement provides a justification in relation to the proposed unit mix included on site and also in relation to the proposed plot ratio of 2.6 despite the indicative plot ratio of 2.0 for Z4 lands.
- 1.4. Permission for a 7-year duration is sought by Serendale Limited for the development that will comprise of:

“The demolition of the existing industrial / warehouse buildings northwest of Omni Park Shopping Centre, Santry, Dublin 9 and the construction of 457 no. apartments across 4 no. blocks, ranging in height from 4-12 storeys (over basement). The proposal includes 2 no. retail/café/restaurant units, 1 no. community building, 1 no. childcare facility, 1 no. residential amenity space and 5 no. ESB substations.

The development also provides for a basement carpark of 213 no. spaces and 7 no. motorcycle spaces with 7 no. creche drop-off parking spaces and 6 no. carshare parking spaces located in newly reconfigured surface carpark. The proposal provides for 768 no. bicycle parking spaces.

The proposal includes the provision of a new public open space plaza, with consequential revisions to existing commercial car parking areas, to integrate the proposals with the wider District Centre.

The proposal includes the provision of pedestrian and cycle connections and improvements through Omni Park Shopping Centre, including a plaza and cycle/pedestrian link substantially in the form permitted as part of the Omni Living Strategic Housing Development (Ref. ABP-307011-20).

Access to the proposed 213 no. basement car parking spaces is via the existing Omni Park Shopping Centre. A secondary servicing and emergency access is via the existing service road to the rear of existing retail premises at Omni Park Shopping Centre and accessed from the Swords Road.

The development provides for all associated and ancillary site development, demolition and clearance works, hoarding during construction, revisions to car parking within the Omni Park Shopping Centre, soft and hard landscaping, public realm works, public

lighting and signage, ancillary spaces, plant including photovoltaic panels, water infrastructure, utilities and services.

- 1.5. In summary, this Material Contravention Statement outlines and addresses the following potential material contraventions:

Dublin City Development Plan 2021 (as extended)

- **Section 16.7.2** – Building Height
- **Section 16.10.1** – Unit Mix
- **Section 16.5** – Plot Ratio

- 1.6. For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provision of Section 37(2)(b) of the Planning and Development Act 2000, as amended.
- 1.7. The Statement of Consistency and Planning Report accompanying this application demonstrates compliance with other relevant policies and objectives of the current City Development Plan. Significantly, the proposed SHD does not contravene either the Development Plan, or any Local Area Plan, in relation to the zoning of land, as the uses proposed are permissible under the Z4 zoning objective.

Legislative Context

- 1.8. Section 9 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 part of it, contravenes materially the development plan or local area plan relating to the area concerned.

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

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

- 1.9. Section 37(2)(b) of the Planning and Development Act 2000, as amended, (‘the 2000 Act’) states:

“2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

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

1.10. The Urban Development and Building Height Guidelines were adopted on the 7th of December 2018 under Section 28 of the Planning and Development Act 2000. The Guidelines set out 4 no. Specific Planning Policy Requirements (SPPR) objectives for the assessment of building height.

1.11. Section 28 (1) of the Planning and Development Act states that:

“The Minister may, at any time, issue guidelines to planning authorities regarding any of their functions under this Act and planning authorities shall have regard to those guidelines in the performance of their functions”.

1.12. In this case, the Section 28 Guidelines specifically promote the increase in building heights in appropriate urban locations and as such the policies set out in the Guidelines should be applied to the subject site area in this regard. Therefore, the proposed development at a maximum height of 41.1m is considered to be an appropriate building height for this location in accordance with the Urban Development and Building Height Guidelines.

1.13. In the event that the Board were to grant permission, the Board's “*reasons and considerations*” would have to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Development Plan. It is apparent from Section 10(1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

‘(3) A decision of the Board to grant a permission under section 9(4) shall state-

....

(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be.’

1.15 Having regard to the analysis set out below of the compliance with the proposed development with national planning policy and Section 28 guidelines, and having considered the strategic nature of the site and proposed development, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the City Development Plan, by reference to sub-paragraphs (i), (iii) and (iv) of Section 37(2)(b) for the reasons set out below.

- 1.14. It is requested that An Bord Pleanála have regard to the following justification for what might be considered to be a material contravention of the Development Plan in terms of building height, on the basis that the policies and objectives stated in the Section 28 Government Guidelines, particularly *“Urban Development and Building Height Guidelines 2018”*, and *“National Planning Framework 2040”*, to *“enable increased building height and residential densities on sites adjacent to quality public transport routes and within existing urban areas”*. Furthermore, SPPR 3A facilitates such consideration in the light of the criteria set out under Section 3.2 of the Urban Development and Building Height Guidelines.

2.0 Development is of National importance

2.1 The section below demonstrates how the proposed development is justified by reference to sub-paragraph (i) *‘the proposed development is of strategic or national importance’* of Section 37(2)(b). It is respectfully submitted that the proposed development is of national importance for the reasons set out below. This justification applies to all of the potential material contraventions identified within this statement.

2.2 The Government’s *‘Housing for All – A New Housing Plan for Ireland 2021’* contains a range of actions and measures to ensure over 300,000 new social, affordable, cost rental and private homes are built by 2030. The actions outlined in the Plan are backed by over €4 billion in annual guaranteed State investment in housing over the coming years, including through Exchequer funding, the Land Development Agency and Housing Finance Agency investment. The plan commits to over €20 billion in State investment in housing over the next five years. The plan is set out across four pathways to address the pressing housing challenges facing the State:

*“Pathway to supporting homeownership and increasing affordability;
Pathway to eradicating homelessness, increasing social housing delivery and supporting social inclusion;
Pathway to increasing new housing supply;
Pathway to addressing vacancy and efficient use of existing stock.”*

2.3 These pathways are underpinned by long-term actions to address systemic challenges. It aims to create a housing system which has environmental, social and economic sustainability at its heart, and which meets the needs of all.

2.4 The proposed development will support the achievement of this Plan by providing housing at an appropriate scale and location including social housing. While the detail of this plan has yet to be fully developed, this application is in accordance with the intention and ambition of the plan.

2.5 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in the Dublin City area. The proposed development consists of 457 no. new apartments as part of a mixed-use scheme which will include 2 no. retail/café/restaurant units, 1 no. community building, 1 no. childcare facility and 1 no. residential amenity space, which will help to alleviate the demand for housing within the local area and within Dublin City as a whole. We would therefore submit that the proposed development is of national importance, as it will deliver on national objectives to deliver housing by increasing housing supply.

Rebuilding Ireland – Action Plan for Housing and Homelessness

2.6 Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.

2.7 Rebuilding Ireland is set around 5 no. pillars of proposed actions summarised as follows:

Pillar 1 – Address Homelessness: Provide early solutions to address the unacceptable level of families in emergency accommodation; deliver inter-agency supports for people who are currently homeless, with a particular emphasis on minimising the

incidence of rough sleeping, and enhance State supports to keep people in their own homes.

Pillar 2 – Accelerate Social Housing: *Increase the level and speed of delivery of social housing and other State – supported housing*

Pillar 3 – Build More Homes: *Increase the output of private housing to meet demand at affordable prices.*

Pillar 4 – Improve the Rental Sector: *Address the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.*

Pillar 5 – Utilise Existing Housing: *Ensure that existing housing stock is used to the maximum degree possible – focusing on measures to use vacant stock to renew urban and rural areas.*

- 2.8 The proposed development is consistent with Pillars 2 and 3 to accelerate social housing and build more homes. The provision of 457 no. residential units will substantially contribute to the residential accommodation availability in the Dublin 9 area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.

National Planning Framework

- 2.9 The National Planning Framework (NPF) is the Government's 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 2040.
- 2.10 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 2.11 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.
- 2.12 National Policy Objective 3a aims to deliver "*at least 40% of all new homes nationally, within the built-up footprint of existing settlements.*"
- 2.13 The proposed development will deliver residential units on an accessible and well-serviced site in Santry that is within the existing urban envelope of Dublin.
- 2.14 We also note Objectives 32, 33 and 35.
- 2.15 NPO 32 aims to:
- "Target the delivery of 550,000 additional households to 2040."*
- NPO 33 aims to:
- "Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location."*

NPO 35 aims 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.”

- 2.16 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:

“An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”

- 2.17 Due to the national and strategic importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.
- 2.18 The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing in the Metropolitan Dublin Area, having social and economic implications for sustainable national growth. The proposed development will enhance the housing tenure in the surrounding area and contribute social housing to the community. Recent ESRI figures (Quarterly Economic Commentary Summer 2022) noted in respect of housing completions state that *“what is notable from the geographic breakdown is that the Dublin and Mid-East region has experienced a notable moderation in the number of units completed while the rest of the country has experienced quite a pick-up in investment levels. Given the requirements for housing units in the capital city and surrounding areas, it is notable that these areas have experienced quite a slowdown over the past 12 months.”*
- 2.19 The subject site is located in a suitable area and constitutes the re-use of an under-utilised site that is suitable for such development and will provide for much-needed residential units on a site well served by high-capacity public transport.

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

3.1. The following items have been identified as potential material contraventions of the 2016-2022 City Development Plan:

- **Section 16.7.2** – Building Height
- **Section 16.10.1** – Unit Mix
- **Section 16.5** – Plot Ratio

3.2. The following section details each of these items for which a potential contravention exists and provides a rationale for the acceptability of the proposals in light of these potential contraventions.

Building Height

3.3. It is submitted that the Development Plan strategy in relation to height is inconsistent with the direction of national planning policy in particular the Urban Development and Height Guidelines which acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built-up area in accordance with National Planning Policy. The following national policy sets out this approach. In particular, the NPF and the Urban Development and Height Guidelines.

3.4. The proposed development is a strategically located, under-utilised site that is part of a District Centre in an existing urban settlement adjacent to a Quality Bus Corridor and in close proximity to the M50 and Dublin Airport. The proposed development is therefore compliant with the objective of the NPF.

3.5. The proposed development will provide for a high-quality of residential units in accordance with the Apartment Guidelines 2020. The proposed materials and finishes will also be of a high-quality standard in order to create a unique quality urban place. The proposed development will also provide for retail uses, community facility, and residential amenity uses at ground floor level which will integrate with the existing and future residential communities. The application site forms an element of an existing District Centre, and therefore there are significant existing services in the vicinity, which the subject site is well linked to. The additional population and density of the proposed development will further strengthen the viability of the District Centre in an appropriate location.

3.6. It is considered that the proposed development provides for the creation of an attractive, high-quality, sustainable, new mixed-use development within the existing urban area of the city. The provision of the new sustainable development is therefore consistent with the NPF objective.

3.7. Objective 11 of the National Planning Framework states that *“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”*.

3.8. The proposed development will provide for high-density residential development in an existing District Centre, strengthening its vitality and role for the area. The site is well served by public transport with existing and proposed public transport infrastructure.

The proposed development will also provide for a community facility, creche and retail unit which will encourage more people, jobs and activity within existing urban areas.

3.9. The NPF continues to state that:

“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 struggle to take account of evolved layers of complexity in existing built-up areas.

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

3.10. The proposed development is located along one of the main routes into the city centre and is well served by public transport located on one of only three 24-hour bus routes into the city. The existing site is under-utilised and presents a key opportunity site as identified in the NPF for redevelopment of a mixed-use scheme. The proposed building height ranges from 4 to 12 no. storeys. The proposed density (295 units per hectare) and height of the development is considered appropriate for the location of the site and the availability of public transport facilities. The proposed development is therefore in accordance with the objectives of the NPF in this regard.

3.11. The proposed development will also complement and provide additional housing to support the ongoing expansion of Dublin Airport, DCU and Beaumont Hospital, all of which are within 3 km of the proposed development.

3.12. The site is uncommon in the fact that it adjoins commercial development with industrial units to the north and therefore the potential for impacts from the proposal is limited to the existing residential development to the west of the proposed development.

3.13. Objective 13 of the National Planning Framework also states that:

“In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieved targeted growth and that protect the environment”.

3.14. 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”. Objective 35 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”.

3.15. The proposed mixed-use development is located on a brownfield site and represents an opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives. The NPF provides for a strong emphasis towards

increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed development ranging in height from 4 to 12 no. storeys is therefore considered appropriate in this location and in accordance with the NPF.

Urban Development and Building Height Guidelines 2018

- 3.16. The Urban Development and Building Height Guidelines ('Guidelines') set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040 and Regional Spatial and Economic Strategy.
- 3.17. The Guidelines in effect seek denser development at public transport nodes. The Guidelines state that it is Government policy to promote increased building height in locations with good public transport services.
- 3.18. The Guidelines emphasise the policies of the NPF to **greatly increase levels of residential development in urban centres** and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities are **not only facilitated but actively sought out** and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 3.19. Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.
- 3.20. Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 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."
- 3.21. SPPRs as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans. Where such conflicts arise, 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.
- 3.22. The Guidelines also state that the implementation of the National Planning Framework requires increased density, scale and height of development in town and city cores with an appropriate mix of uses.
- 3.23. In relation to redevelopment and enhancement of the city core, the guidelines 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".

- 3.24. The Guidelines also place significant emphasis 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".

- 3.25. The Guidelines 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".*

- 3.26. The proposed development is located at a strategic location which will be integrated with an existing District Centre which is a significant employment location for the area, along an existing and proposed Public Transport Corridor and within c.10-minute walking distance of a large park. The proposed development is located within close proximity to the Swords Road. The proposed development therefore represents an opportunity to provide for increased building heights and densities at this location. Other significant employment locations are located in close proximity such as Dublin Airport, DCU, Furry Park Industrial Estate and Airways Industrial Estate.

- 3.27. In summary, the proposed development supports the achievement of the objectives within the Guidelines as follows:

- *Regeneration of an under-utilised brownfield site*
- *Removal of an existing industrial use in favour of residential use as part of a mixed-use centre*
- *Development within the urban extent of Dublin City which supports the ambition within national and regional policies to achieve compact development*
- *Increased residential development at a sustainable density within the urban extent of Dublin city*
- *The optimal use of land within an existing district centre which currently has a low plot ratio primarily due to the retail formats*

- 3.28. Government policy requires higher density developments not only to be facilitated but to be actively sought in the development process. The proposed development makes a significant contribution in this regard through a large quantum of residential units as part of a high-quality scheme.

- 3.29. SPPR3 of the Urban Development and Building Heights Guidelines 2018 states:

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.*

3.30. We note the following development management principles as set out in the guidelines Section 3.1:

3.31. *"In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:*

Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?

3.32. Objective 3a of the NPF states that it is a national policy objective to *"deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements"*. The proposed development is a strategically located underutilised site as part of a District Centre landbank in an existing urban settlement adjacent to a quality bus corridor and a range of other existing routes, and in close proximity to the M50 / Dublin Airport.

3.33. The existing site is under-utilised and presents a key opportunity site as identified in the NPF for redevelopment of a mixed-use scheme. The proposed building height ranges from 4 no. storeys to 12 no. storeys. The proposed density (295 units per hectare) and height of the development is considered appropriate for the location of the site and the availability of public transport facilities.

- 3.34. 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”*.
- 3.35. Santry typically comprises of low-rise suburban dwellings which are made up of 3 / 4 bed detached and semi-detached units. The proposed development in conjunction with recently completed, underway or in the planning process apartment developments will help balance the existing provision of housing by providing an alternative choice, thus catering for a broader cohort of the population at a suitable density for the area.
- 3.36. Objective 35 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”*.
- 3.37. The proposed development entails a mixed-use scheme on this brownfield site represents an opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives. The NPF provides for a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed development ranging in height from 4 to 12 no. storeys is therefore considered appropriate in this location and in accordance with the NPF.

Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?

- 3.38. As set out within this Planning Report and Statement of Consistency the proposed development is in compliance with the Dublin City Development Plan except where specifically identified. Where any Material Contraventions have occurred, these are identified and a justification and rational for same set out in the Statements of Material Contravention prepared by JSA.

Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

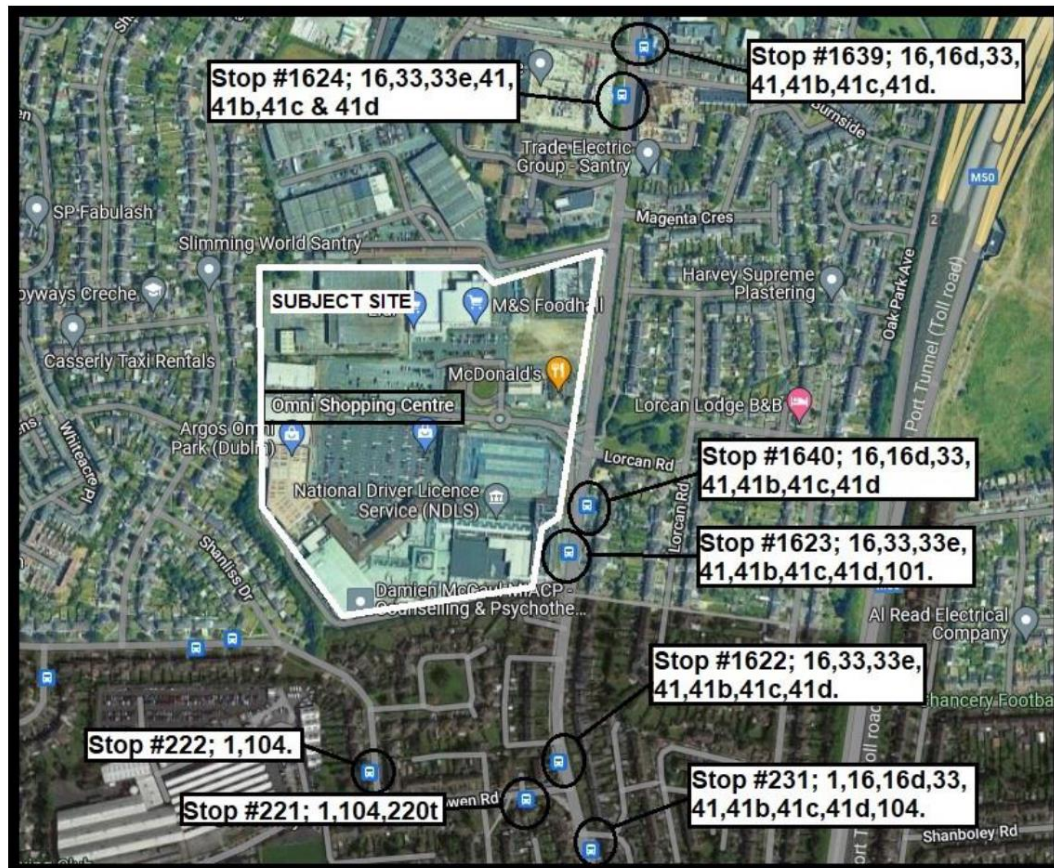
The Dublin City Development Plan pre-dates the Building Height Guidelines, which came into force in December 2018. The Development Plan continues to apply a numerical limit on height in the City. As highlighted generally within this Planning Report national and regional policy gives clear direction that height and residential density be increased while ‘a more performance criteria driven approach’ should be applied by planning authorities. The proposed height and density are entirely suitable for the subject site for the reasons set out below.

At the scale of the relevant city/town

- 3.39. The criteria for assessment of developments, as set out in Section 3.2, 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;”

- 3.40. The subject development is currently located in very close proximity to a Dublin Bus transport corridor with a frequent service c. 10 mins peak hour. The site also has a dedicated bus stop and layby in the existing centre. While the existing bus corridor is currently not in use, the increased activity at this location could potentially justify its reuse by Dublin Bus as a further enhancement to the already high quality and high frequency public transport offer.
- 3.41. All of the bus services referenced within this report are within a circa 200-250m walk distance of the subject site. In terms of the Existing Bus Service Provision and Service Frequency details of same are set out in Appendix A of NRB's TAR.



Extract from NRB Appendix J TAR (Source: NRB, 2022)

- 3.42. The NRB report concludes:

The assessment confirms that the completion and full occupation of the development will result in an increased demand for bus seats, with an additional 121 customers during the weekday AM Commuter Peak 7-9am (and less during the PM Commuter peak period). This represents a total of 2.2% to 2.8% of the number of bus seats or capacity available locally during the AM Period. We conclude that the additional demand for Buses as a result of the proposed development can be accommodated on the existing and future improved bus services in the area in the context of an estimated average current occupancy rate of 40-50% of existing capacity.

Table 2.1: Buses within Easy Walk Distance (as per Figure 2.1)

Service #	Route	Operator	No. Buses 7-9am (Mon - Fri)	Total Person Capacity * (7-9am)	Thru City Core (Y/N)
1	Santry - Shaw St - Return	Dublin Bus	11	1001	Y
16/16d	Dublin Airport - Ballinteer - Return	Dublin Bus	12	1092	Y
33/33e	Lwr Abbey St - Balbriggan - Return	Dublin Bus	4	364	Y
41	Lwr Abbey St - Swords Mnr - Return	Dublin Bus	7	637	Y
41b	Lwr Abbey St - Rowelstown - Return	Dublin Bus	1	91	Y
41c	Lwr Abbey St - Swords - Return	Dublin Bus	7	637	Y
41d	Lwr Abbey St - Swords Bus Pk - Return	Dublin Bus	1	91	Y
101	Dublin - Drogheda - Dublin	Bus Eireann	5	455	Y
104	Clontarf - DCU - Return	Go Ahead Ire	10	910	N
220t	DCU - Ladyswell Rd - Return	Go Ahead Ire	2	182	N
Total (7-9am) All Routes			60	5460	
Total (7-9am) Routes Via City Centre			48	4368	

*On the Industry-standard assumption of 91 seats per standard DD Bus

Extract from NRB Appendix J TAR (Source: NRB, 2022)

- 3.43. The site's accessibility to bus services will be further enhanced with a high frequency service to be provided BusConnects (Main Spine Routes A2 & A4) which is to run along the R132 Swords Road.

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

- 3.44. The proposal has varied its massing, concentrating the taller element away from the existing low density residential dwellings to the west, yet providing for a strong urban edge and active frontage to Omni Park. The proposal, at ground level to the Omni Shopping Centre, incorporates activity to the public realm in the form of the amenities afforded to the residential development, retail units, creche and community facility. Residential open space is also incorporated, providing for footfall and passive surveillance. The private open space defensible area has been well considered and landscaped to provide for a balance of privacy and activity.
- 3.45. The Plaza provides for a considered and coherent integration of this new quadrant of the district centre within that current in existence and shall act as a destination for both retail and residential users alike. An area of existing surface car parking is removed to facilitate a generous plaza area with the landscape design intent to integrate the proposed new development with the existing centre.



CGI of Proposed public plaza view of approach to public plaza from the east (Source: 3DDB, 2022).

- 3.46. The proposal will make a positive contribution to the public realm in the area, particularly with the delivery of the public plaza space 2,028 sqm in size (to the south of the proposed development), improving the wider permeability and circulation for the District Centre and creating a vibrant space supported by the proposed commercial units and new population of occupants of the residential development. The proposed development will provide linkages with permitted Omni Living SHD to the east (ABP Reg. Ref. 307011) through a coherent pedestrian environment which will be safe and convenient to use.
- 3.47. The proposal further contributes to the existing scenario, through the replacement of an under-utilised industrial facility with a high quality, residential led development, which will improve the visual attractiveness of the area.
- 3.48. Murray Associates have undertaken a Landscape and Visual Impact Assessment (contained in the EIAR and as a separate enclosure) for the proposed development.

“During construction, there will be a change to the landscape and there will be negative visual effects for residents and visitors to the areas adjacent to the site associated with construction activity.

In the medium to long-term, the landscape effects due to the completed development would overall be moderate and positive, due to the conversion from industrial warehouses positioned in a closed space to a public and integrated space. In the longer term, the assessment concludes that the proposed development will

continue to fit into the landscape and visual character of the area.

Landscape works are proposed to reduce and offset any effects generated due to the proposed development at ground level, where possible. The planting of substantial numbers of new trees and plantings will enhance the overall appearance of the new development. Further to this, there is a net gain of c. 150 new trees planted within the site and approximately 3,400 sqm of new planting at ground level.

While the effects on views persist, the tree and shrub planting will increase the visual quality within the site. Future visitors to the development will perceive the development in positive terms due to the context and the quality of the public realm and proposed buildings.



CGI of Proposed elevation to western boundary (Source: JFA, 2022).

- 3.49. The proposed development has been designed to address adjacent sensitivities, in particular residential to the west but also to provide an appropriate design response to the shopping centre itself. The proposed development also provides for active ground floor retail, creche and community facility which provides for community services and facilities thereby creating a sense of place within the proposed development.
- 3.50. As set out above, the proposal provides for a variety in massing, concentrating the taller elements away from the existing low density residential dwellings, whilst achieving a higher density appropriate for such locations.
- 3.51. The criteria for assessment of developments at the scale of district / neighbourhood / street context are addressed below:

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

- 3.52. The proposed development ranges in height from 4 no. storeys to 12 no. storeys. The range in building heights takes account of the surrounding context of development, in particular the existing Omni Park Shopping Centre and permitted Omni Living SHD to the east. The reduced height along the western boundary at 4 no. storeys responds to the adjacent existing residential properties within the Shanliss estate and provides for an appropriate transition in heights from the existing 2 no. storey residential dwellings and the 4-no. storey proposal facing west.
- 3.53. The area to the north is primarily commercial and industrial in nature. However, the area has potential, and indeed having regard to the permitted Swiss Cottage and Santry Place (Dwyer Nolan) Schemes, will undergo a change to a mixed-use area with industrial lands being redeveloped for residential and associated uses.



Proposed southern elevation including Omni Living (Source: JFA, 2022).

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

- 3.54. The proposed development is set out in four blocks. Blocks C and D are linear in nature in a north south alignment while block A and B step down to the west. The materials and finishes of the proposed blocks will be designed to a high architectural standard and will be consistent with the surrounding developments. The proposed development ranges in building heights in response to the existing properties and permitted development surrounding the subject site. The variation in the building heights provides for visual interest to the development and avoids a monolithic visual appearance. Overall, the proposed development makes a positive contribution to the existing and permitted height in the area.
- 3.55. The materials and finishes have also been considered with regard to the surrounding existing pattern of development and material pallet in the locality. It is considered that the proposed development is in keeping with the character and building fabric of the area and in particular the existing centre.

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

- 3.56. The proposed development enhances the urban design context for public spaces by extending the public realm by creating a public plaza in the south-eastern corner and providing animation and activity to this corner. In addition, the public realm improvements will complete the public realm and improve connections between the shopping centre and the Swords Road via the link to the east included within the application in Response to the ABP Opinion, ensuring a pleasant and safe pedestrian environment.



CGI of Proposed link to Swords Road (Source: 3DDB, 2022).

3.57. Furthermore, the proposal contributes to enhancing the overall character and quality of the public realm at this location by removing the current inactive frontage of the site which consists of a blank wall and creating animation at ground floor.

3.58. The proposal has been subject to a Site-Specific Flood Risk Assessment prepared by EirEng which concludes that there is a low risk of flooding on the subject site.

“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.”

3.59. The proposed development significantly enhances the public realm and active frontage at this location. The provision of ground floor active uses creates a new urban design character and vitality to a corner of the district centre which was unused and vacant.

3.60. The proposed development significantly improves the pedestrian quality of the development and creates a more appropriate use of the subject site by providing active retail, creche and community facility uses at ground level with high quality residential accommodation on the upper levels.

3.61. The proposed pedestrian connections and public spaces will be extremely beneficial to Santry which currently lacks a clear integration to the district centre or any public plaza. This space makes a positive contribution to the improvement of legibility through the site. The proposed pedestrian routes through the site creates new connections for the existing residents of the area which promote more sustainable modes of transport such as walking and cycling.

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

3.62. The proposed development provides for a mix of uses which includes, 457 no. residential units, a creche, community facility and 2 No. retail/café/restaurant units. As stated above the proposal also provides for a public plaza to the south of the subject site.

3.63. The residential element of the proposal provides for following mix of typologies: The proposed development provides for a mix of 1 No. studio, 221 no. 1-bed units (48%), 211 (46%) no. 2-bed units and 24 (5%) no. 3-bed units.

3.64. In addition, paragraph 3.6 of the Guidelines state that *“development should include an effective mix of 2, 3 and 4 storey development which integrates well 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”*.

3.65. The proposed development provides for a range of building heights between 4 no. and 12 no. storeys in close proximity to a QBC and within walking distance of a substantial parkland area, Santry Park. The proposed development in accordance with the guidelines can therefore achieve 4 no. storeys or more in this location in accordance with paragraph 3.6 above of the Guidelines.

3.66. Finally, the Guidelines set out the following criteria for developments at the scale of the site / building:

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

- 3.67. A daylight/ sunlight assessment has been prepared by 3DDB and is submitted with this application. The report addresses the availability and quality of internal lighting within the development, access to adequate sunlight within the proposed open spaces and any potential impact on the surrounding area.

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

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

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

- 3.68. This Daylight and Sunlight Assessment Report has studied the effect the proposed development would have on the level of daylight and sunlight received by the neighbouring residential properties that are in close proximity to the proposed development and the quality of amenity for future occupants of the proposed development. The assessment has been prepared in reference to the above reference guidance.
- 3.69. The impact assessment that was carried out for the purpose of this report has studied the potential levels of effect the surrounding existing environment and/or properties would sustain, should the proposed development be built as proposed.
- 3.70. The assessment concludes:

“These studies have shown that whilst the proposed development, in conjunction with the granted SHD (ABP-307011-20), would cause a perceptible reduction to some of the assessed commercial premises, there would be a negligible level of effect to the daylight and sunlight received by all existing neighbouring properties.

The scheme performance assessment for this report has quantified the level of daylight and sunlight within the proposed development. Future residents will have access to external amenity areas capable of receiving sufficient levels of sunlight with a reasonable percentage of proposed units have achieved the minimum recommendation for Sunlight Exposure. The vast majority of proposed units have the recommended level of daylight as shown in the study of Spatial Daylight Autonomy.

The supplementary ADF assessment as per the ABP request and for comparative purposes shows the net positive impact of all implemented design amendments...

In this context, it is the opinion of 3D Design Bureau, that the proposed development serves as a great example of how proposed urban developments can achieve both high compliance rates for SDA whilst maintaining a high level of density in compliance with national and regional design policy."

- 3.71. In regard to compensatory measures 3DDB state:

Where rooms are compliant with the criteria of BRE 209 and non-compliant with I.S. EN 17037, it could be considered that this is due to the exceptionally high standards required to achieve compliance with I.S. EN 17037 rather than an indication of insufficient daylight.

Based on the above statements, compensatory measures have been incorporated into the design of the proposed development where rooms do not achieve the daylight provision targets in accordance with the standards they were assessed against within the primary study (BRE 209).

- 3.72. The 3DDB Report list indicates all units / rooms that do not achieve the recommended level of daylight with regards to BRE 209 and the compensatory design measure for each.
- 3.73. It is respectfully submitted that the proposed development has had regard to the planning policy framework as set out in the building height guidelines and National Planning Framework. The proposed development complies with such objectives therefore is considered to be in accordance with the provisions of national policy guidelines.

Specific Assessments

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

- 3.74. A Microclimate Effects on Wind and Pedestrian Comfort assessment has been carried out by B-fluid which concludes:
- *"The proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings. Moreover, in terms of distress, no critical conditions were found for "Frail persons or cyclists" and for members of the" General Public" in the surroundings of the development.*
 - *The development is designed to be a high-quality environment for the scope of use intended of each area/building (i.e., comfortable, and pleasant for potential pedestrians).*
 - *The assessment of the proposed scenario has shown that no area is unsafe, and no conditions of distress are created by the proposed development."*

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.

- 3.75. Environmental assessments including Appropriate Assessment Screening and the Biodiversity Chapter of the EIAR have been prepared by Altamar Environmental consultants.

- 3.76. In terms of potential for bird collision Altamar conclude:

“The proposed development is within a built-up environment and not proximate to large open grassland sites that could potentially attract wintering bird species. No significant impacts are foreseen in relation to bird strikes.”

- 3.77. In terms of potential for bat impacts Altamar conclude:

“There is no evidence of a current bat roost on site, therefore no negative impacts on roosts these animals are expected to result from the proposed development. The proposed development is within a built-up area with existing lighting and light spill and there is no foraging on site. The likelihood of bat collision is not significant as the materials proposed for the apartment blocks are generally solid and would have good acoustic properties to reflect echolocation signals. As a result, the buildings would be clearly visible to bat species. The impact of the proposed development on bats will be negligible in the long term based on the successful implementation mitigation.”

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

- 3.78. A Telecommunication Impact Assessment prepared by ISM has been prepared and is enclosed with this application, this report concludes:

“It is therefore our findings that the Development, as of the date of this report, will not impact any telecommunication channels, and on foot of these findings, have not made any recommendations that the Applicant implement any mitigation infrastructure at this time.”

An assessment that the proposal maintains safe air navigation.

- 3.79. The applicant has consulted with the Irish Aviation Authority whom noted *“that the highest Above Mean Sea Level (AMSL) elevation for the completed buildings will be 98.025m AMSL. This value falls below the IFP safeguarding elevation we apply for this area of 106m and therefore is not a concern for the IAA ANSP. Equally, the Obstacle Limitation Surface (OLS) for which daa (copied), are responsible for safeguarding, should be unaffected, being below 112m AMSL.”* A condition prior to construction is suggested with respect to craneage during construction. Please see IAA correspondence attached to the application form.

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

- 3.80. An Architectural Design Statement prepared by John Fleming Architects is submitted in addition to the LVIA undertaken by Murray Associates. The LVIA notes the majority of receptors are not sensitive and there are no protected structures or Architectural Conservation Areas proximate.

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

- 3.81. Appropriate Assessment Screening has been prepared by Altermar. An EIAR has also been included within this development proposal prepared by AWN Environmental Consulting and others including a Biodiversity Chapter.

Regional Spatial Economic Strategy – Eastern and Midlands Regional Assembly (2019-2031)

- 3.82. The Regional Spatial and Economic Strategy – Eastern and Midlands Regional Assembly is a strategic plan and investment framework to shape the future development of the eastern region to 2031 and beyond. The principle function of the assembly is the delivery of a Regional Spatial and Economic Strategy (RSES), a new concept in Irish planning where not only the spatial but also the economic factors that go into the future of the region are brought together into one all-encompassing strategy.
- 3.83. In particular the following economic factors of relevance which include the loss of retail activity as a result of shift toward online shopping; and the reimagining of shopping centres to as having increased mixed retail / leisure / residential. Additional residential uses will help support existing commercial uses and serve to attract substantial retail, leisure and community uses. The mix of uses will encourage dwell time further enhancing the activity and vibrancy of the Centre.
- 3.84. The RSES notes that the Dublin Metropolitan Area is focused on the capital as its main gateway to the nation and the largest economic contributor. Growth enablers for the DMA include:
- *Achieving a 250,000 growth in population to 1.65 million by 2031;*
 - *Build at least 50% of all new homes within the existing built-up area;*
 - *Deliver strategic development along high-quality public transport corridors in tandem with the delivery of infrastructure;*
 - *Promote the development of underutilised, brownfield lands.*
- 3.85. The primary status of the RSES is to support the implementation of Project Ireland 2040 – the National Planning Framework (NPF) and National Development Plan (NDP) and the economic policies and objectives of the Government by providing a long-term strategic planning and economic framework for the development of the region.
- 3.86. The RSES is required under the Planning and Development Act 2000 (as amended) to address employment, retail, housing, transport, water services, energy and communications, waste management, education, health, sports and community facilities, environment and heritage, landscape, sustainable development and climate change.
- 3.87. The RSES supports the consolidation and re-intensification of infill, brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- 3.88. Regional Strategic Outcome No. 12 is to build a ‘Strong Economy supported by Enterprise and Innovation’ through the creation of a resilient economic base and promote cluster development and sustained economic growth.

- 3.89. In respect of Dublin city, Regional Policy Objective 4.3 is to *'support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.'*
- 3.90. A Metropolitan Area Strategic Plan (MASP) for Dublin is incorporated into the RSES. The MASP identifies a number of large-scale strategic residential and economic development areas that will deliver significant development in an integrated and sustainable manner in the metropolitan area. The MASP provides a 12-year strategic planning and investment framework for the Dublin Metropolitan Area.
- 3.91. A guiding principle for the Metropolitan Area is 'Integrated Transport and Land Use' by focusing growth *'along existing and proposed high quality public transport corridors and nodes on the expanding public transport network'.*



Overall Omni Park extent (Source: JFA, 2022).

- 3.92. The proposal seeks to provide for a mixed-use scheme on a strategically located urban infill site to increase densities, heights and urban consolidation in this suburban location. The proposed development therefore is compliant with the overall policies and objectives of the RSES in this regard.

Guidelines Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

- 3.93. 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.

- 3.94. The Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines 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 a Design Manual discussed below 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.
- 3.95. These Guidelines support a plan-led approach to development as provided for in the Planning and Development Act 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'.
- 3.96. The Guidelines reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 and '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...'.
- 3.97. Having regard to the above, the subject brownfield site is zoned Z4 within the Dublin City Development Plan 2016-2022 to which mixed uses are permitted. The Development Plan adopted a sequential approach when zoning the land for development therefore the location of the site and the zoning pertaining to the development is appropriate for the subject proposal relating to this application.
- 3.98. 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*'. The proposed density of 295 units per hectare (based on net development area).
- 3.99. The proposed density is in excess of the recommended minimum of 50 units per hectare. The subject site is located on a high-quality public transport route and is located within an existing district centre therefore has the capacity to achieve higher densities to complement the surrounding services. The proposed density is therefore considered appropriate due to the location adjacent to high quality public transport provision, the existing urban environment and context of the site.
- 3.100. The Guidelines clearly state that increased densities should be provided on site within 500m of a bus stop. The subject development fits within these criteria, therefore, is considered appropriate for higher densities.
- 3.101. It is national policy to promote increased densities in excess of 50 units per hectare on zoned lands adjacent to public transport corridors. To achieve this increased density in a sustainable manner requires increased building heights to make the most of the zoned lands. As such, in order to sustainably deliver increased densities for residential development within existing urban areas, within increasing urban sprawl then increased heights must be considered in appropriate locations.
- 3.102. In response to the national policy initiatives, the proposed development provides for an appropriate density 295 units 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 an increased height at this location. As such,

it is considered that the proposed building height of up to 12 no. storeys (41.1m) and density of 295 units per hectare proposed is appropriate for the subject site and in compliance with National Policy.

- 3.103. Section 16.7 of the Dublin City Development Plan sets out a building height strategy for the city setting a limit of 16m for residential development in the outer city (Section 16.7.2). 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 such as the existing 24-hour route and proposed BusConnects Corridor, the proposed height of the development is considered appropriate in this regard.
- 3.104. It has been demonstrated as part of the application documentation that this proposed increase in height does not materially affect the surrounding lands in terms of daylight / sunlight and overlooking.
- 3.105. As such it is considered that the proposed increase in height is in accordance with the National Policy guidance and is appropriate given the context of the subject site at this key corner location.
- 3.106. It is therefore reasonable to conclude, in accordance with Section 37(2)(b)(iii) that –

(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

Summary in relation to Section 37 (2)(b)(iii)

- 3.107. It is submitted that the Development Plan strategy in relation to height is inconsistent with the direction of national planning policy in particular the Urban Development and Height Guidelines which acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built up area in accordance with National Planning Policy.
- 3.108. The Government published the Urban Development and Height Guidelines (December 2018). The Guidelines are intended to set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040.
- 3.109. The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities is not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 3.110. The Guidelines acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built-up area in accordance with National Planning Policy.

- 3.111. Within the NPF, the proposed development helps support NPO 33 which aims to support sustainable development and at an appropriate scale of provision relative to location and NPO 35 which aims to: "Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights."
- 3.112. As widely reflected in the submitted documentation the proposed development has considered its scale and intensity carefully. While the proposed height may be above the limits set out in the Development Plan, the high-quality design, massing and block layout mean the scheme will have a positive impact on the character and context of the area.

Unit Mix

Material Contravention

- 3.113. Section 16.10.1 of the City Development Plan states that where apartment developments comprise 15 no. units or more the residential unit mix shall contain:
- A maximum of 25-30% one-bedroom units,
 - A minimum of 15% three- or more bedroom units.
- 3.114. Under this SHD application, a total of 457 no. units are proposed that will comprise of:
- 1 no. studio apartment (c.0.2%)
 - 221 no. 1-bedroom apartments (c.48.4%)
 - 211 no. 2-bedroom apartments (c.46.2%)
 - 24 no. 3-bedroom apartments (c.5.2%)
- 3.115. It is recognised that the proposed mix would not be fully consistent with the Development Plan requirements as the total number of 1-bedroom apartment units exceed 30%. A combined total of c.48.6% units are either studio or 1-bedroom units. The proposed development also provides 24 no. 3-bedroom apartment units that accounts for c.5.2% of the total units on site. The development does not satisfy the 15% minimum requirement of 3-bedroom+ as per the current City Development Plan.

Justification

- 3.116. The proposed mix is consistent and considered to be justified in the context of the Apartment Guidelines 2020. Specific Planning Policy Requirement 1 (SPPR1) of the Apartment Guidelines which 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)."

- 3.117. The proposed unit mix is consistent with the guidance set down in SPPR1 of the Apartment Guidelines 2020, as the percentage of studio and 1-bedroom units does not exceed 50%, with a combined total of c.48.6% to be provided. There is no requirement for 3-bedroom units under SPPR1 (and no HNDA was carried out as part of the 2016-2022 Development Plan), however 24 no. 3-bedroom units are included in the

development proposal. Having regard to the above, it is considered that even where the proposed unit mix would not be consistent with the unit mix set out in the Development Plan, the mix is justified under SPPR1 of the Apartment Guidelines (which were issued under Section 28 of the 2000 Act).

- 3.118. Further to the above justification, a justification for a material contravention in terms of the Mix of Residential Units is set out below under the relevant parts of Section 37(2)(b) of the 2000 Act.

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

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

- 3.120. The Apartment Guidelines 2020 state:

“These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.”

- 3.121. Accordingly, SPPR's 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.

- 3.122. Full details on consistency with the Apartment Guidelines 2020 is set out in the Planning Report & Statement of Consistency that is submitted with this application under separate cover. However, having regard to the above and specific to the mix of units, SPPR1 is directly relevant and states the following:

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

- 3.123. Under this SHD application, the proposed unit mix is as follows:

- 1 no. studio apartment (c.0.2%)
- 221 no. 1-bedroom apartments (c.48.4%)
- 211 no. 2-bedroom apartments (c.46.2%)

- 24 no. 3-bedroom apartments (c.5.2%)

3.124. The proposed unit mix is consistent with the guidance set down under SPPR 1 of the Apartment Guidelines 2020 as outlined above.

3.125. The Apartment Guidelines 2020 acknowledge the importance of apartment living in terms of addressing the challenges of meeting the housing needs of a growing population in our key cities and towns, particularly given the identified trend towards smaller average household size. Therefore, it is submitted that the proposed unit mix is consistent with the Apartment Guidelines 2020 and specifically SPPR 1. Further justification for the proposed unit mix, in the context of existing and permitted development in the local area is provided within the accompanying Planning Report & Statement of Consistency.

3.126. As demonstrated above, the proposed unit mix is consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location.

Part (iv) - permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

3.127. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

3.128. We note that An Bord Pleanála granted permission on 3 September 2020 for the demolition of existing structures at lands to the north-east of Omni Park Shopping Centre including a vacant warehouse at Swords Road, Santry, Dublin 9 (ABP Reg. Ref. 307011). Permission was granted for the construction of 324 no. apartments, creche and all associated site development works. The permitted development ranged between 5 to 12 no. storeys in height and provided for a density of 250 units per hectare.

Floors	2 Beds	1 Beds	Studio	TOTALS
Block A	78	45	7	130
Block B	54	69	12	135
Block C	47	12	0	59
TOTALS	179	126	19	324
%	55%	39%	6%	100%

ZONING - Z4	
PLOT RATIO - 2.5:1	
SITE COVERAGE - 32%	
PUBLIC OPEN SPACE - 2020 SQM	
HEIGHT -	BLOCK A = 8 TO 12 STOREY BLOCK B - 7 TO 11 STOREY BLOCK C - 5 TO 9 STOREY
MIX -	324 APARTMENTS 81 APARTHOTEL ROOMS

Development statistics of SHD approved at Swords Road, Santry, Dublin 9 (ABP Ref. 307011).

- 3.129. The proposed density on the subject site is 295 no. units per hectare. It is considered that the proposed density is appropriate given the National Policy objective to increase residential density in existing urban infill and under-utilised brownfield sites. Comparable or higher densities have also been granted permission by An Bord Pleanála since the adoption of the National Planning Framework.
- 3.130. The intention of national and regional policy in this regard is clear and the proposal will increase residential density on a brownfield site within a district centre and adjacent to high-quality public transport. As set out in the documentation submitted with this application the proposed development also meets the locational criteria set out in the Apartment Design Standards.
- 3.131. We note nearby permitted developments have achieved similar densities. We also note a number of developments located in similar district centre contexts, as set out below:

Scheme	Proposed Density	No. Units
Omni Living 307011-20	250 u / ha.	324
Swiss Cottage 303358-19	233 u / ha	112
James Street 308871-20	343 u / ha	189
Beach Road 310299-21	291 u / ha	112
Former Eason's Warehouse 310112-21	228 u / ha	282
Former Heidelberg / Miller Building, S.C.R Garage sites, 309627-21	330 u / ha	188



Approved Development at Omni Living (ABP Reg. Ref. 307011-20)

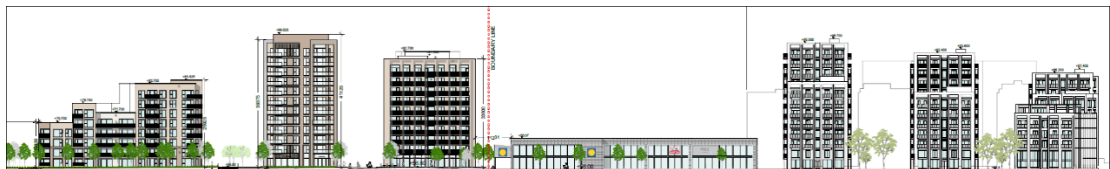
- 3.132. In relation to Swiss Cottage ABP found the density acceptable stating: With regard to density, the proposal is to provide approx. 233 units per hectare. The site is located along a quality bus corridor and in close proximity to existing employment centres such as industrial estates, the airport and other strategic routes in Dublin Metropolitan Area and as such the density proposed is considered acceptable.
- 3.133. In regard to the adjacent Omni Living scheme, the Inspector stated: *“The proposed development is located in a Metropolitan area, with excellent accessibility to high frequency bus routes into the city centre and to Dublin Airport. Within the immediate*

area surrounding the site there are a range of largescale retail, business and other institutions that will also provide employment opportunities and services to future residents of the development. I consider that the site can sustainably support the scale and density level proposed. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands."

- 3.134. Proposals for increased density should promote the highest quality of urban design and open space. The proposed development respects the existing character, context and urban form of the area and seeks to protect the existing and future residential amenity. As set out within the Architectural Design Statement prepared by JFA the proposed development is of a high-quality architectural design, its scale and massing has been varied to create a building which does not dominate the local context. It is also noted that the surrounding area is generally comprised of 3-bedroom, semi-detached houses and this mix seeks to address the current imbalance of housing mix provided in the area.



Approved developments in the local area



Elevation drawing showing comparison between approved Omni Living scheme and proposed development.

- 3.135. With regard to the above, it is respectfully submitted that the proposed material contravention of the 2016-2022 Development Plan in terms of unit mix is acceptable, when viewed in the context of the overall development and the provisions of Section 37(2)(b) of the 2000 Planning and Development Act.

Plot Ratio

Material Contravention

- 3.136. The proposed development has a Plot Ratio of 2.6. Plot Ratio in the Dublin City Development Plan specifies an indicative Plot Ratio of 2.0 for Z4 lands. It is considered that the proposed development is an increase of this indicative level and therefore, may be considered a material contravention of the City Development Plan. The proposed Plot Ratio has been assessed within the accompanying Planning Report and Statement of Consistency, and its acceptability justified in this regard.
- 3.137. It is noted that Section 16.5 of the City Development Plan sets out circumstances where Plot Ratio may be increased subject to compliance with the following criteria:
- *Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed;*
 - *To facilitate comprehensive redevelopment in areas in need of urban renewal;*
 - *To maintain existing streetscape profiles;*
 - *Where a site already has the benefit of a higher site coverage.*
- 3.138. The site adjoins a high-quality public transport corridor with high-frequency bus services where an appropriate mix of residential and commercial uses are proposed. Therefore, An Bord Pleanála may consider it is not a material contravention. However, should An Bord Pleanála consider it is a Material Contravention the following justification is provided.

Justification

- 3.139. It is considered that the subject site is capable of achieving a higher Plot Ratio due to an appropriate mix of uses being proposed on the subject site that is in close proximity to a Quality Bus Corridor (QBC), which provides access to the city centre via bus in 15-minutes. The proposed development is considered to be a sustainable use for a suitable site that will facilitate the comprehensive redevelopment of lands in need of urban renewal as per the requirements of Section 16.5 of the City Development Plan.
- 3.140. The Plot Ratio for the subject proposal is comparable with the permitted Omni Living (2.5:1) and Swiss Cottage (2.6:1) schemes that are in close proximity to the subject site. In addition, we note that even with the benefit of the subject development if permitted that the overall plot ratio for the district centre lands is low and represents an under-utilisation of scarce land resource.
- 3.141. Should An Bord Pleanála consider that a material contravention applies in this instance, it is considered that the Plot Ratio can be justified under Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended.
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,**
- 3.142. The National Planning Framework 2018, requires compact growth, better use of under-utilised land and to regenerate urban areas:

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

- 3.143. A core objective of the NPF is achieving compact growth and the Framework targets a *“significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas.”*
- 3.144. The NPF seeks to achieve *“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 targets the delivery of at 40% of future housing development to be within the footprint of built-up, existing settlements.
- 3.145. National Policy Objective 4 aims to *“ensure the creation of attractive, liveable, well designed, high urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.”*
- 3.146. National Policy Objective 6 seeks to *“regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.”*
- 3.147. National Policy Objective 13 seeks to *“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.”*
- 3.148. We also refer to Section 2.23 of the Apartment Guidelines 2020, which states 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.”*
- 3.149. In the event that the Board were to decide to grant permission for the proposed development it is considered that a justification by reference to the objectives and aims of the National Planning Framework as outlined above of what might otherwise be regarded as a material contravention of the development plan should be addressed in the Board’s decision, as the proposal has been demonstrated to be acceptable in accordance Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended.

4.0 CONCLUSION

- 4.1. It is respectfully submitted that the justification set out within this statement clearly demonstrates that the proposed development should be considered for increased **building heights**, in addition to flexibility regarding **unit mix** and **plot ratio** due to the location of the subject site adjacent to quality public transport corridors and the policies and objectives set out within the Section 28 Guidelines, in particular the Urban Development and Building Height Guidelines, the Apartment Guidelines 2018 and the National Planning Framework. In particular, SPPR 3(A) provides a justification for a material contravention of the Development Plan in relation to building height having regard to the compliance of the proposed development with the criteria under Section 3.2 of the Guidelines. The pattern of permissions granted in the area since the adoption of the development plan would confirm this.
- 4.2. In accordance with Section 9(6) of the 2016 Act, the Board may decide to grant a permission for a proposed strategic housing development even where the proposed development, or a part of it, contravenes materially the development plan where it considers that, if section 37(2)(b) of the 2000 Act were to apply, it would grant permission for the proposed development.
- 4.3. Pursuant to Section 37(2)(b), the Board may grant permission for a development that materially contravenes the development plan where it considers that:
- (i) the proposed development is of strategic or national importance,*
- (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.*
- 4.4. The proposed development is considered to be of strategic importance as it will assist with the delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland 2016 and Housing for All – A New Plan for Housing in Ireland.
- 6.4. As such, it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed contraventions as outlined of the Dublin City Development Plan 2016-2022.