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1 Introduction

This addendum to our Material Contravention Statement has been prepared for An Bord Pleanála in the event that the Dun Laoghaire Rathdown Draft Development Plan 2022-2028 is in effect when the Board is making its assessment on the subject application.

A Chief Executive's Draft Plan was circulated to members in October 2020. This was considered and amended by the 40 elected members at a series of Special County Development Plan meetings. At a meeting held on the 18th December 2020 it was deemed to be the Draft Plan. The Draft Plan was then placed on public display from 12 January to 16 April 2021 with a total of 1263 no. submissions received. A Chief Executive's Report on all submissions / observations received was prepared and circulated to the Elected Members in July 2021. Having considered the Draft County Development Plan and the Chief Executive's Report on submissions received, it was resolved by the Elected Members to amend the Draft Development Plan. These amendments now constitute a Material Alteration and are on public display from 11 November 2021 to 17 January 2022 in accordance with Section 12(7)(b) of the Planning and Development Act 2000 (as amended).

As noted in the Main Material Contravention Statement the proposed development will provide for 493 no. residential units in 10 no. Blocks, associated residential amenity facilities and a café, parking open space and site development works. A full description of the development is contained within the accompanying application documentation. For the purposes of this addendum, we specify the proposed development provides for:

1. **Building Height**
2. **Residential Mix**
3. **Residential Density**
4. **Trees**
5. **Transition Policy**
6. **Protected Structure and St. Teresa's Lodge**
7. **Institutional Designation and Open Space**

For the purpose of this statement, the proposed development comprises the following principal elements:

1. **Building Heights of 1 to 10 storeys**
2. **Residential Unit Mix of 18 no. studio units (4%); 220 no. 1 bed units (45%); 208 no. 2. bed units (42%); and 47 no. 3 bed units (9%)**
3. **Residential Density of 123 units per ha (gross) and 165 units per ha (net)**
4. **A total of 78 trees are proposed for removal on this site.**
5. **The site is located in a Transitional Zone - The site is zoned 'Objective A' and located adjacent to a large area of lands zoned 'Objective F'.**
6. **The proposal provides for the 'Dismantling' and 'Relocation' of a Protected Structure.**
7. **The proposal is located on a site to which the Institutional designation applies. Open Space provision is subject to the population equivalent standards of the Development Plan as the higher standards.**

This addendum details the basis for consideration of a material contravention of the Draft Dún Laoghaire Rathdown County Development Plan 2022-2028 in relation to building height, residential mix, residential density and tree preservation, transition policy, protected structure, and St. Teresa's Lodge, Institutional Designation and open space

It is acknowledged that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the County Development Plan. If it so

concludes, the Board has power to grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).

We now invite An Bord Pleanála to consider the justification set out in this addendum, which supports the attached Material Contravention Statement.

2 Statutory Planning Policy

The relevant provisions of the proposed amendments to the Draft Dún Laoghaire-Rathdown County Development Plan 2022-2028 (Draft Plan) where relevant to the proposed development are outlined below.

2.1 Building Height Strategy

Appendix 5 of the Draft Plan contains the Building Height Strategy for the County. Section 1.4.2 of the strategy sets out the requirements of the planning authorities to consider the policies and objectives contained in the 'Urban Development and Building Heights – Guidelines for Planning Authorities 2018 when making their draft development plans and development plans.

The Guidelines put forward both an area based and a performance criteria-driven approach as opposed to generic maximum height limits. The achievement of height is linked in the guidelines to increasing densities, although it is recognised that height does not necessarily mean higher densities.

Section 2.7 of the guidelines calls for County Development Plans to be more “*proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building Heights, while also being mindful of the quality of development and balancing amenity and environmental considerations*”.

Other Guidance of Relevance to Building Heights include the following –

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2020. These guidelines recognise the suitability of apartments in central and accessible locations and promote performance-based standards to ensure well-design, high quality outcomes. They also reference issues relating to building height and separation distances, and the need for more flexible approaches and, therefore, should be considered when assessing building heights.
- Design Manual for Urban Roads and Streets (DMURS), 2019 - These provide guidance for the assessment of streets, roads, design of networks, classification, and detailed design. It combines technical street guidance with more general elements of Urban Design. Building height and urban scale are an important part of street and space design. More specifically, DMURS describes the important relationship between building height and street width, and has a crucial role in providing enclosure of streets and spaces and thus relates to urban design/form etc.
- Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009; and the accompanying Urban Design Manual, 2009 - The 2009 guidelines and accompanying urban design manual provide guidance on planning for sustainable neighbourhoods in differing locations. The accompanying manual introduces the core principles of urban design and draws up 12 criteria which make up the essence of good urban design.

Section 4 of the Building Height Strategy sets out a policy approach for the assessment of building height in the County which aligns with the Section 28 Guidelines. The policy approach builds on the principle of allowing taller buildings in town centres, district centres, **areas close to high frequency public transport** and some other areas identified as suitable for height. The subject site is located on Temple Road, Monkstown Blackrock, Co. Dublin and is located in close proximity to high quality public transport, that being, located within 550m and 700m of 2 DART stations (Sea Point and Blackrock). In this regard, the subject site may be considered to fit into the criteria of 'taller buildings being located along major corridors for reasons of accessibility or prestige'.

Section 4.2.7 of the Building Height Strategy sets out the guidance in relation to the Blackrock Local Area Plan 2015-2025. Section 3.4 of the Blackrock Local Area Plan 2015-2025 provides guidance on Scale and building Height in respect to future developments in Blackrock, Policy BK05 states:

"It is council policy to ensure that building heights within future developments in Blackrock makes a positive contribution to the built form of an area and do not adversely impact on local amenity."

There may be instances where an agreement can be made for increased height within the plan area and in those instances any such proposals would have to be assessed in accordance with any new performance criteria set out in Section 5 of this Building Heights Strategy as per SPPR3.

To ensure application of the SPPRs and having regard to the other content of the Guidelines a number of policies have been formulated in the Building Height Strategy which support increased building height and/or taller buildings at appropriate locations. Policy Objective BHS1 – Increased Heights states:

BHS 1 - It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links **(i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route)** provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

The Building Height Strategy sets out the performance-based criteria that the Planning Authority will use in assessing applications for increased height in the County. There has been an additional amendment to the Performance Based Criteria below which now includes the following statement 'Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development.'

The performance based criteria as set out in the Building Height Strategy takes into account the protection of residential amenities, the protection of the County's built and natural heritage and the promotion of compact growth in suitable locations throughout the County.

The criteria for assessing proposals for increased height or taller buildings must demonstrate satisfaction with the following criteria as set out in Table 1 below:

Table 1 - Performance Based Criteria

CRITERIA FOR ALL SUCH PROPOSALS	DM REQUIREMENT	COMPLIANCE
AT COUNTY LEVEL		
Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth.		As per section 3.1 of the SOC which is submitted with this application the proposal secures the relevant objectives of the NPF
Site must be well served by public transport – i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport.		The site is situated immediately adjacent to a proposed Bus Priority Route as identified by the Dun Laoghaire Rathdown Development Plan 2016-2022 and is also located within 500m and 700m of 2 DART stations (Sea Point and Blackrock). In these circumstances, it is clear that the site is very well served by public transport with high capacity, frequent service and good links to other modes of public transport.
Proposal must successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or cross roads or public transport interchange to the benefit of the legibility, appearance or character of the area.	Landscape and visual assessment by suitably qualified practitioner. Urban Design Statement. Street Design Audit (DMURS 2019).	The proposal does not affect any strategic protected views or prospects
Protected Views and Prospects: Proposals should not adversely affect the skyline or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view.		The protection of the exiting heritage of the site has been a key objective from the outset of the design. From the outset of the project, we have sought the services and expertise of Cathal O'Neill - Grade 2 Conservation Architects to advise on conservation matters. We refer An Bord Pleanála to accompanying documentation enclosed herewith for further review on matters of conservation.
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.		Not applicable
<i>Proposed Material Amendment - Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development</i>		If this proposed amendment is adopted when the Board assesses this application, the applicant would be willing to submit the

		relevant assessment on carbon emissions in compliance with a condition, should the Board consider this necessary.
AT DISTRICT/NEIGHBOURHOOD/STREET LEVEL		
Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.	Proposal should demonstrate compliance with the 12 criteria as set out in "Sustainable Residential Development in Urban areas, Guidelines for Planning Authorities" 2009. Street Design Audit (DMURS 2019).	Please find attached Statement of Consistency and Planning Report which fully sets out compliance with the criteria as set out in the aforementioned guidelines.
Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks.	Design Statement.	The proposed development comprises a range of building forms, from modest footprint point buildings to extended footprint buildings that hug the edge of the woodland areas. Accordingly, the proposed development is not monolithic and clearly avoids long, uninterrupted walls of building in the form of slab blocks. We refer An Bord Pleanala to the O'Mahony Pike drawings and the Design Statement enclosed herewith for further details.
Proposal must show use of high quality, well considered materials.	Design Statement. Building Life Cycle Report.	Appropriate use of materials and fenestration details as proposed by Mahony Pike Architects has ensured that the building fabric is well considered. We refer An Bord Pleanala again to the Design Statement and the Building Life Cycle report prepared by Aramark.
Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.	Must also meet the requirements of "The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009".	There is no inland waterway or marine frontage within the current proposal. We can confirm that a Flood Risk Assessment prepared by JJ Campbells Consulting Engineers has been prepared as appropriate and we refer An Bord Pleanala to this document for further detail on the matter of flooding as it relates to the site.
Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.		The proposed development is a residential apartment development offering a range of buildings and apartment types, from studio apartments to 3 bed apartments. St Teresa's House is to be fully refurbished and converted into 6 no. apartments. A number of units within the development in Blocks B1, B2, B3 and

		D1 will have "own door" access. Block E2 comprising 50 apartments is proposed as social and affordable housing. The gate lodge building is to be dismantled, moved to a new location on the southern boundary with Rockfield Park. It will be reconstructed, refurbished, extended and converted into café use.
Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area.	Design Statement.	An appropriate mix of units types and sizes are incorporated into the development proposal. Notably, 18 studio units, 220 no. 1 bed units, 39 no. 2 bed units (3P), 169 no. 2 bed units (4P) and 47 no. 3 bed units. are proposed within the new development. A number of own door units are delivered, which is a welcomed approach to development.
Proposal should provide an appropriate level of enclosure of streets or spaces.	Design Statement.	The subject proposal affords an opportunity for St. Teresa's development to address the street frontage on the Temple Hill, Monkstown corridor in order to create a greater sense of enclosure in line with policy outlined in the Design Manual for Urban Roads and Streets.
Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.		Temple Hill Road (N31) is a key thoroughfare, built as a dual carriageway to skirt around Blackrock village centre. Along this most public frontage, the boundary has been set back and the buildings are set back from the carriageway by c.10m. The arrangement of the 5 no. proposed buildings along Temple Hill Road allows visual and physical connection between the road and the centre of the site. The detached footprints of the buildings and the separation distances across Temple Hill Road which are between 30.5m and 33.3m allow for higher development along this frontage. The buildings on the north side of Temple Hill Road are for the most part 2 storey dwellings with a 2-storey car showroom building opposite the northernmost block A1. The considerable separation distances between buildings, the tree lined central median in the dual carriageway and the proposed tree lined recessed site boundary make it possible to propose taller structures along this frontage. Accordingly, the proposal enhances the urban design context key thoroughfares, thereby enabling additional height in development form to be favourably considered.

Proposal must make a positive contribution to the character and identity of the neighbourhood.		The proposed development takes the context of its surrounding developments into account to develop a high-density design in keeping with its surroundings. The layout and public realm elements of the proposed development prioritise pedestrian linkages and amenity in order to best utilise the transport amenities in the immediate facility, for example, by placing parking at a basement level in order to yield priority to people-friendly spaces and providing significant enhancements to the streetscape and public realm along Temple Hill.
Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties		The proposed buildings will be setback at all boundaries and the upper floors will be further setback where the boundary is shared with existing residential development. The massing of the buildings has been concentrated away from boundaries shared with existing residential development.
AT SITE/BUILDING SCALE		
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing.	Must address impact on adjoining properties/spaces/	A detailed design rationale for the form, massing and height of the proposed development is set out in the enclosed Design Statement by O'Mahony Pike Architects.
Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met.		The application for permission is accompanied by a Daylight and Sunlight Analysis, which confirms that there are acceptable levels of access to natural daylight and that overshadowing is minimised. In this regard, appropriate consideration has been given to the relevant guidance documents and specifically 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting'
Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing.		The material enclosed here with from O' Mahony Pike and Model Works has clearly demonstrated that there is no adverse impact posed by the development by way of overlooking or overshadowing or excessive bulk and scale.
Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure.		The site is not located in or adjacent to an Architectural Conservation Area. There are 3 Protected Structures relative to the site and it is submitted that the proposal protects and

		enhances their setting. We refer the Board to the enclosed Architectural Heritage Impact Assessment prepared by CONA for full details.
COUNTY SPECIFIC CRITERIA		
Having regard to the County's outstanding architectural heritage which is located along the coast, where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	An urban design study and visual impact assessment study should be submitted and should address where appropriate views from the sea and/or piers.	Not Applicable
Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive.	An urban design study and visual impact assessment study should be submitted.	The Blackrock Local Area Plan 2015-2025 outlines that the vista from St. Teresa's to Rockfield Park should be maintained. The historic view towards the Dublin Mountains is key here. An Bord Pleanála will note on review of proposals submitted from O'Mahony Pike Architects that this objective is now delivered through an appropriate layout and creation of a new setting for the Protected Structure, which maintains the view towards Rockfield Park and beyond.
Additional specific requirements (Applications are advised that requirement for same should be teased out at pre planning's stage).		This application comprises a detailed suite of material, responding to specific requests at Pre Application stage from the Planning Authority and An Bord Pleanála.
Specific assessments such as assessment of microclimatic impacts such as down draft.		We refer An Bord Pleanála to the enclosed input from BFluid, which examines in detail the impacts of proposed development in terms of Wind and Microclimate.
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas.		The proposed development site is not a development location in proximity to sensitive bird or bat areas. In relation to safe air navigation, prior to the submission of the 2019 application for permission in respect of the site, the applicant contacted the Irish Aviation Authority (IAA) and the Dublin Airport Authority (DAA) to ensure that the permitted proposal maintains safe air navigation.

Assessment that the proposals allows for the retention of telecommunications channels, such as microwave links.		OCSC has advised that microwave links used by the telecoms companies use direct "line-of-sight" to connect from one point to another, so if a tall building is placed along that line it could block the signal path. In this case, this issue is not considered to pose a risk.
An assessment that the proposal maintains safe air navigation.		We have engaged with the Irish Aviation Authority (IAA) and the Dublin Airport Authority (DAA) to ensure that the current proposal maintains safe air navigation.
Relevant environmental assessment requirements, including SEA, EIA (schedule 7 information if required), AA and Ecological Impact Assessment, as appropriate.		An Appropriate Assessment Screening Report has been prepared and submitted by Scott Cawley. An Environmental Impact Assessment Report has also been Prepared by Brock McClure with inputs from all consultants included with this application.
Additional criteria for larger redevelopment sites with taller buildings		Not applicable
Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development.		<p>The proposed development makes a positive contribution to place making by creating a new edge to Temple Hill Road dual carriageway. The removal of the existing site boundary wall, its replacement with a new low wall and railing and the widening of the planted verge along the full length of the northern site boundary with Temple Hill Road, provides open vistas into the site and lands beyond.</p> <p>The development provides new linkages to Rockfield Park, with direct pedestrian permeability from the N31. The proposed relocation of the Gate Lodge to the Park edge and its new use as a café will encourage vibrancy and animation of the area.</p>
For larger unconstrained redevelopment sites BRE standard for daylight and sunlight/any forthcoming EU standards on daylight sunlight should be met.		We refer the board to the accompanying Daylight and Sunlight assessment prepared by IES submitted with this application.

Notwithstanding the above compliance with necessary criteria, in case the Board were to consider that the proposed development would give rise to a Material Contravention of the Development Plan in respect of building height we have set out a full justification in respect of this matter in Section 3 of this report.

2.2 Residential Size and Mix

Section 12.3.3.1 of the Draft Plan sets out the requirements in relation to the mix of units provided as part of new apartment development as follows:

“planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County”

Planning applications received in both new residential communities and within the residual built up area shall include:

- **Details of existing and permitted unit types within a 10-minute walk of the proposed development.**
- **A detailed breakdown of the proposed unit type and size including a percentage split between 1/2/3+ bed units which in the case of apartments (and duplexes)**
- **A site and/or floor plans that clearly identify proposed units that:**
 - **Are designed and located having regard to the needs of older people and/or persons with a disability.**
 - **Are designed having regard to the concept of lifetime adaptable and/or multigenerational homes.**
- **A statement outlining how the scheme has been designed for the needs of older people and / or persons with a disability and/ or lifetime homes.**
- **No more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person apartment types.**

For clarity, the percentage of 1 bed units currently proposed is 45% (220 no. units) and 3% of units in the scheme are studio units (18 no. units). In addition, 43% are 2 no. bed units (208 no. units) and 9% are 3 no. bed units (47 no. units)

The percentage of units with a floor area over 80 sq m is 29.6 % or 146 of 493 units proposed. This figure of 29.6% is considered acceptable given the mix proposed is primarily 1 and 2 bed Build to Rent units.

Area	Requirement	Proposed
Existing Building up Area	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination on of one bed and studios and no more than 20% of the overall development as studios Minimum 20% 3+ bedroom units	3% Studios Units 44 % 1 Bed Units 43% 2 Bed Units 9% 3 Bed Units

We note in the context of these requirements that the policy document 2020 ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ contains a Specific Planning Policy Requirement in relation to dwelling mix requirements (SPPR 1), which

takes precedence over any conflicting policies and objectives of the 2022-2028 County Development Plan.

In case the Board were to consider that the proposed development would give rise to a Material Contravention of the Development Plan in respect of development mix, we have set out a full justification in respect of this matter in Section 3 of this report.

2.3 Residential Density

Chapter 4 of the Draft Plan 2022-2028 sets of the policies and objectives in relation to 'Neighbourhood – People, Homes and Place' and section 4.3.1.1 refers to residential Density. The proposed material amendments to the plan have recommended amending Policy Objective PHP18 as follows:

"It is a Policy Objective to:

- **Promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites.**
- **Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development."**

We also note the plan states that the 'Sustainable Residential Development in Urban Areas Guidelines and the accompanying 'Urban Design Manual' include recommendations regarding appropriate densities for various types of locations. Having regard to the Guidelines and consistent with RPO 3.3 and 4.3 in the RSES as follows:

- **Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density) will be encouraged.**

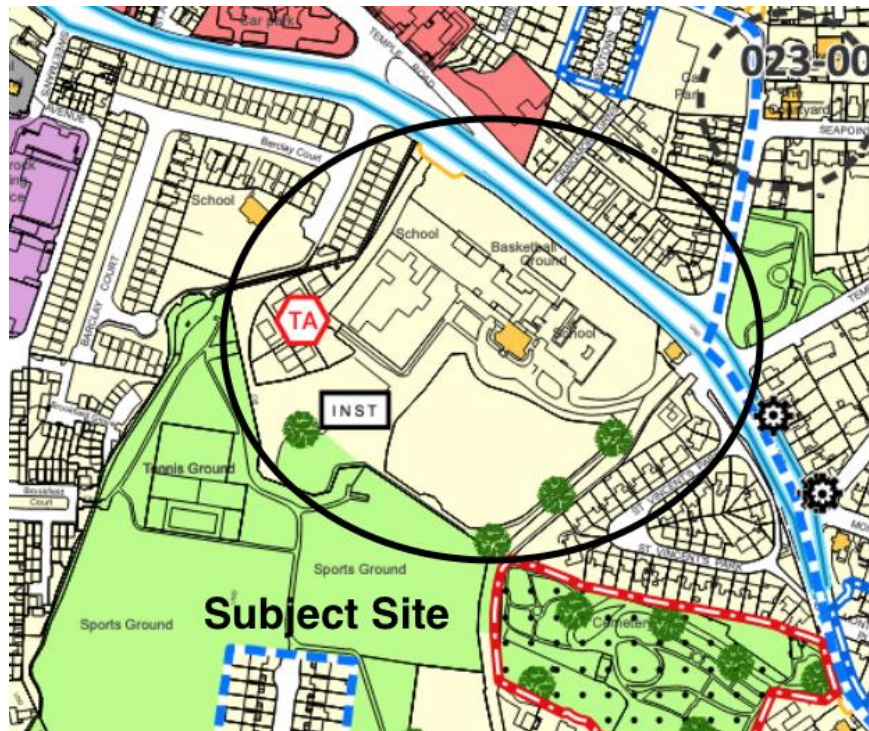
This is considered appropriate and achievable at this location given the quality of the scheme proposed; the location of the site adjacent to a proposed bus priority route at Temple Hill; and the proximity of the site to both Seapoint (550m) and Blackrock (700m) DART Stations

A density of 123 units per ha gross figure and 165 units per ha net figure is proposed at a rate of 493 units on a net site area of approx. 3.9 ha. A density of this nature is supported by national policy which is aiming to deliver increased height and densities at appropriate locations.

The Board may consider that the proposed development gives rise to a Material Contravention of the Development Plan in respect of residential density.

We therefore set out a full justification of this matter in Section 3 of this report.

2.4 Trees



Chapter 12 of the Draft Development Plan 2022-2028 sets out the policies regarding Development Management of the proposed development, and section 12.8.11 refers to Existing Trees and Hedgerows, and states that:

*“New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives **to protect and preserve trees and woodlands** (as identified on the County Development Plan Maps).”*

The draft plan further states that:

“Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planning and replacement trees and other plant material. This will be implemented by way of condition.”

The proposal development has been the subject of significant Arboricultural input from the outset of the design process. The Design Team has sought to maximise opportunities for tree retention as part of the proposed development to aid in the assimilation of the scheme into its context.

All considered, it is evident that certain requirements of the Development Plan are met, where the retention of trees, as far as practicable, has been provided for. In addition, where it has been necessary to remove trees to facilitate development, a commensurate programme for replacement planting has been delivered.

However, on balance, there is a material contravention of elements of section 12.8.11 of the draft CDP, at least in relation to the requirement to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and to have regard to objectives to protect and preserve trees and woodlands.

It is our view that there are conflicting objectives and Development Plan/LAP provisions, which relate to trees. On this basis, permission can be lawfully granted for the proposed development.

We therefore set out a full justification of this matter in Section 3 of this report.

2.5 Transition Policy

The subject site (zoned Objective A) is located proximate to an area of zoned open space (Zoning Objective F) to the south known as Rockfield Park. Having regard to Section 8.3.2 of the Plan, we submit that a material contravention occurs in relation to this policy, as there is a notable change in scale between the open space lands at Rockfield Park and new development proposed. The following provisions of the Development Plan as they relate to the site are set out below:

Section 13.1.2 of the draft Development Plan 2022-2028 sets out that:

“The maps of the County Development Plan show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties”.

For the avoidance of doubt, we confirm that this material contravention is not relation to the zoning of land, but relates to the nature/scale of the transition between the open space zone and residential zone.

It is our opinion that it could be interpreted that a Material Contravention in respect of a transition zone policy is occurring in this instance and this is a matter for An Bord Pleanála to ultimately adjudicate on. It is our view that the proposal is of strategic importance and can be delivered in line with the provisions of the National Planning Framework.

We therefore set out a full justification of this matter in Section 3 of this report.

2.6 Protected Structure and St. Teresa's Lodge

The proposed development includes the dismantling and relocation of 'St. Teresa's Lodge' or 'The Gate Lodge' as it is referred to in accompanying documentation. This aspect of the proposed development is addressed in detail in application documentation prepared by Cathal O'Neill Architects and also in the Gate Lodge Strategy Report prepared by Brock McClure Consultants

The following policies and provisions of the Draft Development Plan 2022-2028 are relevant, Section 11.4.3, Protection of Other Elements of Built Heritage

Policy Objective HER7: Record of Protected Structures:

“It is Council policy to:

Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).”

Policy Objective HER20: Buildings of Vernacular and Heritage Interest

"It is council policy to:

- **Retain, where appropriate, and encourage the rehabilitation and suitable use of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.**
- **Encourage the retention and/or reinstatement of original fabric or our historic building stock such as windows, doors, roof coverings, shopfronts, pub fronts and other significant features.**
- **Ensure that appropriate materials be used to carry out any repairs to the historic fabric."**

As set out above, the application documentation, specifically, the material from Cathal O'Neill Architects and the co-ordinated Gate Lodge Conservation report set out the basis on which the principle for dismantling and relocation of the Gate Lodge within the site is proposed.

2.7 Institutional Designation and Open Space Provision

The subject site is governed by a specific objective "To protect and/or provide for institutional use in open lands", as identified in the Development Plan 2022-2028 zoning map.

The institutional designation afforded to the site is not a land use zoning as land use Zoning Objective 'A' governs the site, which explicitly provides for residential development as the main land use appropriate to the site in principle.

The following policy and provisions of the Development Plan as they relate to this institutional designation are set out and considered below:

Section 12.3.8.11 Institutional Lands –

"Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained. There are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standard of development a comprehensive Masterplan should accompany a planning application for institutional sites. Such a Masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns"

A brief response to each of these matters is highlight below:

Alternative Use

'St. Teresa's House' or 'Craigmore' as it was formerly known was built in 1862 and was acquired by the Daughters of Charity in 1925, at which time it was renamed St. Teresa's. This building was mostly recently in use by convalescing nuns who have relocated to St. Catherine's to the south east, since the sale of the site to the applicant. The various outbuildings associated with St. Teresa's are currently being demolished on site and previously included a stables, stable link block, 3 schools from 1926, 1946 and 1962, a west link building and Maryville, which was a purpose built dormitory. The Gate Lodge built around 1866 has been unoccupied for some years now and is thought to be most recently in use as residential.

The most recent use associated with the site and particularly St. Teresa's House and St. Teresa's Lodge is residential. A full history in relation to these buildings is outlined in material from Cathal

O'Neill Architects. The buildings are all currently unoccupied with the previous owners (The Daughters of Charity) all currently residing at the site to the south east known as St. Catherine's.

The sale of the site to the applicant confirms that this residential use is no longer required. The use of the buildings currently being demolished have long been vacated with uses including residential and educational use no longer required on this site.

Open Space

A review of the open space requirements pertaining to this site confirms that it is the population equivalent standard that applies to the site, that being the higher requirement. We note for the sake of completeness that the 25% requirement, being the lesser requirement, is met.

The population equivalent figure is identified as 3.5 persons for units with 3 or more bedrooms and 1.5 persons for units with 2 or fewer bedrooms. The requirements for open space per person are 15-20 sqm. Based on the proposed development, it is evident that there is a total population equivalent of 833.5 persons (based on a mix of 18 x studios, 220 x 1 beds, 208 x 2 beds and 47 x 3 beds).

This population of 833.5 persons therefore applies a requirement for **12,502.5 - 16,670 sq. m open space, which equates to 15-20 sq. m per person**. The Development Plan sets out in Section 8.2.3.2 that *"a lower quantity of open space (below 20 sq. m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions..."*

We note that the current proposal provides for **15,099.7 sq. m** of open space (broken down as 11,572.3sq m public open space and 3,527.4 sq. m of communal open space). This equates to a provision of 17.9 sq. m per person, which does not meet the 20 sq. m requirement. The documentation submitted with the application or permission confirms that the open space offering is significant in this case with large open space areas, tree trails, play areas and permeable access to the adjoining Rockfield Park, which in itself is a significant open space offering.

Density

It is our understanding that proposals for density will only be accepted on the basis that the open character of the lands is retained. It is clear from proposals submitted that the open character of the lands has been maintained in that the general arrangement of the buildings on site have had regard to the site framework strategy for this site as set out under the Blackrock LAP 2015. Furthermore, a significant open space offering is delivered (above 25% and at a rate of 17.9 sq. m per person).

Masterplan

The design statement enclosed herewith, has set out a masterplan for the delivery of the development to the entirety of the site subject of this application. Clear details are set out in terms of the design evolution with regard clearly given to the built heritage and natural assets of the site with significant proposals for retention of St. Teresa's House, the retention of the existing folly and tree belts and the relocation proposals for St. Teresa's Lodge. We confirm that the applicant has no control over adjoining lands (under separate ownership) and in summary full consideration has been given to the extent of lands available for development at this time.

We note also that in description of the site at St. Teresa's and St. Catherine's to the south the Blackrock LAP sets out on page 28 that *"The site is divided into two distinct parcels. The first parcel include the land surrounding the Protected Structure of St. Catherine's House, formerly Dunardagh House. The second parcel comprises of St. Teresa's, (formerly Craigmole House), also a Protected Structure."* This further supports the approach taken by the applicant to deliver a masterplan for the site which forms the subject of this application only.

Conclusion

There is a material contravention of certain provisions of the CDP in relation to the open space requirements in relation to institutional use. However, as set out in Section 3 of this report, it is clear that the Board may lawfully decide to grant permission for the proposed development, notwithstanding such material contravention.

3 Material Contravention Justification

In the event that the Board considers that the proposed development constitutes a material contravention of the 2022-2028 Dún Laoghaire-Rathdown County Development Plan by virtue of the residential mix, residential density and tree preservation, transitional zone, protected structure, and St. Teresa's Lodge, Institutional Designation and open space, the justification for deciding to grant permission in circumstances of such a material contravention is set out below, as required under the relevant criteria under Section 37(2)(b) of the 2000 Act, as amended.

3.1 Proposed Development is of Strategic or National Importance

The proposal is for 493 residential units and therefore falls within the definition of a Strategic Housing Development in accordance with the definition under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended. Strategic housing development also comes within the definition of Strategic Infrastructure Development. On this basis also, it is considered that the proposed development is, by definition, strategic in nature and of strategic importance.

The Housing for All: A New Housing Plan for Ireland 2021 (HFA), recognises the strategic importance of higher density housing. Within the plan, a new fund the Croí Cónaithe (Cities) Fund has been introduced to further the implementation of planning permissions for apartments. Housing policy objective 15, no. 15.1 states that the HFA plan will *"Introduce the Croí Cónaithe (Cities) Fund to ensure that planning permissions for apartments in high density areas already secured by 2021 are activated by the end of 2025 for build to sell."*

In addition to this, the new fund will focus on *"activating housing supply through enhanced viability measures targeted at developing properties for individual household purchasers, including first-time buyers and right-sizers."* The fund will *"stimulate activation of existing planning permissions for build-to-sell apartment developments of four floors or more, above a certain density threshold, and this will be complemented by the sanction of a tax to activate vacant lands for residential purposes."*

Moreover, housing policy objective 11, no. 11.2 supports high-density housing: *"Develop section 28 Guidelines for Planning Authorities on Sustainable and Compact Settlement Guidance (SCSG), including guidance on housing typologies to facilitate innovative approaches to medium and higher densities."*

Furthermore, new planning arrangements are to be introduced for large-scale residential developments (LSRD). Objective 12, 12.3 is to *"Introduce a new planning process for Large Scale Residential Developments to replace the Strategic Housing Development (SHD) process"*. Following stakeholder engagement, and aligned with commitments in the programme for Government, these new arrangements will replace the current Strategic Housing Development (SHD) arrangements and will comprise three stages:

- Pre-application consultation stage: planning authorities will be required to complete the final consultation meeting aspect of the pre-application consultation stage including the provision of an opinion as to whether the proposals constitute a reasonable basis for moving to the next phase and submitting a planning application within 8 weeks of receipt of such meeting request from the developer/project promoter.
- Planning application stage: planning authorities to determine LSRD planning applications within eight weeks of receipt, with limited scope for 'further information requests' in the light of the pre-application consultation phase.
- Appeal stage: An Bord Pleanála will be required to determine LSRD appeals within a certain timeframe (which may be generally 16 weeks from receipt), again with similar limited scope for 'further information requests'.

The Housing for All plan therefore supports the provision of new housing, particularly high-density housing for build-to-sell apartments. Moreover, it is clear that the government have implemented a plan that supports homeownership by increasing affordability, which will consequently increase capacity and efficiency of delivery in both public and private sectors.

This proposal contributes positively to the current national shortfall in housing supply. The HFA Plan recognise the strategic importance of larger residential developments (including those over 100 units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply.

Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act as amended, and therefore should the proposal be determined to be a material contravention of any of the policies set out above, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.

3.2 Compliance with National Policy and Section 28 Ministerial Guidelines

The following section demonstrates how the proposed building heights, residential mix and residential density are justified in the context of recent National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned serviced lands adjacent to public transport corridors. These include:

- Project Ireland: National Planning Framework 2040.
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

3.3 Project Ireland 2040 – National Planning Framework

The 'National Planning Framework' sets out the following Objectives:

3.3.1 National Policy Objective 2a:

"A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs."

- The current proposal provides for 493 residential units at a suburban location, close to highly accessible public transport nodes (550 and 700m from Sea Point and Blackrock DART stations, respectively) in the southern Greater Dublin Area. The proposal provides for a residential density of 123 units per ha gross figure and 165 units per ha net figure and is therefore supportive of the objective to accommodate population growth in the Blackrock suburb of Dublin.

3.3.2 National Policy Objective 4:

"Ensure the creation of attractive, liveable well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being."

- The current proposal for 493 residential units is delivered in the form of a 3-10 storeys development that is exceptionally well-designed. The design architects, O'Mahony Pike, have delivered a scheme that has been mostly informed by the Site Framework Strategy governing the site and as contained within the Blackrock LAP but also the presence of Protected Structures on site; the presence of Temple Hill Road to the north, a substantial dual carriageway; and the presence of

Rockfield Park and adjoining residential development to the south, west and east of the site.

- The design has considered, in detail, the existing levels of residential amenities at adjoining residential developments. We note in particular that developments at St. Vincent's Park, St. Louise's Park and Barclay Court were considered in detail at a very early stage in the design evolution of the current proposal. Appropriate setbacks and separation distances to these dwellings have been maintained as set out within this accompanying documentation. Additional height is only proposed at appropriate locations within the development i.e. along Temple Hill and along Rockfield Park. Height sensitive areas (around the existing Protected Structure and at adjoining boundaries) are also respected.

3.3.3 National Policy Objective 11:

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

- The subject site is significantly underutilised and is located within an existing suburban area. The site is appropriately zoned for residential development; is located proximate to high frequency public transport nodes and is identified as having significant development potential within the Blackrock LAP 2015. The site measures c. 3.9 ha and is considered meaningful in terms of its potential to deliver a strategic housing development of exceptional design.
- The proposal will offer a range of wider planning gains including an exceptional public realm proposal that includes significant open space provision; improved permeability across the site from Temple Hill to Rockfield Park; a new and improved setting for St. Teresa's House (a protected structure) and local facilities such as a café, Crèche and residential amenity offering for future residents
- The proposal will also add a significant population to the local Blackrock area in proximity to the commercial centre of Blackrock and public transport corridors. The movement of new residents on foot or cycling will contribute to the vibrancy and vitality of Blackrock and other proximate commercial centres.

3.3.4 National Policy Objective 13:

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

- The proposed development has been designed as an exemplar architectural model by award winning architects, O'Mahony Pike Architects.
- The development will meet or exceed all relevant performance criteria, as set out in this report.
- The proposed building heights are cognisant of the LAP height strategy while seeking to provide legibility and variety in building form to enhance the overall masterplan and improve the quality of the public realm.

- In line with the design objective for improved pedestrian permeability, expansive open landscaped areas are identified in order to strengthen visual connectivity through the scheme.
- The provision of an improved public realm along Temple Road is extended in between blocks B2 and B3 by providing a series of stepped lawns leading up to the proposed resident amenity clubhouse and St. Teresa's House. This generous landscaped space provides an open visual connection into the development.
- A sequence of open spaces running between Rockfield park and Temple Road are interwoven into the masterplan to provide a variety of amenity value and experience.
- These comprise of terraced gardens leading up from Temple Road and arriving at a plaza containing a Clubhouse and central resident's amenities. pedestrian routes either side of St. Teresa's house lead into the central parkland setting which connects to the Woodland Park and into Rockfield park beyond to the South.
- The masterplan provides for a complimentary balance between new building interventions, retention of existing historical buildings and the enhancement of existing and new landscape features.
- Given the large area of the site and the extensive green open spaces, an opportunity exists to ensure buildings are predominantly looking onto open green spaces.
- While the building disposition is guided by the LAP, every effort is made to provide due N/S orientated buildings in order to maximise daylight access to the apartments.

3.3.5 National Policy Objective 32:

"To target the delivery of 550,000 additional houses by 2040."

- The current proposal will deliver 493 residential units, contributing towards the Government's objective of 550,000 houses by 2040. We ask the Board to note that the applicant is ready to implement this permission without delay, should a grant be forthcoming.

3.3.6 National Policy Objective 33:

"Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location."

- The site is considered a key infill site and one that is appropriate for increased residential densities and heights. This is particularly the case given proximity to public transport nodes. Most notably, the site is located adjacent to a proposed Bus Priority Route at Temple Hill (N31) and is proximate to DART stations at Seapoint (6m walk) and Blackrock (11 min walk) and is therefore well placed in terms of exceptional public transport accessibility.
- The current proposal for 493 residential units is the subject of an exceptional design strategy and one that has carefully considered existing levels of residential amenities at adjoining residential developments.
- Variations in building heights, scales and forms are considered in relation to adjoining developments and create a visual interest in the streetscapes both external and internal to the site.
- Overall there is considerable variety in the scale and forms of buildings that is made to appear cohesive by the use of a limited number of construction materials and

the use of similar elements and detailing across the elevations. Thus, the materials and building fabric well considered.

3.3.7 National Policy Objective 35:

“Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights”.

- The site is a large infill site in the heart of Blackrock and is one of 3 sites earmarked within the Blackrock area for significant development by way of its designation as a site with the Site Framework Strategy. These sites are of strategic importance both within the settlement of Blackrock, within the County area and on a national scale and increased residential densities and height can therefore be positively considered.
- The proposed development will provide for an appropriate increase in residential density on an infill site within an existing urban area. (123 units per ha gross figure and 165 units per ha net figure based on a net site area of 3.9 /2.98 ha and a proposal for 493 units) on a suburban infill site within an existing urban area.
- The existing area is inherently low density with large dwelling on substantial plots. An inefficient use of well-located land. The subject proposal aims to rebalance residential density in the area and provides a variety of studio, 1, 2 and 3 bed unit typologies to cater for the current lack of supply of this type in the area.
- Proposals for heights of 3-10 storeys are well considered and cognisant of established levels of residential amenity in the area. It is on this basis that the proposed residential density is considered to align with National Policy Objective 35

Based on the foregoing, it is considered that the development accords with the key principles of the National Planning Framework.

3.4 Design Standards for New Apartments (2020)

The 'Sustainable Urban Housing: Design Standards for New Apartments (2020)' are ministerial guidelines issued under section 28 of the 2000 Act, to which the Board is obliged to have regard. In particular, the board is obliged to comply with any SPPR under these guidelines.

Section 2.2. of the Guidelines stated that ***“apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.”***

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

As set out above, the 2020 Apartment Guidelines explicitly direct that the scale and extent of apartment development should increase on sites that are proximate to urban centres and public transport. the site is located adjacent to a proposed Bus Priority Route at Temple Hill (N31) and is proximate to DART stations at Seapoint (6m walk) and Blackrock (11 min walk) and is therefore well

placed in terms of exceptional public transport accessibility. The scale of development proposed in this case is therefore supported by the Apartment Guidelines.

The Guidelines also state that the rigid application of numerical limits on height (as set out in the County Development Plan) is not appropriate and performance based standards should be relied upon in the assessment of such schemes. It is submitted that the proposed development performs exceptionally well when tested against the relevant criteria – as set out in the following section of this Report.

In regard to residential mix, SPPR 8 as applicable to a Build to Rent development such as this, states:

“(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;

The proposed mix has been designed to suit the specific resident profile for this area as supported by demographic and market analysis.

Notwithstanding the development's compliance with the Apartment Guidelines, the proposed development will add to the variety of residential unit types in the wider vicinity.

3.5 Urban Development and Building Height Guidelines (2018)

The 'Urban Development and Building Heights, Guidelines for Planning Authorities (2018)' which were issued in December 2018 under Section 28 of the 2000 Act set out national planning policy guidelines on building heights in relation to urban areas.

Under section 3.1 of the Guidelines, three following broad principles or criteria must be applied 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?***

As set out in Section 3.3.1 above, the proposed St. Teresa's SHD does secure the relevant objectives of the National Planning Framework. The location of the proposed development is a unique opportunity for the delivery of strategic housing in a sustainable manner in accordance with national strategic planning policy.

- ***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?***

The Statement of Consistency enclosed herewith has also set out how the current proposal complies with the provisions of the Dún Laoghaire Rathdown County Development Plan 2016-2022 and the Draft Development Plan 2022-2028. It is acknowledging that the Dún Laoghaire Rathdown County Development Plan 2016-2022 was prepared and adopted before the 2018 Building Height Guidelines came into effect.

- ***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?***

With regard to policies and objectives of the Draft Dún Laoghaire Rathdown County Development Plan 2022-2028, we note that the National Planning Framework provides for an increased residential density in settlements through a range of measures including increased building heights. National Policy Objective 35 refers. As discussed in section 2

above. The draft plan has set out performance based criteria in which to evaluate each new development when considering height.

Notwithstanding the above, SPPRs (as stated in the Building Heights Guidelines) take precedence over policies and objectives of development plans and local areas 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. Section 9(3) provides:

“(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.”

In addition section 1.14 of the Guidelines published, reflecting the statutory position as set out below, states:

*“Accordingly, where SPPRs are stated in this document, **they take precedence over any conflicting, policies and objectives of development plans**, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans/ schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements.”*

3.5.1 Specific Planning Policy Requirements

SPPR 3A of the Urban Development and Building Heights Guidelines 2018 requires applicants for planning permission to set out how the proposal complies with the “*criteria above*”. This refers to the Development Management criteria at Section 3.2 of the Guidelines, which are discussed below.

If the Board is satisfied that the criteria under section 3.2 have been met, it “*may approve such a development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise*”. The paragraph introducing SPPR 3 itself is set out below for ease of reference, following which, each of the criteria (denoted by italics) are considered in turn:

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

SPPR 3 (A)

“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.”

The manner in which the proposed St. Teresa's SHD complies with the relevant criteria set out in the Building Height Guidelines 2018 is demonstrated below in sub-section 'Development

Management Criteria'. The consistency of the proposal with the National Planning Framework has been considered above.

3.5.2 Development Management Criteria

The Guidelines clearly set out that in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála, that the proposed development satisfies a number of criteria. The relevant criteria are set out in bold below, followed by the applicant's response:

At the scale of the relevant city/town:

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

The site is situated immediately adjacent to a proposed Bus Priority Route as identified by the Dun Laoghaire Rathdown Development Plan 2016-2022 and is also located within 550m and 700m of 2 DART stations (Sea Point and Blackrock). In these circumstances, it is clear that the site is very well served by public transport with high capacity, frequent service and good links to other modes of public transport.

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

Careful consideration has been given to the successful integration of the proposed development, including buildings of increased height, into the existing character and topography of the site and area. It should be noted that additional height is only proposed at locations where topography and existing site characteristics are favourable i.e. along Temple Hill and Rockfield Park.

The topography along Temple Hill allows for a split level urban block, which forms a strong relationship with the natural topography and natural level change at this location.

At Rockfield Park the proposal for additional height at Blocks E1-E5 forms a legible and defined edge to the Park area, where passive surveillance and views are the focus in terms of design.

Block D1 overlooks the open space area to the fore of St. Teresa's and also provides for the passive surveillance of the tree lined avenue to the south east of the site. The proposal for additional height at this location frames the development.

A Landscape and Visual Impact Assessment prepared by ARC Architectural Consultants is submitted with the application for permission in compliance with the above criteria. The report makes the following conclusion:

"Visibility of the proposed development is likely to be largely restricted to locations in close proximity to the application site. While the construction of the proposed development is likely to result in a significant change to the visual environment from some nearby viewpoints, having regard to the planning history of the site, the pattern of residential and apartment development that has taken place on the sites of larger detached houses in the area and local, regional and national planning policy for the densification of the urban area, these changes are considered to be consistent with emerging trends for development in the area."

The proposed development makes a positive contribution to place making by creating a new edge to Temple Hill Road dual carriageway. The removal of the existing site boundary wall, its replacement with a new low wall and railing and the widening of the planted verge along the full length of the northern site boundary with Temple Hill Road, provides open vistas into the site and lands beyond.

It is proposed that a new café at the edge of Rockfield Park will bring a new public use into the development that can be enjoyed by all. When seen from Rockfield Park, its association with St. Teresa's House can be understood. Its immediate surrounding area will be suitably landscaped with gravel paths, permanent seating and additional planting to enhance the public realm.

The scale and height of the 'C' blocks are therefore subordinate to St. Teresa's House completing a composition whereby the protected structure remains the focal point of the development while enjoying clear uninterrupted views directly south towards Rockfield Park and the Wicklow mountains.

The location and orientation of the buildings within the centre of the scheme are derived from the objectives of the master layout plan and the integration with identified character zones, landscaped areas, view corridor and protection of the setting of St. Teresa's House.

At the scale of district/ neighbourhood/ street:

- ***"The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.***

The proposed removal of the site boundary wall along the southern boundary with Rockfield Park allows for the extension of the parkland into the development. The proposed development will result in the site being opened and made accessible to the public. The central open space to the south of St. Teresa's House will become part of the public realm and a focal point of the site landscape. A network of streets and paths link spaces and create new routes through the site. Variations in building heights, scales and forms are considered in relation to adjoining developments and create a visual interest in the streetscapes both external and internal to the site

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

The proposal responds to its natural and built environment and makes a positive contribution to the urban neighbourhood. Around the site, due consideration is given to the different physical conditions and characteristics of the neighbourhood. The site layout allows for retention of the majority of important trees and retains the woodland characteristic found at the southern and eastern boundaries and to the front of St Teresa's House.

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

The proposed development comprises a range of building forms, from modest footprint point buildings to extended footprint buildings that hug the edge of the woodland areas. Accordingly, the proposed development is not monolithic and clearly avoids long, uninterrupted walls of building in the form of slab blocks.

The buildings along Temple Hill are proposed as simple, elegant forms with a limited palette of materials selected to offer a coherent architectural language that is utilised

across all buildings in the site. The main cladding material is to be brick with the selected areas finished in either metal cladding panels or glass cladding with an opaque coloured backing. Principal facades are extensively glazed and balconies and terraces will be completed with metal guarding with glass infill. Overall there is considerable variety in the scale and forms of buildings that is made to appear cohesive by the use of a limited number of construction materials and the use of similar elements and detailing across the elevations. Thus, the materials and building fabric well considered.

- ***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.***

Temple Hill Road (N31) is a key thoroughfare, built as a dual carriageway to skirt around Blackrock village centre. Along this most public frontage, the boundary has been set back and the buildings are set back from the carriageway by between 10.1m and 16.1m. The arrangement of the 5 no. proposed buildings along Temple Hill Road allows visual and physical connection between the road and the centre of the site. The detached footprints of the buildings and the separation distances across Temple Hill Road which are between 39.1m and 44.4m allow for higher development along this frontage. The buildings on the north side of Temple Hill Road are for the most part 2 storey dwellings with a 2 storey car showroom building opposite the northernmost block A1. The considerable separation distances between buildings, the tree lined central median in the dual carriageway and the proposed tree lined recessed site boundary make it possible to propose taller structures along this frontage. Accordingly, the proposal enhances the urban design context key thoroughfares, thereby enabling additional height in development form to be favourably considered.

Block B1 provides an opportunity for a sense of arrival and to make this gateway location into Blackrock Village with a 'visual marker' building which in turn enhances legibility and improves urban design by knitting the proposed development into the wider urban structure.

A 10m setback verge with a line of semi-mature trees is proposed the length of the boundary along Temple Road in order to enhance the public realm and provide a green buffer to the street edge.

Blocks A1 and B4 are proposed as 5 storey blocks located at either end of this frontage. Blocks B2 and B3 are proposed as 8 storey blocks flanking a terraced new open space that connects Temple Hill Road with a plaza at the north side of St Teresa's House. This open space provides direct access to the raised level of the site and reveals views through to the resident amenity building and to the newly exposed rear of St. Teresa's House. Block B1 is proposed as a 10 storey block, located at the point where Temple Hill Road leads into the more urban context of Blackrock bypass. This taller block marks the transition from the suburban to the more urbanised part of Blackrock. Thus, the proposed development makes a positive contribution to the improvement of legibility through the site.

- ***The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood."***

The proposed development is a residential apartment development offering a range of buildings and apartment types, from studio apartments to 3 bed apartments. St Teresa's House is to be fully refurbished and converted into 6 no. apartments. A number of units within the development in Blocks B1, B2, B3 and D1 will have "own door" access. Block E2 comprising 50 apartments is proposed as social and affordable housing. The gate lodge building is to be dismantled, moved to a new location on the southern boundary with Rockfield Park. It will be reconstructed, refurbished, extended and converted into café use.

An appropriate mix of units types and sizes are incorporated into the development proposal. Notably, 18 studio units, 220 no. 1 bed units, 44 no. 2 bed units (3P), 166 no. 2 bed units (4P) and 47 no. 3 bed units. are proposed within the new development. A number of own door units are delivered, which is a welcomed approach to development

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.***

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

- ***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.”***

The form, massing and heights of the proposed buildings in the development have been carefully modulated to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The entire development has been analysed in a study carried out by Integrated Environmental Solutions (IES). The detailed analysis has informed the design and modifications have been made to the buildings and /or to layouts in response to the test results achieved.

According to IES “Across the proposed development, 92% of the tested rooms are achieving ADF values above the BRE and BS 8206-2:2008 guidelines when Living/Kitchen/Dining spaces are assessed as whole rooms against a 2% ADF target. This increases to 94% when the results from the sample set are extrapolated to account for all spaces within the development.

Furthermore, 95% of the tested rooms are achieving ADF values above the BRE and BS 8206-2:2008 guidelines when Living/Kitchen/Dining spaces are assessed as whole rooms against a 1.5% ADF target. This increases to 97% when the results from the sample set are extrapolated to account for all spaces within the development.

As noted by IES Compensatory measures have been incorporated into the design of the proposed development to offset reduced daylight performance in a number of bedrooms and LKDs. The floor areas of 91.68% of all apartment units are above the minimum area requirements set out within national policy. Incorporating larger apartment units makes it more difficult to achieve the recommended internal daylight levels. Furthermore, the number of dual aspect units and communal open space provisions are above minimum recommendations. The incorporation of these compensatory measures more than offset the reduced daylight performance when the proposed development as a whole is considered.

Specific Assessments

The guidelines set out that in order to support proposals at some or all of these scales, specific assessments may be required, and these may include:

- **“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.**
- **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.**
- **An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.**
- **An assessment that the proposal maintains safe air navigation.**
- **An urban design statement including, as appropriate, impact on the historic built environment.**

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

Matters of wind and microclimate are assessed with the EIAR submitted with this application. The proposed development site is not a development location in proximity to sensitive bird or bat areas.

OCSC has advised that microwave links used by the telecoms companies use direct “line-of-sight” to connect from one point to another, so if a tall building is placed along that line it could block the signal path. In this case, this issue is not considered to pose a risk.

OCSC further stated that there are two types of links, the main trunk routes which typically use tall masts and high sites to avoid obstructions, and the smaller mini-links that connect from one mobile phone site to another and are at lower levels.

It is more likely that buildings would interfere with a mini-link, however, this is not regarded as an “important telecommunication channel” as it can be re-directed and an alternative route found.

The most likely interference with a main microwave link would occur in the city where there are a smaller number of tall masts operating.

It is in consideration of the above, the proposal allows for the retention of telecommunications channels, including microwave links.

In relation to safe air navigation, prior to the submission of the 2019 application for permission in respect of the site, the applicant contacted the Irish Aviation Authority (IAA) and the Dublin Airport Authority (DAA) to ensure that the permitted proposal maintains safe air navigation. Both the IAA and DAA confirmed at that time that the (then proposed and now permitted) development did not raise issues of concern. Copies of the 2021 application for permission have been sent to both the IAA and DAA, so as to enable those bodies to make submissions or observations on the application to the Board.

A Design Statement has been prepared by O’Mahony Pike Architects and is submitted with this application for permission.

An EIAR has been prepared and has been submitted with the application for permission. In addition, an Appropriate Assessment Screening Report and Natura Impact Statement have been prepared and are submitted with the application for permission. Accordingly, the relevant environmental assessment requirements have been complied with.

Based on the foregoing analysis, the proposed development complies with the relevant criteria set out in the Building Height Guidelines 2018 and, in particular, the SPPR 3 and the relevant development criteria requirements. Therefore, the Board is enabled to grant permission for the proposed development, notwithstanding that certain of the building heights materially contravene provisions of the LAP and CDP in terms of building height.

4 Conclusion

The proposed development is of strategic importance having regard to the fact that it falls within the definition of strategic housing development under the Planning and Development (Housing) and Residential Tenancies Act, 2016. Accordingly the proposed development meets the first criterion under Section 37(2)(b) of the Planning and Development Act 2000, as amended.

Section 28(1)(C) of the Planning and Development Act 2000 (as amended), An Bord Pleanála may materially contravene a development plan where national planning policy objectives take precedence. In particular, 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, the provisions of SPPRs must be applied instead.

In the context of increased **height**, the most relevant of these requirements is SPPR 3A of the Building Height Guidelines. It is submitted that the Development Management criteria under Section 3.2 of the Guidelines have been satisfied in this regard by the development as proposed and that, accordingly, the Board may grant permission for the proposed development even if it considers that it would be a material contravention of building height policy and standards under the Development Plan, having regard to the terms of the relevant national policy discussed above and SPPR 3A of the Building Height Guidelines, in particular.

In the context of **residential mix**, SPPR 1 of the 2020 Apartment Guidelines applies and the proposal is considered to comply with this Specific Policy requirement. We note specifically that no more than 48% of the proposed units are one-bedroom or studio type units.

In relation to **residential density**, the proposal clearly supports the key policies of the National Planning Framework to deliver appropriate residential densities and brownfield and infill sites

In relation to **tree preservation**, there are contradictory objectives in the DLRCC Development Plan on requirements to preserve trees with provision made in the Development Plan to remove trees to facilitate development and to provide for commensurate planting, where such trees are removed.

In relation to **the proposals for dismantling and relocation of the gate lodge; and the institutional designation and open space requirements**, the proposed St. Teresa's SHD is a development of strategic importance given that it clearly delivers on the key policies of the National Planning Framework in terms of expediting residential development. It is also submitted that the Board may grant permission having regard to the pattern of development and, in particular, the 2019 permission granted.

As set out in detail in this report there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding material contravention of certain provisions of both the Blackrock Local Area Plan 2015 and the Dun Laoghaire-Rathdown County Development Plan 2022-2028.

In the event that the Board were to grant permission, the Board's "*reasons and considerations*" should 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(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself.

Having regard to the justification set out within this statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the proposed development in accordance with national planning policy and statutory guidelines and on the basis that there are conflicting provisions in the Development Plan.