



Material Contravention Statement

Strategic Housing Development at White Heather, South Circular Road, Dublin 8

April 2022

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For and on behalf of Avison Young Planning and Regeneration Limited

1. Introduction

This Material Contravention Statement has been prepared by Avison Young on behalf of U and I (White Heather) Limited in respect of a planning application to An Bord Pleanála (the Board) for a Strategic Housing Development on lands located at White Heather Industrial Estate, Dolphin's Barn, Dublin 8. This Material Contravention Statement should be read in conjunction with the Planning Report, submitted with the SHD application.

1.1 Material Contravention & Statutory Context

The proposed development Materially Contravenes certain provisions of the Dublin City Development Plan 2016-2022 ("the Development Plan") in relation to building height, unit mix, private amenity space, car parking standards, studio apartment widths, and unit floor areas. However, the proposed SHD does not contravene the provisions of the Development Plan in relation to land uses zoning.

This Material Contravention Statement sets out the reasons for granting the proposed development, having regard to the provisions of subsection 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 ("the 2016 Act") and the criteria specified in section 37(2)(b) of the Planning and Development Act 2000, as amended, ("the 2000 Act").

Subsection 9(6) of the 2016 Act", empowers An Bord Pleanála to grant permission for a strategic housing development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land. In these circumstances, the provisions of subsection 9(6) of the 2016 Act are relevant to the Board's consideration of the planning application:

(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.

In circumstances where: (i) the Board has the power to decide to grant permission for a proposed SHD where the proposed development contravenes the development plan or local area plan; (ii) the proposed White Heather does not contravene the development plan in relation to the zoning of land; then (iii) the provisions of section 37(2)(b) of the Planning and Development Act 2000 ("the 2000 Act") are relevant to the Board's consideration of this planning application. In this respect, subsection 37(2) 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 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.

Section 8(1)(a)(iv)(II) of the Act of 2016 Act specifies that, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2) (b) of the Act of 2000.

A response to the relevant criteria above is provided in Sections 3, 4, 5, 6, 7, 8 and 9 of this report, and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed White Heather SHD, thereby enabling the Board to decide to grant permission, notwithstanding the

material contravention of the Dublin City Development Plan 2016–2022, in respect to Building Height, unit mix, private amenity space, car parking standards, studio apartment widths, and unit floor areas. It is the position of the Applicant, and the Board is invited to consider that, individually, the reasons pursuant to section 37(2)(b) set out in this Material Contravention Statement are each sufficient to justify a decision to grant permission.

A detailed 'Planning Policy Assessment' is provided both in Sections 3 and 4 of this Material Contravention Report, as well as in the Planning Report, which outlines the proposed development's consistency with national, regional and local planning policy. The Planning Report assesses the proposed development against all of the relevant development management criteria in the Development Plan and demonstrates overall compliance, with the exception of certain provisions of the Development Plan in relation to building height, unit mix, private amenity space, car parking standards, minimum internal space standards and unit floor areas.

As referenced above, this Material Contravention Statement sets out the reasons why the proposed development should be granted, having regard to the criteria set out in section 37(2) (b) of the 2000 Act.

In addition for the purposes of making it's decision on the planning application this Material Contravention Statement enumerates:

- (a) The relevant, specific planning policy requirements of section 28 Guidelines;
- (b) Where these specific planning policy requirements of guidelines differ from the provisions of the Development Plan.

in relation to the following:

- Building height;
- Unit mix;
- Private amenity space;
- Car parking standards;
- Minimum Internal Space Standards,
- Unit Floor Areas.

In these circumstances, pursuant to the provisions of subsection 9(3) of the Development Plan, then those requirements of the SPPR's shall, to the extent that they differ from the provisions of the Development Plan, apply instead of the provisions of the Development Plan.

1.2 The Development Plan

Chapter 3 of this Material Contravention Report outline the policies in the Development Plan in respect of building height, unit mix, private amenity space, car parking standards, minimum internal space standards and unit floor areas. It should be noted that these are the policy areas in respect of which the proposed development materially contravenes the Development Plan. In this regard, it is noted that the Development Plan was adopted in 2016, prior to the issuing of the Urban Development and Building Height Guidelines for Planning Authorities (the Height Guidelines) and Sustainable Urban Housing: Design Standards for New Apartments in December 2018 and December 2020 respectively.

Compliance with the relevant Government Policy and Ministerial Guidelines, as demonstrated in the following Sections of this Material Contravention Statement, enables the Board to grant permission notwithstanding the material contravention in relation to height, having regard to section 37(2) (b) of the 2000 Act.

1.3 Ministerial Guidelines

The following sections outline the manner in which the proposed development has had regard to guidelines as issued by the Minister under section 28 of the 2000 Act. Compliance with, *inter alia* the relevant guidelines allows the Board to grant permission notwithstanding the material contravention in relation to height and unit mix.

The 2016 Act also provides that, when making a decision on an SHD application, in circumstances where the requirements of SPPRs in guidelines issued under section 28 of the 2000 Act differ from the provisions of the Development Plan, *"then those requirements shall, to the extent that they so differ, apply instead of the provisions of the plan."*¹

¹ Section 9 (3) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016

2. Proposed Development

U and I (White Heather) Limited, intend to apply to An Bord Pleanála for permission for a strategic housing development at a 1.535ha site at White Heather Industrial Estate, South Circular Road, Dolphins Barn, Dublin 8 and including a residential dwelling at 307/307a South Circular Road, Dublin 8 and an industrial building at 12a St James's Terrace, Dublin 8. The site is bounded by The Grand Canal to the south, Our Lady of Dolour's Church, and private rear gardens to residential dwellings on South Circular Road to the north, Priestfield Cottages to the east and rear gardens to residential dwellings on St James's Terrace as well as an access point to the public road to the west.

The development will consist of:

- 1) The demolition of all existing buildings on site except 307/307a South Circular Road including industrial storage warehouses and office buildings comprising a total of c. 6,604 sq. m. floorspace;
- 2) A mixed residential and commercial development with a total floorspace of c. 30,242 sq. m. Total proposed residential floorspace is c. 26,119 sq. m. and consists of a total of 335 no. Build to Rent residential units including Part V provision as follows:
 - A terrace of 7 no. 3-storey 3 bed townhouses,
 - Block B01 (5 storeys) comprising 24 no. units (14 no. 1 bed units and 10 no. 2 bed units),
 - Block B02 (5-7 storeys) including a link to Block B02A (5-storeys) comprising 84 no. units (56 no. 1 bed units and 28 no. 2 bed units),
 - Block B03 (5-10 storeys) including 77 no. units (48 no. 1 bed units and 29 no. 2 bed units) and Resident's Amenity (c. 1,001 sq.m) with main entrance hall, Concierge/Management Office at undercroft and ground floor, Gym, Events Suite and a 'Canal Café' at ground floor level, Co-Working/Lounge, Cinema/Media Room, Dining/Kitchen area and access to an external roof terrace at fifth floor level (Level 05),
 - Block B04 (5-7 storeys) comprising 72 no. units (48 no. 1 bed units and 24 no. 2 bed units),
 - Block B05 (5 storeys) comprising 10 no. units (6 no. 1 bed units and 4 no. 2 beds) with a café unit (c. 46 sq. m) at ground floor level,
 - Block B06 (2-5 storeys) comprising 29 no. units (2 no. studio units, 7 no. 1 bed units, 14 no. 2 bed units and 4 no. 2 bed duplex units and 2 no. 3 bed duplex units),
 - Block B07 (3-5 storeys) comprising 32 no. units (17 no. 1 bed units and 15 no. 2 bed units),
- 3) 1 no. 2-storey Childcare Facility / Creche (c. 260 sq. m);
- 4) A total of (c. 2,960 sq. m) Public Open Space landscaped and broken into 7 no. distinct character areas and linking through Canal Square, a Pedestrian Priority Street between Blocks B03 and B04 to a publicly accessible landscaped Linear Park along the Grand Canal within the Z9 Amenity/Open Space Lands;
- 5) Communal Open Space of c. 2,160 sq. m made up of c. 1,560 sq. m at ground floor and c. 600 sq. m on roof terraces;
- 6) The proposed Part V provision of 34 no. units and 10% of the total units are proposed to be provided at Block B01 and Block B05 as 20 no. 1 bed units and 14 no. 2 bed units;
- 7) 106 no. car parking spaces are provided with 41 no. car parking spaces at grade, including 5 no. parking spaces within the curtilage (carports) of townhouses, and 65 no. car parking spaces at undercroft area (c. 1,890 sq. m) with lobbies linking to Blocks B02 and B03 entrance lobbies, cycle parking storage areas, staff area, refuse store areas and plant areas;
- 8) 558 no. cycle spaces at surface (352 no. spaces) and undercroft level (206 no. spaces) of which 491 no. are secure bicycle spaces (3 no. of which are cargo spaces) and 67 no. are visitor spaces (5 no. of which are cargo spaces);
- 9) Realignment and improvement works to the existing entrance junction on South Circular Road and the existing entrance to Priestfield Cottages to provide road markings, footways and formal uncontrolled crossing points;
- 10) Works to surface treatments to provide pedestrian and cycle access only to the existing entrance at St James's Terrace;
- 11) A change of use of the existing 2-storey residential units 307/307a South Circular Road from residential to shared workspace/office space (c. 165 sq. m);
- 12) 3 no. electricity sub-stations in blocks B02, B03 and B04; and

- 13) All enabling and site development works, hard and soft landscaping, public realm works, public art, lighting, services and connections, waste management and all other ancillary works.

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

An Environmental Impact Assessment Report (EIAR) and an Appropriate Assessment Screening Report (AASR) have been prepared in respect of the proposed development.

Figure 2.1: Extract of OMP Site Layout, Ground Level 00, drawing no. 20016-OMP-ZZ-00-DR-A-1000



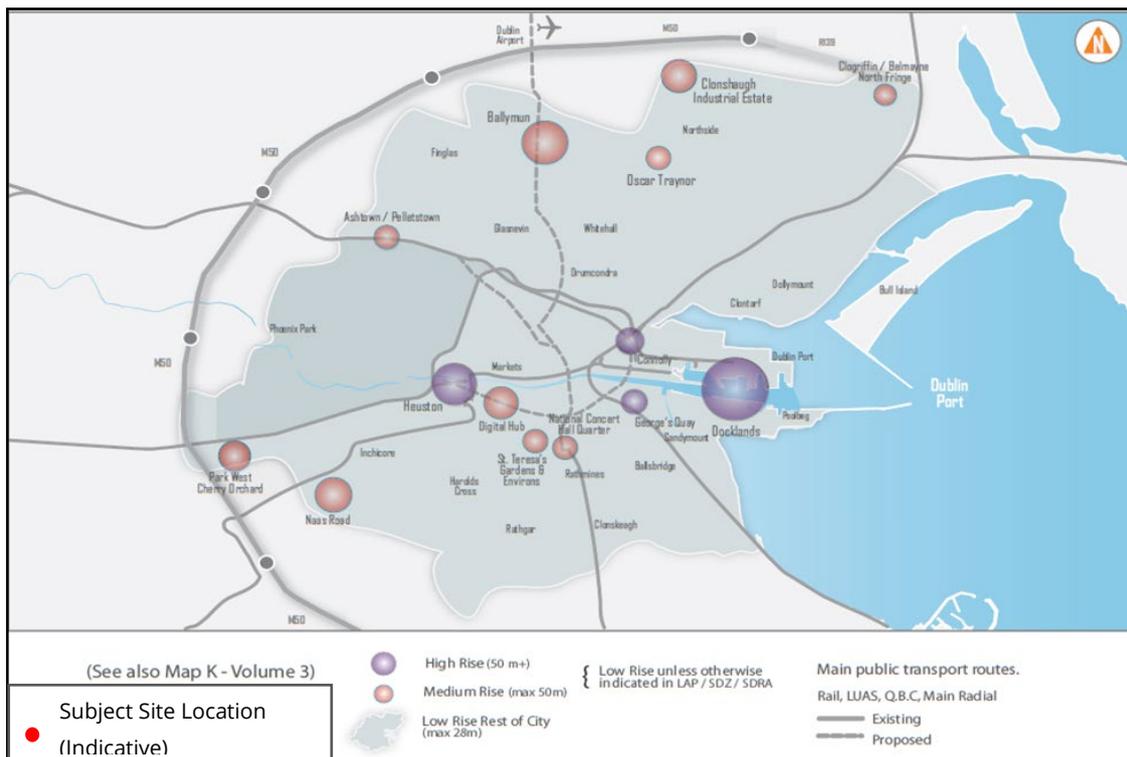
3. Building Height

3.1 Development Plan Provisions

The Dublin City Development Plan 2016-2022 seeks to retain Dublin City as a predominantly low-rise City (Policy SC16), taking a blanket approach to building heights with the majority of the City designated as 'low-rise', see Figure 3.1. Despite its strategic location adjacent to a QBC on Dolphin's Barn Street, a proposed BusConnects Core Bus Corridor and a LUAS stop at Fatima, the subject site is categorised in the Development Plan as 'low-rise inner city'. Section 16.7 of the Development Plan outlines the development standards in relation to building height and it is noted that the site is not located in an area designated for high rise or medium rise (see Figure 3.1). The maximum permissible height of 24m for inner city residential development therefore applies to these lands.

The proposed development ranges in height from 2 no. storeys (c. 6.825m) to 10 no. storeys (c. 33.025m) and therefore does not accord with the 24m height cap imposed by the Development Plan. There is 1 no. of the proposed apartment block, Blocks B03 which has a maximum of 10 storeys, which exceed the Development Plan maximum permissible height of 24m for inner city residential development and therefore materially contravenes the Development Plan in relation to building height. For clarity, the elements of the proposed SHD which exceed the 24m maximum permissible height are; the 7th, 8th and 9th Floors of Block B03.

Figure 3.1: Building Height in Dublin Context, Dublin City Development Plan 2016–2022: pg 320



The following section of this statement outlines the manner in which the design of the proposed development has had regard to the relevant section Guidelines and Government Policy, which signals a national policy shift away from rigid building height restrictions, towards compact urban growth including the need to build inwards and upwards to deliver sustainable, high density development within the existing built-up footprint of the City.

As outlined below, the height and scale of the proposed development is in compliance with Government policy aimed at shifting the current pattern of development towards sustainable high density, compact urban growth. Having regard to the national policy framework, a Height Strategy was developed for the subject site at White Heather, taking into account the site context, its location close to Dolphin's Barn Street/Cork Street close to the City Centre, its accessibility and proximity to public transport and the need to protect residential amenity.

This Section outlines the Building Height Strategy for the proposed strategic housing development at the subject lands at White Heather industrial Estate, Dolphin's Barn, Dublin 8. In doing so it sets out why the proposed development, notwithstanding the fact that it would materially contravene the Development Plan in terms of building height, would be an acceptable development at this location. It should be re-iterated that the Development Plan was adopted in 2016, prior to the adoption of the Height Guidelines being issued by the Minister for Housing, Planning and Local Government in December 2018.

3.2 Government Policy

This Section outlines how the design of the proposed development has had regard to Government policy that signals a national policy shift away from rigid building height restrictions, towards compact urban growth including the need to build inwards and upwards to deliver sustainable, high density development within the existing built-up footprint of the City.

3.2.1 National Planning Framework

Under Section 2 of the 2000 Act the 'National Spatial Strategy' is defined as:

"The 'National Spatial Strategy: 2002 – 2020' published by the Government on 28 November 2002, or any document published by the Government which amends or replaces that Strategy."
(emphasis added)

The National Planning Framework (NPF) was adopted and published by the Government under Project 2040 as a strategy to replace the National Spatial Strategy.

The Government published the NPF in February 2018 which projects a need for a minimum of 550,000 new homes by 2040, at least half of which are targeted for provision within the built up area of Ireland's five cities. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development, to enable people to live nearer to where jobs and services are located and to prioritise sustainable modes of transport.

National Policy Objectives 3a and 3b provide a basis for the overall need to promote compact urban growth and to 'build inward and upward' rather than outward.

National Policy Objective 3a: Securing Compact and Sustainable Growth

*"Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements."*²

National Policy Objective 3b: Securing Compact and Sustainable Growth

*"Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints."*³

Section 4.5 of the NPF states that in urban areas, general restrictions on building height and car parking will be replaced by *performance criteria appropriate to general location* (e.g. public transport corridors & inner suburban sites), that seek well-designed, high quality outcomes in order to achieve targeted growth. This dynamic approach will be applied to urban land use where the existing character of land use may be subject to change and it is noted in the NPF that this should generally be as part of an overall masterplan.

This approach to building height is implemented in Policy Objective 13 of the NPF which cautions against general height restrictions in urban areas where performance criteria would be more appropriate. This is reaffirmed in the 2020 Apartment Guidelines issued under section 28 of the 2000 Act, which are addressed in further detail below.

As referenced above, the subject development site is located in an inner suburb of Dublin City, c. 2km from the City Centre and entirely within the existing built-up footprint of the City. The proposed development is therefore consistent with National Policy Objective 3a and 3b of the NPF, requiring compact and sustainable growth within the built-up footprint of existing settlements and to target new homes into the 5 cities and their suburbs including Dublin.

² Project Ireland 2040, National Planning Framework, pg 29

³ Project Ireland 2040, National Planning Framework, pg 29

Securing compact growth within the existing footprint of the City will provide opportunities for increased efficiencies in areas such as transport. It is noted that under the NPF, the Government will support:

“More energy efficient development through the location of housing and employment along public transport corridors, where people can choose to use less energy intensive public transport, rather than being dependent on the car”⁴

The provision of c. 335 no. residential units in close proximity to bus links including South Clondalkin Quality Bus Corridor (QBC) at Dolphin’s Barn Street (c.80m), LUAS (c. 850m), cycling infrastructure, significant employment centres (St James’s Hospital and Dublin City Centre) as well as existing services and amenities, will allow future residents to avail of less energy intensive travel such as public transport, cycling and walking consistent with the NPF’s strategy for Resource Efficiency and Transition to a Low Carbon Economy. These active modes of travel also have associated health benefits in relation to physical activity, mental well-being and improved air quality if implemented on a large scale.

⁴ Project Ireland 2040, National Planning Framework, pg 120

National Policy Objective 13: Performance Based Design Standards

*"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."⁵ (Emphasis added)*

National Policy Objective 35: Housing

*"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**."⁶ (Emphasis added)*

The Development Plan's application of a blanket height restriction of 24 metres for residential development in the inner Dublin City to protect its low-rise character is inconsistent with Section 4.5 of the NPF and National Policy Objectives 13 and 35.

In order to address the challenge of meeting the housing needs of a growing population in the existing urban areas, the NPF specifically highlights the need to *"build inwards and upwards, rather than outwards"* and that *"this means that apartments will need to become a more prevalent form of housing, particularly in Ireland's cities"*. This approach is underpinned by *"on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, greater mobility in the labour market and a higher proportion of households in the rented sector."*⁷

The proposed development also complies with, and supports the aim of National Policy Objective 11 which seeks to encourage more people and generate more jobs and activity within existing cities, towns and villages. In this regard the development will generate economic activity and place people close to existing services and employment within the existing footprint of Dublin City.

In addition to directly complying with the National Policy Objectives in relation to increasing height and delivering compact development, the proposed development also meets the performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth as below:

- In relation to height, as the proposed development ranges between c. 6.825m to c. 33.025m, it has been designed having regard to the criteria for mid-rise and taller buildings outlined in the

⁵ Project Ireland 2040, National Planning Framework, pg 67

⁶ Project Ireland 2040, National Planning Framework, pg 93

⁷ Project Ireland 2040, National Planning Framework, pg 93

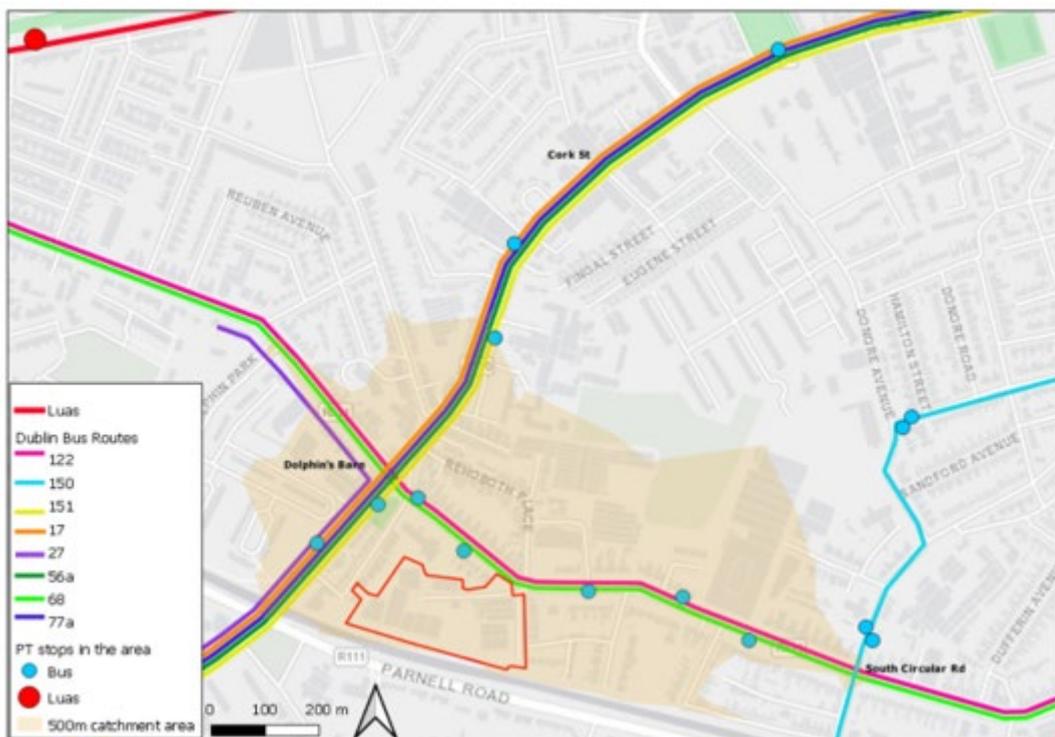
Development Plan including: (a) relationship to the receiving context, (b) proximity to public transport infrastructure, and (c) contribution of high quality amenity at the Grand Canal with permeable pedestrian access. In this regard the design responds to the context of the site, with increased height in the centre of the site and fronting the Grand Canal, with the blocks reducing in height at the eastern, western and northern boundaries having regard to the need to protect the amenity of adjacent residential properties.

- In addition, Our Lady of Dolours Church (Protected Structure RPS no. 1849) and its curtilage has not been impacted upon by the proposed development (as demonstrated in the Architectural Heritage Impact Assessment Report by ARC Consultants, which has been submitted with the planning application). There is also a Z2 Residential Conservation Area adjacent to the north and east fronting onto South Circular Road which has also been addressed;
- As regards the potential impact of the proposed development on the built heritage in the wider area, this has also been assessed in the Architectural Heritage Impact Assessment Report prepared by ARC Consultants;
- In respect of accessibility and sustainability, the location of the subject site on a public transport corridor, (see Figure 3.2) in close proximity to Dolphin's Barn Street QBC, South Circular Road, and Fatima LUAS will ensure the proposed development is well serviced by a range of transportation options. In this regard the development of the subject site for residential development is consistent with the need to link transport and spatial planning, justifying the ongoing investment in public transport infrastructure;
- In relation to public open space, the proposed scheme includes a pedestrian priority Canal Square which leads to a c. 190m linear park along the Grand Canal, along with other open space and amenity spaces and play areas providing c. 1,300 sq. m of distinct public open space in the form of a number of linked amenity spaces with circulation routes within the Z1 lands and a further 1,660 sq.m public open space within Canal Linear Park within the Z9 lands. This complies with the Development Plan open space requirements. In addition, the provision of 2 no. cafés as part of the proposed development will act as an attractor for the public adding a sense of vibrancy to the area;
- As regards potential effects on the local environment, these have been assessed as part of the design development, and in preparing and submitting an Environmental Impact Assessment Report [EIAR] with the application, including the preparation of a Daylight/Sunlight/Shadow Impact Assessment Report. This report (which is also submitted with the planning application) concludes that residual daylight, sunlight and shadow levels within the significant majority of

surrounding properties which overlook the site, will adhere to the recommended criteria set out in the BRE Guidelines – ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ (2011). A small number of properties will experience alterations in daylight, sunlight, and shadow which fall below the targets set out in the BRE Guidelines. However this is not unusual when developing in an urban location, with the retained levels of daylight, sunlight and shadow commensurate with many existing and emerging residential contexts in Dublin.

- In relation to accessibility, the proposed development will improve permeability within the site and the wider area, through the provision of distinct, legible circulation routes that link the proposed development with the 1 no. shared car and pedestrian/cycle entrance to the north from South Circular Road and 1 no. cycle/pedestrian entrance to the west of the site at St James’s Terrace. The improved accessibility will provide pedestrian and cycle linkages through the site and between public transport services such as the Dolphin’s Barn Street QBC and Fatima LUAS station.

Figure 3.2: Transport Infrastructure serving White Heather



Having regard to the National Policy Objectives outlined above, the proposed strategic housing development is consistent with the policies outlined in the NPF, particularly with the requirement to deliver compact urban growth and represents a unique opportunity to provide a high quality sustainable residential development with increased height within the built-up footprint of Dublin City which is situated in close proximity to public transport infrastructure, employment centres and local

amenities. In addition, the proposed development satisfies the performance criteria that seek to achieve well-designed high quality outcomes.

Accordingly, the Board should grant permission for the proposed development, having regard Government policy, as set out in the National Planning Framework, as provided for under section 37(2) (b) (iii) of the 2000 Act.

3.3 Ministerial Guidelines

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

The Urban Development and Building Heights – Guidelines for Planning Authorities (2018), (“the Building Height Guidelines) issued under section 28 of the 2000 Act, set out updated national policy on building heights in relation to urban areas, consistent with the strategic policy framework set out in the NPF. These Building Height Guidelines form part of a suite of integrated measures intended to shift the current patterns and development trends for cities and towns to form more compact and integrated communities and recognise the need to grow existing towns and cities upwards rather than ever outwards.

It is noted in the Building Height Guidelines that there is a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good transport accessibility. Section 3 outlines ‘Development Management Principles’ and ‘Development Management Criteria’ which the Planning Authority will consider in assessing development proposals for buildings taller than prevailing building height in urban areas. These are set out in Tables 3.3.1 and 3.3.2 with the proposed development assessed in the context of each of the criteria:

Table 3.3.1: Urban Development and Building Height, Development Management Principles

Development Management Principles	Proposed Development
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	The proposed development is located entirely within Dublin City, c. 2 km from the City Centre and well served by the local amenities and community infrastructure provided in Dolphin’s Barn and the surrounding area. This is consistent with the policies of the NPF that seek to achieve compact growth through the delivery of at least 40% of all

<p>Strategic Objective to deliver compact growth in our urban centres?</p>	<p>new homes nationally, within the built-up footprint of existing settlements and to deliver at least half (50%) of all new homes in the five Cities and suburbs, within their existing built-up footprints.</p>
<p>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?</p>	<p>The proposed development is not in line with the building height requirements of the Development Plan, in circumstances where the Dublin City Development Plan 2016-2022 pre-dates, and has not taken account of the requirements of the Building Height Guidelines at it was adopted prior to the implementation of the Height Guidelines.</p>
<p>Where the relevant development plan, local area plan or planning scheme 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 NPF?</p>	<p>The Development Plan acknowledges the intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so. The vast majority of the city area is identified as not being suitable for mid-rise or taller buildings. A low-rise city does not align with, or support the objectives and policies of the NPF which seek to ‘build upwards and inwards rather than outwards’.</p> <p>Moreover, the pre-existing building height policies in the Development Plan do not align the clear intention to provide for the objectives of the NPF for increasing density and building heights or the Building Height Guidelines under SPPR1, which specifically seek the removal of blanket numerical limitations on building height as set out in the Development Plan.</p>

Table 3.3.2: Urban Development and Building Height, Development Management Criteria

Development Management Criteria	Proposed Development
<p>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</p>	<p>The White Heather SHD is located adjacent to the South Clondalkin Quality Bus Corridor at Dolphin’s Barn Street which provides high frequency commuter bus routes and regional road linkages to the M50. Fatima LUAS station is located c. 850m north of the site and is easily accessible on foot (c. 10 minutes) or by cycling (c. 5m). Furthermore, Dublin City Centre is a c. 15 minute bike ride from the subject site.</p>
<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks and 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.</p>	<p>The proposed scheme provides for apartment buildings appropriate to the context of the subject site. The proposed blocks are tapered down towards the northern, eastern and western boundaries, where the site adjoins established residential dwellings on South Circular Road, to the north, Priestfield Cottages to the east and St James’s Terrace to the west, in order to reduce the impact on the residential amenity of these dwellings. There are no adjacent protected views, however a comprehensive set of verified views have been prepared to clearly show the potential impacts on both close and distant views.</p> <p>A Landscape and Visual Impact Assessment has been prepared by ARC Architectural Consultants which accompanies the application and assesses the potential visual impact of the proposed scheme.</p> <p>Given the existing and emerging trends for extensive development in the surrounding area, the proposed White Heather development is likely to be seen as relatively modest in scale when compared to other existing and emerging developments in the immediate area. Where visible, the extent of visual impacts arising from the existence of the development is likely to range from</p>

Development Management Criteria	Proposed Development
	<p>'imperceptible' where the development is only just visible to 'moderate' where it is openly visible.</p>
<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p>	<p>The new entrance plaza on South Circular Road leads in to a New Street which runs east-west into the scheme. This street has active frontage with entrances to residential blocks and a childcare facility and is bookended by a terrace of townhouses. A new linking pedestrian space - Canal Place provides a landscaped public connection from New Street to the north through to the c. 190m Grand Canal linear park to the southern boundary. This landscaped and programmed space provides linkage to 2 no. landscaped residential courtyards and the western end of the New Street. A combination of surface materials and textures mixed with a palette of external wall finishes, landscaped elements are utilised to create a series of linked, but distinct spaces between the residential blocks.</p>
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</p>	<p>The proposed development has been designed to protect and incorporate the built heritage associated with the adjacent Our Lady of Dolours Church (a Protected Structure RPS1849) to the north west. The creation of a new street from an entrance plaza at South Circular Road, leading to a public street, Canal Square which is intended to provide pedestrian permeability to visitors and residents through the site to the linear park at the Grand Canal to the southern boundary. The character of this new publicly accessed amenity strip has been incorporated into the proposed development, which contributes to creating a new place which positively contributes to the surrounding residential area while creating a strong sense of place.</p>

Development Management Criteria	Proposed Development
<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials/building fabric well considered.</p>	<p>Through the use of a terrace of townhouses and 7 no. apartment Blocks and a creche facility that respond to the site context, the proposed scheme avoids long, uninterrupted blocks of building and allows for both visual and physical connections to and through the site. The distinct landscape character areas, the distinct public, semi-private and private spaces together with circulation routes, will create a uniquely rich public urban realm. The high quality palette and design of the hard and soft landscaping elements are intended to differentiate between the character areas.</p>
<p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009).</p>	<p>The proposed development responds to its natural and built environment including its cultural context through a number of key design features. The provision of commercial uses at ground floor level in the form of 2 no. cafés, a childcare facility and including resident’s amenity areas, including yoga studio and meeting rooms will invite visitors and residents through the site, enhance the vitality and vibrancy of the locality and make a positive contribution to the new urban neighbourhood.</p> <p>The proposed developments opens up a key piece of local amenity in providing access to both residents and the public to a public amenity linear park for c. 190 m of the Grand Canal. A Site Specific Flood Risk Assessment is included with this application.</p>
<p>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</p>	<p>The circulation routes through the site will link the public open spaces and invite residents and visitors through a New Street leading to Canal Square and connected to the linear park along the Grand Canal from each of the two entrances. A series of finger blocks running north-south with residential courtyards between will provide amenity to residents. This will significantly improve the</p>

Development Management Criteria	Proposed Development
	<p>permeability of the site, opening it up to the public and increasing connectivity with the wider urban area in an integrated, cohesive manner.</p>
<p>The proposal positively contributes to the mix of uses and/or building/dwelling typologies available in the neighbourhood</p>	<p>The area surrounding the subject site in Dolphin’s Barn, is comprised largely of terraced or semi-detached, Victorian residential development. The proposed development will provide 335 no. residential units comprising studio, 1, 2 and 3 bed units, including 7 no. townhouses and 4 no. 2-bedroom duplex units and 2 no. 3-bedroom duplex units contributing to the range of dwelling typologies available in the area. The provision of a creche facility and 2 no. café’s and supporting residents’ facilities including a gym, events space, business hub, resident’s lounge, cinema, kitchen/dining area which will also contribute to this mix.</p>
<p>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.</p>	<p>The layout of the proposed scheme has been carefully designed to incorporate modulation and tapering in response to the site context. The proposed apartment blocks step down to a 5-storey shoulder height separated by a street and 2-storey creche towards the northern boundary to reduce their visual impact on the residential neighbours at South Circular Road and to reduce daylight/sunlight and overshadowing impacts. The eastern boundary to Priestfield Cottages reduces to 2-storey height to respect the context and reduce impacts on the 2-storey cottages. The introduction of a terrace of 7 no. 3-storey townhouses adjacent to the rear of the St James’s Terrace is intended to address that context and reduce daylight, sunlight and overshadowing impacts. It concludes that overshadowing and loss of light to adjoining dwellings, including rear gardens of same, will be minor, with a small number of windows/rooms in a number of neighbouring properties experiences some alterations below the BRE Guidelines target criteria (which reflects a low rise context).</p>

Development Management Criteria	Proposed Development
	<p>However the retained levels of daylight / sunlight are commensurate with many historic and emerging parts of Dublin and should achieve acceptable levels of retained light.</p>
<p>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'.</p>	<p>The proposed scheme has been assessed against the Building Research Establishment's (BRE) 'Site Layout Planning for Daylight and Sunlight'. BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting' was redacted in 2018. The BRE Guidelines, remain the principal guidance referred to by most local authorities in Ireland and the UK as the appropriate scientific and empirical method of measuring daylight and sunlight in new buildings, have been used. The BRE Guidelines are specifically referred to in the 'Sustainable Urban Housing: Design Standards for New Apartments' guidance (published December 2020); and the 'Urban Development and Building Heights: Guidelines for Planning Authorities' (2018).</p>
<p>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration</p>	<p>The proposed scheme is consistent with the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight', which acknowledges that it is not a rigid set of targets and that flexibility will be required when developing to greater height or densities. It suggests how to set appropriate alternative target criteria in its Appendix F. Notwithstanding this, the proposal performs well against the baselines BRE target criteria, and where there are some alterations below this, they are minor to moderate in nature, limited to a small number of windows/rooms in a small number of properties, and retain levels of light commensurate with historic and emerging areas of Dublin.</p>

Development Management Criteria	Proposed Development
and or an effective urban design and streetscape solution.”	

As set out above, the proposed development fully complies with the principles and criteria of the Building Height Guidelines, which the Board must consider in assessing development proposals for buildings taller than prevailing building height in urban areas. Where the Board considers that the above criteria are appropriately incorporated into the proposed development, Strategic Planning Policy Requirement 3 shall be applied, pursuant to the provisions of section 28 (1C) of the 2000 Act (which are set out for ease of reference):

“It is a specific planning policy requirement that where;

- 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, local area plan or planning scheme may indicate otherwise.”⁸

Having regard to the above, it is submitted that the proposed development is consistent with the Development Management Principles and Criteria outlined in the Building Height Guidelines and is in accordance with national strategic policy set out in the NPF requiring increased residential densities, more compact and integrated communities and the need to grow existing towns and cities upwards rather than outwards. It is submitted that the Board consider the above in its assessment of the proposed development.

3.3.2 Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2020)

Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2020, hereafter the 2020 Apartment Guidelines) provides guidance to planning authorities and the

⁸ Urban Development and Building Heights - Guidelines for Planning Authorities 2020, pg 15

Board, setting out standards for apartment development and contains several specific requirements with which compliance is mandatory for development comprising apartments.

A key aim of the 2020 Apartment Guidelines is to ensure that apartment living is an increasingly attractive and desirable housing option for a range of household types and tenures resulting in greater delivery of apartments in Ireland's cities and towns. It outlines the importance of 'building inwards and upwards rather than outwards' due to on-going population growth (particularly in Ireland's cities), a long-term move towards smaller average household size, an ageing and more diverse population with greater labour mobility and a higher proportion of households in the rented sector.

It reaffirms the move away from rigidly applied blanket planning standards, previously signalled by the NPF, including building height and building separation distances and highlights that these 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.

In relation to the above, it is noted that *"there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities."*

It is outlined that in general, apartments are most appropriately suited within urban areas while the scale and extent of apartment development should increase in proximity to 'core urban centres' and 'other relevant factors'. It is submitted that the subject development site is located in a 'Central Accessible Urban Location' having regard to its proximity to several major employment centres, (St James's Hospital - c. 1.4km, Coombe Women's Hospital (400m), St Stephen's Green (c. 2.5km), Dolphin's Barn Street QBC (80m) and the Fatima LUAS stop (c. 850m) and therefore the provision of 335 no. units, in 7 no. blocks and a terrace of 7 townhouses ranging in height from 2 no. storeys (c. 6.825m) to 10 no storeys (c. 33.025m) is considered appropriate.

Apartment developments are becoming an increasingly important in terms of providing delivery of homes. The objectives of the NDP in particular seeks the delivery of Compact Growth and expansion of the housing provision within our existing settlement footprint close to employment centres such as at White Heather. Also in providing for higher density residential development in brownfield and under-utilised lands, it is essential that apartments provide for the requisite density and quantum that these policies require and that the design and quality standards set out in the 2020 Apartment Guidelines are adhered to.

The proposed White Heather SHD as a build-to-rent scheme is intended to deliver a well-managed and serviced residential development with high quality community focussed onsite amenities. The intention is that the exemplar quality of the apartments and townhouses will be supported by the resident

support facilities and shared social and recreational facilities, including a gym/yoga studio, café's, residents lounge, media room, meeting rooms, workspace and resident's terrace. The White Heather residential neighbourhood scheme and mix of unit types is intended to be as attractive to the widest range of residents, while facilitating flexibility to accommodate bigger or smaller unit sizes as resident's requirements change over time.

3.3.3 Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009)

The document 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (SRDUA) was issued in 2009 under section 28 of the 2000 Act. General principles of these guidelines relate to prioritising walking, cycling and public transport over the use of cars, and to provide residents with a quality of life in terms of amenity, safety and convenience. For development in cities and larger towns it is noted that the objective should be *"the achievement of an efficient use of land appropriate to its context."*⁹

Section 5.8 of the SRDUA notes that in order to maximise the return on investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities, on lands within existing or planned transport corridors. The subject site is adjacent to the South Clondalkin Quality Bus Corridor QBC and c. 850m from Fatima LUAS stop is therefore located within close range of a choice of public transport corridors.

The provision of 335 no. residential units at a density of c. 262 no. dwellings per hectare provides for a more efficient use of land on what is currently an underutilised industrial estate site. The height of the proposed blocks, ranging from 2 no. to 10 no. storeys and reaching a maximum of 33.025m above ground is considered to be acceptable having regard to the location of the subject site on a public transport corridor and the need to achieve high density on the site.

The proposed development meets the design safeguards set out in Section 5.2 of the SRDUA through:

- The avoidance of overlooking and overshadowing;
- The provision of c. 1,300 sq. m of public open space which exceeds the Development Plan requirements;
- Meeting the internal space standards of the 2020 Apartment Guidelines;
- The provision of suitable parking at undercroft and ground level; and

⁹ Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities, 2009, pg 40

- The provision of a c. 260 sq. m childcare facility.

In this regard it is submitted that the granting permission for the proposed SHD in material contravention of the Development Plan's height limits is justified in order to achieve a sustainable, high density development on a public transport corridor while providing high quality residential amenity for the proposed scheme.

Also by facilitating a mixed-use development of a brownfield inner city site and by promoting the efficient use of land and of investment in public transport as required in the SRDUA the site supports increased densities through;

- The provision of a high quality public realm;
- Pedestrian priority streets and home zones providing permeability and legibility;
- The high quality urban design, aligned with a considered landscape design provides for a sense of place linking to the existing neighbourhood;
- Strong transport linkages including LUAS, bus, cycling and walking options.

3.4 Outline of Height Strategy

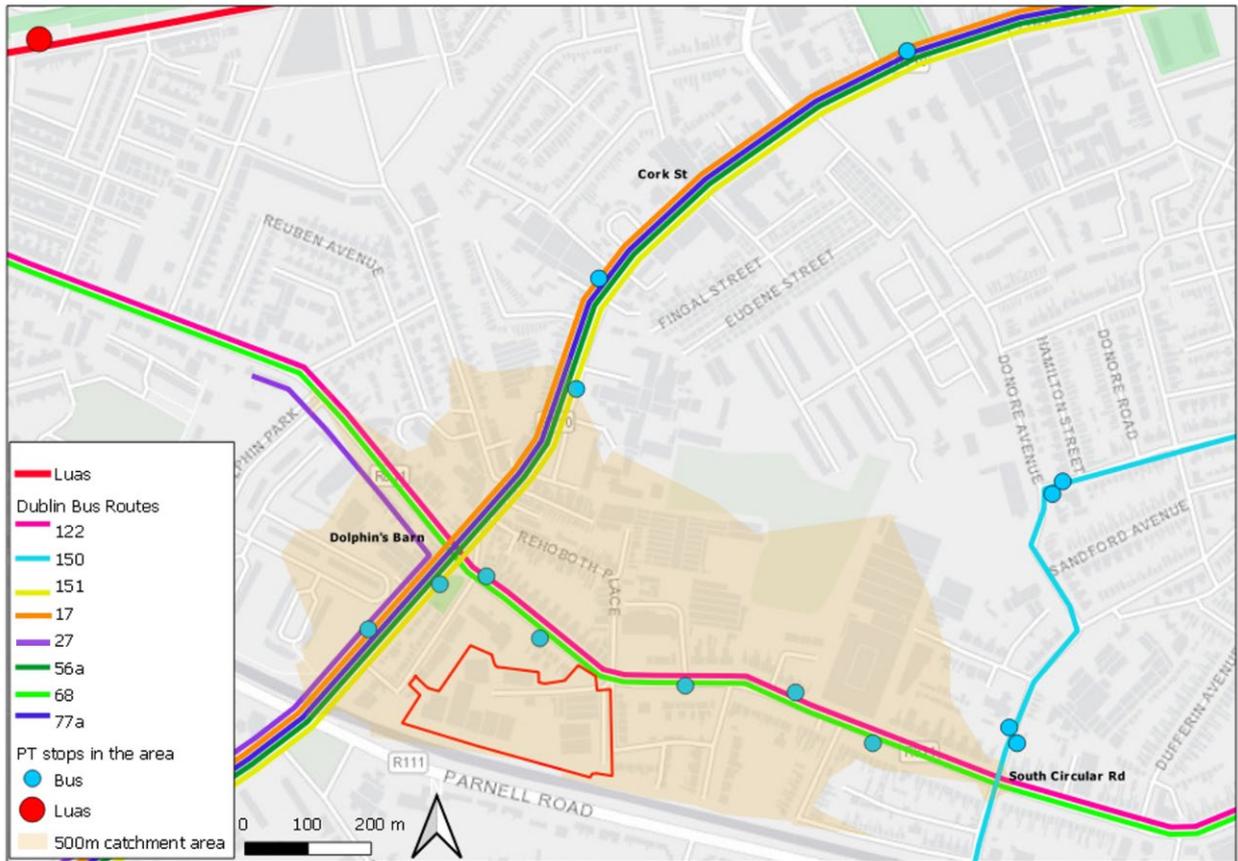
3.4.1 Site Context

The proposed development site is located in close proximity to the urban centres of Dolphin's Barn and Cork Street which provide a range of services including retail, employment, recreational amenities, public transport, shops, restaurants and bars. Figure 3.3 below details the public transport infrastructure located in proximity to the development site.

The site is well served by sustainable modes of transport such as Dolphin's Barn Street QBC. The proposed Core Bus Corridor route is adjacent to the site, while Fatima LUAS stop is located c. 850m to the north west.

Several significant employment centres are located in the surrounding area including St James's Hospital, The Coombe Women's Hospital and at Dublin City centre.

Figure 3.3: Public Transport Infrastructure surrounding the Subject Site



Source: Mobility Management Plan prepared by SYSTRA

The surrounding road network provides existing cycle infrastructure at Parnell Road to the south, Dolphin's Barn Street to the west while amenity areas are easily accessible from the subject site by foot or bike including Royal Hospital Kilmainham, Eamonn Ceannt Park, Weaver Park and the Grand Canal. Additionally, there is an extensive range of sport and recreational facilities within walking distance of the subject site including inter alia The National Boxing Stadium, Lourdes Celtic Football Club, Kevin's GAA Club and Templeogue Synge St GAA.

Further details of the amenities and services in the catchment surrounding the proposed development are provided in the Community and Social Infrastructure Audit prepared by Avison Young (which is submitted with the planning application documentation).

At a local level, the site provides an opportunity to deliver high quality urban frontage at South Circular Road, through built form and presence, in an established residential area inside the canals and close to Dublin City Centre. Considering the fact that Dolphin's Barn Street is a main vehicular arterial routes into the City and Parnell Road which runs east west parallel to the Grand Canal, the subject site provides a unique opportunity to deliver a landmark development of architectural merit on this strategically located city site.

The proximity of the subject site to public transport services, significant employment centres, local amenity areas and recreational facilities and its potential to provide urban frontage alongside the Grand Canal informed the design strategy for the site and its ability to cater for a landmark, high density residential development with increased height at an underutilised site.

3.4.2 Design Approach

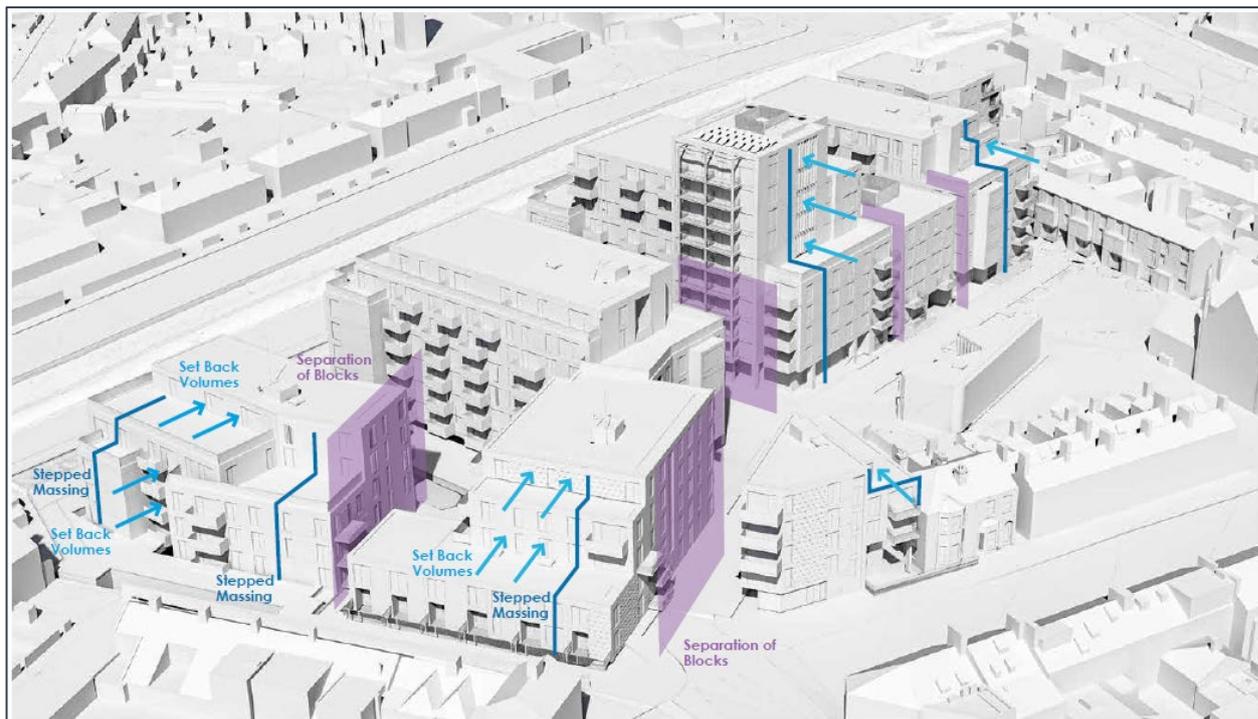
Initial design proposals for the scheme sought to achieve height of up to 10 no. storeys (Block B03) with all other blocks ranging in height from 2 no. storeys to 7 no. storeys. The provision of high quality public open space and the importance of repairing the edges of the site formed a major element of the Building Height Strategy for the subject site. The delivery of increased height at the centre of the site allows for a site coverage that respects the adjacent residential amenity, and by facilitating the provision of substantial, high quality open space comprising distinct character areas across the site and creating an appropriate urban response.

The initial design proposal was presented to the planning authority in October 2020. During this and other pre-application meetings, the planning authority indicated that the site was zoned Z1 to accommodate residential development, however, that the onus was on the applicant to demonstrate that the site can carry the quantum and density of development being proposed. The planning authority opined that high quality design was required and this in turn informed the Height Strategy.

Further information was required to provide a higher level of detail for the scheme including daylight/sunlight analysis, sections and dimensioned site plans – to show that the proposal sat comfortably within the site. DCC also requested that an assessment of the visual impact of the scheme be provided. Throughout the design process for the site, modulation, manipulation of built form and adequate setbacks were incorporated into the design of the scheme in order to achieve a high quality development with increased height appropriate to the site context, while giving regard to the adjoining and internal residential amenity including access to daylight/sunlight and potential shadow impacts.

A number of iterations of the Daylight/Sunlight and overshadowing studies were presented to the pre-planning meetings with Dublin City Council and were a key component of the process of refinement of the scheme design development. The consideration of the daylight and sunlight and shadow impacts on the adjacent established residential amenity was a key consideration in these design refinements.

Figure 3.4.2.6: Final Iteration post Stage 2 Tripartite Meeting proposed massing changes, February 2022



Source: OMP Architectural Design Statement

Table 3.4.2.1: Apartment Block Heights

Block	Description
B01	5-storey block with 14 no. 1-bed units and 10 no. 2-bed units with a height of 16.075m
B02	7-storey block with 49 no. 1-bed units and 28 no. 2-bed units with a height of 22.925m
B03	10-storey block with 48 no. 1 bed units & 29 no. 2-bed units with a height of 33.250m
B04	8-storey block with 53 no. 1 bed units & 27 no. 2-bed units with a height of 22.500m
B05	5-storey block with 6 no. 1-bed units and 4 no. 2-bed units with a height of 15.225m
B06	5-storey block with 9 no. 1-bed units and 21 no. 2-bed units with a height of 16.500m
B07	5-storey block with 16 no. 1-bed units and 16 no. 2-bed units with a height of 16.500m

It is clear therefore that the height of one block, namely Block B03 breaches the 24m limit in the Development Plan.

3.5 Specific Planning Policy Requirements

Subsection 9(3) of the 2016 Act provides that, when making a decision on an SHD application, where SPPRs of guidelines issued under section 28 of the 2000 Act differ from the provisions of the Development Plan, then those requirements shall to the extent that they so differ, apply instead of the provisions of the development plan.

As outlined previously in this Section, the Development Plan applies a height limit of 24m for residential development at the subject site.

SPPR 3 of the Height Guidelines, however, states that:

"It is a specific planning policy requirement that where;

*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, local area plan or planning scheme may indicate otherwise.**"¹⁰ (Emphasis added)*

It is clear that the Development Plan height limit of 24m differs from SPPR 1 of the Building Height Guidelines which do not set a rigid height cap and instead applies performance based criteria.

Therefore, in accordance with subsection 9 (3) of the 2016 Act, the Board is required to apply SPPR 3 of the Building Height Guidelines instead of the relevant Development Plan provision when making a decision on the planning application submitted in respect of the proposed White Heather SHD. As the proposed development complies with the criteria set out in SPPR 3 of the Building Height Guidelines, and having taken account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; the Board may approve the proposed SHD, even where the height policy of the Dublin City Development Plan 2016-2022 indicates otherwise.

¹⁰ Urban Development and Building Heights - Guidelines for Planning Authorities 2018, pg 15

3.6 Building Height Conclusion

This Section of the Material Contravention Statement demonstrates that permission may be granted for the proposed development, notwithstanding the fact it materially contravenes the height restriction of the Development Plan, having regard to the provisions of subsection 9(6) of the 2016 Act and section 37(2) (b) of the 2000 Act. In this regard Ministerial Guidelines issued under section 28 of the 2000 Act, as well as Government Policy, signal a shift away from blanket height restrictions to performance based criteria in order to achieve compact urban growth by 'building inwards and upwards' within the footprint of existing settlements, preventing urban sprawl.

It has also been demonstrated that the requirements of the Development Plan clearly differ from those of the Building Height Guidelines and in accordance with subsection 9 (3) of the 2016 Act, when making its decision, the Board is required to apply the requirements of the Building Height Guidelines instead of the respective provisions in the Development Plan.

The Design Strategy for this site not only responds to its context, but has also been informed by the pattern of development within comparable high quality apartment developments in Dublin City. The proposal not only provides for high quality higher density development in a well serviced location that benefits from investment in public infrastructure but also delivers a landmark development at a key strategic location within the city on the Grand Canal and adjacent to a key east west link at Parnell Road (R111) as well as an arterial route to and from the City Centre at Dolphin's Barn Street (R110).

In conjunction with the location of the site within Dublin City, the high quality of the design, the canal bank setting, the proximity to a QBC and future Core Bus Corridor from Greenhills to City Centre Bus Connects and the protection of adjoining residential amenity, there is sufficient justification for the Board to grant planning permission for the proposed strategic housing development.

In conclusion, the proposed development fully accords with section 28 Guidelines, as well as Government Policy and complies with the relevant assessment criteria contained in these documents. The proposed development therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission notwithstanding the material contravention of the Development Plan in relation to height.

4. Mix of Residential Units

The proposed scheme includes 7 no. 3 bed townhouses and 328 no. apartment units comprising 2 no. studio units, 198 no. 1 bed units, 128 no. 2 bed apartment units and 2 no. 3 bed duplex units providing a wide range of unit types.

4.1 The Development Plan

The Development Plan notes that each apartment development shall contain:

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

The number of both 1 and 3 bedroom units does not meet the Development Plan's maximum requirement for 50% for 1 bed units and the required minimum of 15% for 3 bed units;

- 1 bed units = 59%
- 2 bed units = 38%
- 3 bed units = 3%

The proposed development therefore materially contravenes the Development Plan in terms of residential unit mix.

4.2 Ministerial Guidelines

4.2.1 Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2020)

As referenced previously, the 2020 Apartment Guidelines provides Ministerial guidance to planning authorities and the Board in relation to standards for apartment development and contains several specific requirements with which compliance is mandatory for development comprising apartments.

A key aim of the 2020 Apartment Guidelines is to ensure that apartment living is an increasingly attractive and desirable housing option for a range of household types and tenures resulting in greater delivery of apartments in Ireland's cities and towns. It outlines the importance of 'building inwards and upwards rather than outwards' due to on-going population growth (particularly in Ireland's cities), a long-term move towards smaller average household size, an ageing and more diverse population with greater labour mobility and a higher proportion of households in the rented sector.

As outlined previously in this Material Contravention Statement, the 2020 Apartment Guidelines contain a number of SPPRs which the Board is required to comply with in the performance of their functions.

4.3 Specific Planning Policy Requirements

The 2016 Act provides that when making a decision on an SHD application, where SPPRs of guidelines issued under Section 28 of the 2000 Act differs from the provisions of the Development Plan, *“then those requirements shall, to the extent that they so differ, apply instead of the provisions of the plan.”*¹¹

As outlined previously, the Dublin City Development Plan 2016-2022 requires that each apartment development shall contain:

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

Specific Planning Policy Requirement 7 of the Apartment Guidelines, however, states that in the particular context of build-to-rent [BTR] development:

BTR development must be:

(a) Described in the public notices associated with a planning application

specifically as a ‘Build-To-Rent’ housing development that unambiguously

categorises the project (or part of thereof) as a long-term rental housing

scheme, to be accompanied by a proposed covenant or legal agreement

further to which appropriate planning conditions may be attached to any

grant of permission to ensure that the development remains as such.

Such conditions include a requirement that the development remains

owned and operated by an institutional entity and that this status will

continue to apply for a minimum period of not less than 15 years and that

similarly no individual residential units are sold or rented separately for

that period;

¹¹ Section 9 (3) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development.

These facilities to be categorised as:

(i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc". (Emphasis added)

The proposed SHD development is a Build to Rent scheme as outlined in the Liv Consult Build to Rent Market Justification Report which accompanies this planning application. A Build to Rent Operational Plan sets out comprehensively how the White Heather SHD is intended to be run and managed as an exemplar residential scheme with an on-site management presence. The various facilities, services and amenities required to provide compliance with the foregoing are all set out in the Liv Consult Operational Plan and Lifecycle Report submitted as part of the planning application.

The proposed development has been designed with the needs of the future residents in mind, with accommodation designed for a range of demographics including singles, couples, sharers and families. Expert advice has been provided by LIV Consult to ensure that the design of the development creates a sustainable community which is professionally managed. The day to day running of the development will be managed by full time onsite staff who will ensure the highest levels of customer service, through the provision of support services and maintenance. The level of onsite resident amenity is far superior than is currently available in the local market and each space has been designed to create welcoming and inviting environment where residents can meet and interact. The development will provide leisure facilities, home working space and quieter space for relaxation. The provision of Resident events organised by the Management team will further enhance the community feel within in the development.

The applicant accepts that conditions will be applied in the granting of permission requiring the development to remain owned and operated by an institutional entity for at least 15 years and that no individual residential unit shall be sold separately for that period.

The tenant amenity provision within Block B03 at the heart of the scheme is shown in detail in the OMP Architectural Design Statement as well as within the Statement of Response document to clearly show the layouts of the concierge and management suite, parcel room, private dining room, yoga/gym studio, canal café and events space at ground floor. The covered cycle storage areas and refuse stores are conveniently located at ground and undercroft levels. The cinema/games/multi-media suite, co-working lounge and lounge with coffee/bar at fifth floor level with access to a south facing rooftop terrace overlooking the Grand Canal providing external amenity with a barbeque/outdoor kitchen. There are 4 other accessible roof terraces and extensive communal open space with play areas for children and adults as well as a 190+ metre long Grand Canal Linear park to the south of the scheme.

Specific Planning Policy Requirement 8 states;

“For proposals that qualify as specific BTR development in accordance with SPPR 7:

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

Although the proposed scheme contravenes the Development Plan in terms of unit mix, it is noted that the proposed scheme is consistent with both SPPR 7 and SPPR 8 of the 2020 Apartment Guidelines in relation to the dwelling mix in respect of the percentages of both one bedroom and three bedroom units.

As the proposed scheme is consistent with the 2020 Apartment Guidelines in relation to mix of residential units, it therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

5. Private Amenity Space

A total of 28 no. apartment units are not provided with balconies as private amenity space as required to comply with the minimum provision stated in the Development Plan's minimum standards. These apartments are located in the following locations;

- Block B02: - 9 no. units.
- Block B03: - 4 no. units.
- Block B04: - 9 no. units.
- Block B05: - 1 no. unit.
- Block B06: - 2 no. units.
- Block B07: - 3 no. units.

5.1 The Development Plan

The Development Plan notes that each apartment development shall provide the following minimum areas for Private Open Space:

- Studio unit: 4 sq. m.
- 1-bedroom unit: 5 sq.m
- 2-bedroom unit: 7 sq.m.
- 3-bedroom unit: 9 sq.m.

5.2 Specific Planning Policy Requirements

The 2016 Act provides that when making a decision on an SHD application, where SPPRs of guidelines issued under Section 28 of the 2000 Act differs from the provisions of the Development Plan, *"then those requirements shall, to the extent that they so differ, apply instead of the provisions of the plan."*¹²

Specific Planning Policy Requirement 8¹³ states;

"For proposals that qualify as specific BTR development in accordance with SPPR 7:

(ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative,

¹² Section 9 (3) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016

¹³ Sustainable Urban Housing: Design Standards for New Apartments (2020),SPPR 8,p.28

compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

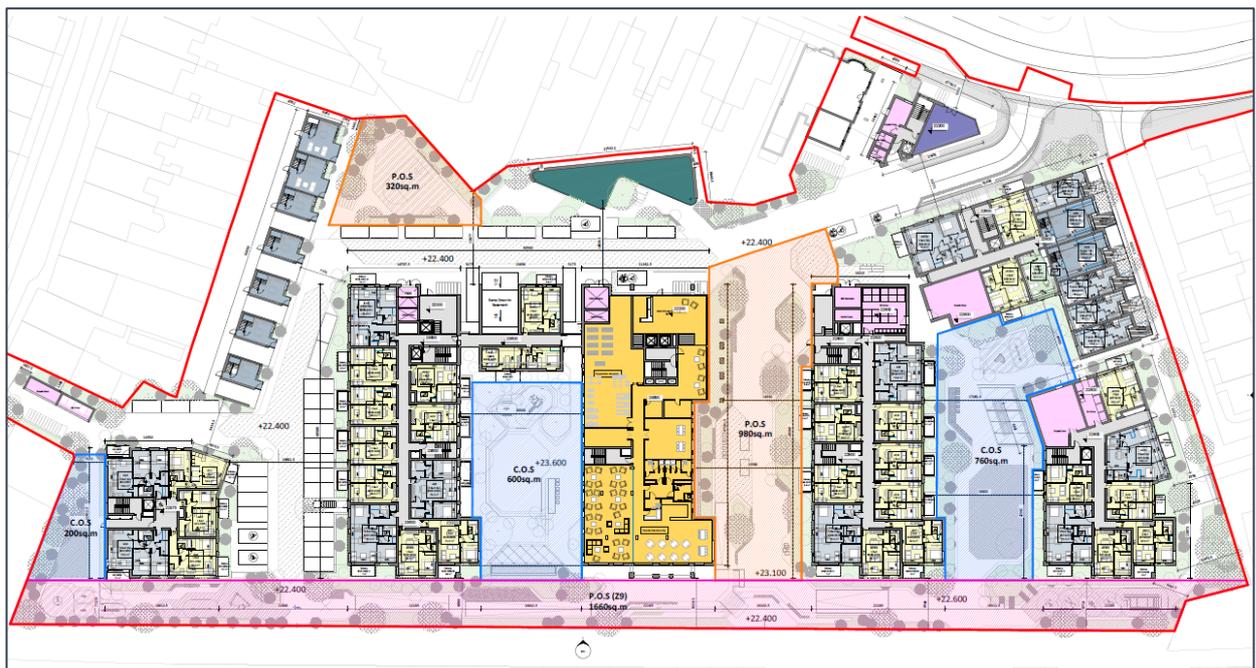
Public Open Space and Communal Open Space Provision

Based on the foregoing SPPR 8(ii) the proposed development materially contravenes the Development Plan in terms of residential amenity space in respect of 8.4% of the apartments within the proposed development. The majority, 91.6%, of the units are, however, provided with the required levels of private amenity space as shown in the detailed Housing Quality Assessment within the submitted Technical Document which sets out that the minimum standards are met and exceeded in many cases.

The level of Public Open Space at 1,300 sq.m (10% of Z1 site area), 2,960 sq.m (20% of combined Z1 and Z9 overall site area). The Communal Open Space of 2,160 sq.m made up of 1,560 sq.m at ground and 600 sq.m at secure accessible roof terraces (see Figures 5.1 and 5.2 below) exceeds the required 1,897 sq.m total required for the apartments. The 7 no. terrace houses all either meet or exceed the 40 sq.m minimum private amenity requirement.

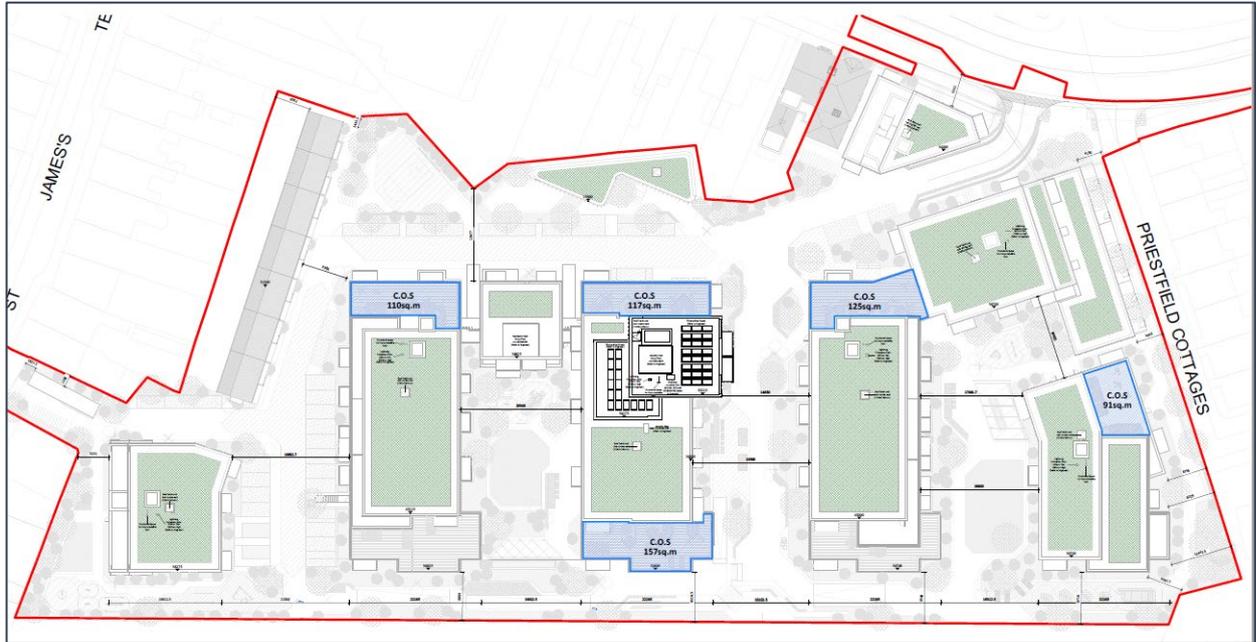
Also, the quality and quantum of amenity provided at the Grand Canal Linear Park at 1,660 sq.m provides for additional amenity space significantly above the required minimum Public Open Space.

Figure 5.1: Public Open Space and Communal Open Space (Ground Floor)



Source: OMP Architectural Design Statement

Figure 5.2: Public Open Space and Communal Open Space (Roof Terraces)



Source: OMP Architectural Design Statement

Resident Services and Amenities

It is also submitted that the level of community support facilities that are provided within the scheme is of a very high quality and suitable quantum. These facilities are provided at ground floor and fifth floor levels in Block B02. The Canal Café and supporting residential amenity sits at the heart of the scheme with access to the pedestrian street and the linear Grand Canal park to the south. The fifth floor level amenity facilities have access to a roof terrace providing 157 sq.m of communal open space overlooking the Grand Canal;

Table 5.1: Resident Amenity Provision

Block	Amenity Facility	Area
B03	Canal Cafe	175 sq.m
B03	Gym / Yoga Studio	105 sq.m
B03	Business Hub	130 sq.m
B03	Cultural / Events Space	130 sq.m
B03	Residents Lounge / Cinema Dining / Kitchen / Bar	284 sq.m
B05	Café	46 sq.m
307/307a	Community Workspace	165 sq.m
	Childcare Facility / Creche	260 sq.m

Resident Support Facilities

It is noted that there is a main reception area at ground floor in Block B02 which is serviced by a concierge and a management office at ground and undercroft floor levels (177 sq.m).

Summary

It is submitted that the quality and quantum of both Public Open Space and Communal Open Space with the inclusion of the additional 1,660 sq.m of amenity space at the Grand Canal Linear Park provides for compensatory amenity as mitigation for the 28 no. apartments which are not provided with balconies within the scheme. The variety, quality and quantum of both indoor and outdoor amenity and recreation for all children age cohorts and including adults provide for a high level of both amenity and recreation interspersed throughout the scheme for all units and compensate for those 28 no. units which are not provided with private amenity (balconies).

Although the proposed scheme contravenes the Development Plan in terms of residential private amenity space, it is noted that the proposed scheme is consistent with both SPPR 7 and SPPR 8 of the 2020 Apartment Guidelines in relation to the private amenity space for individual apartment units.

As the proposed scheme is consistent with the 2020 Apartment Guidelines under SPPR 8(ii) in relation to private residential amenity space provision considering the alternative, compensatory communal support facilities and amenities within the development, it submitted therefore that it satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

6. Car Parking Standards

A total of 106 no. car parking spaces are provided (40 no. at ground floor level and 65 no. at undercroft) including 5 no. at ground floor level in car ports of terraced houses. There are 7 no. shared car club spaces provided as well as staff and creche staff and set down spaces.

6.1 The Development Plan

The maximum standards applicable to the development site (as set out in the Development Plan) are a maximum of one space per unit. The plan does emphasise that the standards are maximum in nature and may be reduced based on the site's location, proximity to public transport, local amenities, walking and cycling infrastructure, availability of car clubs and electric car charging points.

The Development Plan standards also suggest that when a reduction in parking provision is sought for any new development, it should not reasonably give rise to negative impacts on the amenities of surrounding properties or on the immediate street once the development is occupied – and that there is no potential negative impact on traffic safety.

Based on the foregoing, the proposed development materially contravenes the Development Plan in terms of residential car parking space provision within the proposed development.

6.2 Specific Planning Policy Requirements

The 2016 Act provides that when making a decision on an SHD application, where SPPRs of guidelines issued under Section 28 of the 2000 Act differs from the provisions of the Development Plan, *“then those requirements shall, to the extent that they so differ, apply instead of the provisions of the plan.”*¹⁴

Specific Planning Policy Requirement 8¹⁵ states;

“For proposals that qualify as specific BTR development in accordance with SPPR 7:

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;

¹⁴ Section 9 (3) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016

¹⁵ Sustainable Urban Housing: Design Standards for New Apartments (2020), SPPR 8, p.28

Proposed Mitigation Measures

The site is located in a central location within Dublin City and within the canal ring, with good proximity to high quality public transport including LUAS and buses a wide range of local amenities within the immediate locality. Car ownership levels within the area are low, and likely to reduce further given the high density and BTR nature of the development. Active travel modes will be promoted on site, with excellent and above Development Plan standard cycle parking facilities are provided. Car clubs will be actively promoted reducing the requirement for the residents to have a car. On the basis of the above a parking ratio of 0.29 car spaces per unit is proposed for the development, resulting in 96 car parking spaces proposed for the residential element only, and 10 spaces for the creche and car club.

The car parking was discussed with Dublin City Council at a number of pre-application consultation meetings. The proposed parking strategy, car parking ratio and proposed mobility management measures were also discussed in these meetings. DCC emphasised the importance of mobility management on the proposed development site and supporting measures required to support the planning application.

Accordingly, the Traffic and Transport Assessment Report and Mobility Management Report prepared by SYSTRA and included with the application documentation set out a clear rationale including equivalent international exemplars to support the level of car parking provision at the site location.

The proposed development seeks to encourage the use of sustainable transport modes and reduce the need for car ownership. The aim of the Mobility Management Plan is to reduce the demand for car trips and address the forecast transport needs of future residents of the development. This is facilitated through providing sustainable travel options to both future residents and visitors alike. The provision of an on-site car club, above the required standard bicycle storage provision and other quality management measures provided by the BTR scheme management is intended to reduce the demand for car trips.

The reduced car parking level provided is appropriate to a Build to Rent residential development with high quality public transport choices. It is submitted that it is consistent with the provisions of SPPR 8(iii) of the 2020 Apartment Guidelines and, therefore, satisfies the criteria set out in section 37(2)9b(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

7. Minimum Internal Space Standards – Studio Apartment Widths

The 2 no. studio apartments at ground and first floors within Block B06 are below the Development Plan Width requirement. These studio units therefore materially contravene the Development Plan in respect of the minimum internal space standards.

Table 8.1: Studio Apartment Widths

Apartment	Development Plan Requirement	SPPR Minimum Width Requirement	Proposed Width
Studio	5m	4m	4.8m

Although the proposed scheme contravenes the Development Plan in terms of space standards, it is noted that the proposed scheme is consistent with both SPPR 7 and SPPR 8 of the 2020 Apartment Guidelines in relation to the internal space standards in respect of the 2 no. studio apartment widths.

While the Development Plan requires a minimum studio apartment bedroom width of 5m, the Apartment Guidelines in Appendix 1 state a combined living/dining/bedspace minimum of 4m. The minimum width proposed in the 2 no. studio apartments provided within the development as 4.8m exceeds this minimum standard.

Accordingly the proposed scheme is consistent with SPPR 8(i) in the 2020 Apartment Guidelines in relation to minimum internal space standards in respect of studio apartment widths, it therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

8. Minimum Internal Space Standards – Unit Floor Areas

There are 2 no. studio units within Block B06 at ground and first floor levels which are below space standard required in the Development Plan. There are a total of 5 no. 2 bedroom / 3 person apartments which are not included in the Development Plan but do comply with SPPR 8(i) in respect of the space provisions of the 2020 Apartment Standards.

8.1 The Development Plan

The Development Plan sets the Studio floor areas as 40 sq.m for a studio apartment, whereas no standard is stated for a 2 Bedroom / 3 Person apartment unit.

Table 9.1: Apartment Floor Areas

Apartment	Development Plan Requirement	SPPR Minimum Area Requirement	Range Proposed
Studio	40 sq.m	37 sq.m	37.7 sq.m
2 Bedroom / 3 Person	Not included	63 sq.m	64.2 sq.m – 74.1 sq.m

Although the proposed scheme contravenes the Development Plan in terms of the minimum internal space standards, it is noted that the proposed scheme is consistent with SPPR 3 of the 2020 Apartment Guidelines in relation to the internal space standards in respect of the 2 no. studio apartments and the 2-bedroom / 3 person apartment floor areas.

As the proposed scheme is consistent with the 2020 Apartment Guidelines in relation to apartment unit floor areas, it therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

9. Conclusion

9.1 Building Height

In accordance with the relevant provisions of the 2016 Act, this Material Contravention Statement sets out why permission should be granted for the proposed White Heather SHD, notwithstanding the fact it materially contravenes the Development Plan in relation to building height, having regard to section 37(2) (b) of the 2000 Act.

The requirements of Section 37(2)(b) of the 2000 Act are as follows:

(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.'
(emphasis added).

Ministerial Guidelines issued under section 28 of the 2000 Act, as well as Government policy, signal a shift away from blanket height restrictions to performance based criteria in order to achieve compact urban growth by 'building inwards and upwards' within the footprint of existing settlements, preventing urban sprawl.

As outlined within this Statement, the proposed development fully accords with this approach and complies with the relevant assessment criteria contained in the Building Height Guidelines. By placing more people close to existing services and places of work, the proposed scheme is consistent with national policy seeking to achieve compact urban growth within the footprint of existing built up areas.

In this regard, it is noted that the proposed development is located in close proximity to Dublin City Centre, public transport services and several major employment centres. The proposed scheme delivers high density in a serviced city location, as promoted in national policy. It will benefit from

investment in public infrastructure while also supporting the viability of public transport infrastructure, further linking land use and transport planning.

It will deliver a landmark development at a main arterial road into Dublin City and adjacent to the Grand Canal. In this regard, the Strategy not only responds to the context of the site, but it has been informed by the pattern of recent development in the local area which include a wide range of unit types and sizes.

The strategic location of the subject site, its proximity to employment centres, public transport and existing services, the provision of high levels of amenity including landscaped public open space and the sensitive design solutions incorporated into the proposed scheme are considered justification for granting permission for the subject strategic housing development.

In these circumstances, in accordance with the provisions of the 2016 Act, the Board may grant permission for the SHD, notwithstanding the fact it materially contravenes the Development Plan in relation to building height, having regard to section 37(2)(b)(iii) of the 2000 Act.

9.2 Mix of Residential Units

In accordance with the relevant provisions of the 2016 Act, this Material Contravention Statement sets out why permission should be granted for the proposed White Heather SHD, notwithstanding the fact it contravenes the mix of residential units, having regard to section 37(2)(b)(iii) of the 2000 Act.

Each of the proposed dwellings meets or exceeds the minimum standards for residential unit size and the proposed development provides a mix of studio, 1, 2 and 3 bedroom units as follows;

- 1 bed units = 59%
- 2 bed units = 38%
- 3 bed units = 3%

The delivery of high quality residential units across a mix of unit types within a key site setting will create a new urban neighbourhood with a distinctive sense of place in accordance with Policy SC14 of the Development Plan that seeks *“To promote a variety of housing and apartment types which will create a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces”*.

The subject proposal presents high quality and desirable housing options across a range of housing types responding to the need to cater for smaller average household sizes.

Although the proposed scheme does not meet the Development Plan's requirements in relation to the provision of 1 – bed and 3 – bed units, it is consistent with SPPR 8 of the 2020 Apartment Guidelines for Build to Rent (BTR) units which allow for no restrictions on dwelling mix.

In this regard, it is re-iterated that 2016 Act specifically states that where SPPRs of guidelines issued under section 28 of the 2000 Act differ from the provisions of the Development Plan, *“then those requirements shall, to the extent that they so differ, apply instead of the provisions of the plan.”*

9.3 Private Amenity Space

It is submitted that the high quality and quantum of both public and communal open space provision and residential amenity facilities provide compensatory communal support facilities for the 28 no. apartments not provided with balconies as private amenity space as required in the Development Plan.

As the proposed scheme is consistent with the 2020 Apartment Guidelines under SPPR 8(ii) in relation to private residential amenity space provision considering the alternative, compensatory communal support facilities and amenities within the development, it submitted therefore that it satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

9.4 Car parking standards

A total of 106 no. car parking spaces are provided (40 no. at ground floor level and 65 no. at undercroft) including 5 no. at ground floor level in car ports of terraced houses. There are 7 no. shared car club spaces provided as well as staff and creche staff and set down spaces. This is acknowledged as being a material contravention of the Development Plan.

It is submitted that the proposed development seeks to encourage the use of sustainable transport modes and reduce the need for car ownership. The aim of the submitted Mobility Management Plan is to reduce the demand for car trips and address the forecast transport needs of future residents of the development. This is facilitated through providing sustainable travel options to both future residents and visitors alike. The provision of an on-site car club, and other quality management measures provided by the management is intended to reduce the demand for car trips.

The reduced car parking level provided is therefore appropriate to a Build to Rent residential development with high quality public transport choices, such as provided at White Heather. It is

submitted that it is consistent with the provisions of SPPR 8(iii) of the 2020 Apartment Guidelines which provides minimal or significantly reduced car parking provision on the basis of the BTR development being more suitable for central locations and/or proximity to public transport services. The proposed BTR scheme benefits from the provision of an on-site car club, above the required standard bicycle storage provision and other quality management measures provided by the BTR scheme management which are intended to reduce the demand for car trips.

9.5 Minimum Internal Space Standards - Studio Apartment Widths

Although the proposed scheme contravenes the Development Plan in terms of the minimum internal space standards, it is noted that the proposed scheme is consistent with SPPR 3 of the 2020 Apartment Guidelines in relation to the internal space standards in respect of the 2 no. studio apartment widths.

As the proposed scheme is consistent with the 2020 Apartment Guidelines in relation to apartment unit widths, it therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

9.6 Minimum Internal Space Standards - Apartment Floor Areas

Although the proposed scheme contravenes the Development Plan in terms of the minimum internal space standards, it is noted that the proposed scheme is consistent with SPPR 3 of the 2020 Apartment Guidelines in relation to the internal space standards in respect of 2 no. studio apartment and the 2-bedroom / 3 person apartment floor areas.

As the proposed scheme is consistent with the 2020 Apartment Guidelines in relation to apartment unit floor areas, it therefore satisfies the criteria set out in section 37(2)(b)(iii) of the 2000 Act, enabling the Board to grant permission for the proposed development, notwithstanding the fact that the proposed scheme materially contravenes the Development Plan.

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