

# Material Contravention Statement

Strategic Housing Development for a proposed Residential Development at Millfield Service Station, Redforge Road, Blackpool, Cork.

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Prepared on behalf of  
Bellmount Developments Limited

## Introduction

This Material Contravention Statement accompanies a Strategic Housing Development (SHD) application by Bellmount Developments Ltd. for 114 no. Build to Rent residential apartments at Millfield Service Station, Redforge Road, Blackpool, Cork.

The Planning and Development (Housing) and Residential Tenancies Act, 2016 makes the provision for An Bord Pleanála to grant permission for a development which materially contravenes a Development Plan/Local Area Plan, other than in relation to the zoning of the lands, with Section 9(6) stating:

*6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under Section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.*

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

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

The Cork City Development Plan 2015 (CDP 2015) provides standards within the Plan which has been superseded by Guidelines published by the Department of Housing, Planning and Local Government.

Chapter 16 of the CDP 2015 outlines the development standards against which proposals for development will be assessed. The Plan states that:

*Of foremost importance will be the encouragement of development of the highest possible architectural and urban design quality.*

Specific policies with the development plan provide standards in relation to height and apartment design. In relation to height, section 16.25 of the CDP 2015 categorises buildings as being low-rise, medium-rise and tall buildings based on their number of storeys or height with medium rise buildings being considered as being 4-9 storeys. Section 16.28 identifies those buildings of between 3-5 storeys will be considered in Suburban Areas. In exceptional circumstances buildings may be considered with a height of up to 20-23 metres (6-7 storeys).

Chapter 16 also provides standards in relation to the apartment sizes and floor to ceiling heights outlining minimum requirements. The standards outlined in the CDP 2015 pre-date the Sustainable Urban Housing: Design Standards for New Apartments but as they are presented as minimum standards in the Plan, it is considered that the compliance with Design Standards for New Apartments requires a deviation from the standards contained within the CDP 2015.

This report will address where new national guidelines have superseded the standards within the CDP 2015 and together with the supporting planning application documentation will provide sufficient justification for An Bord Pleanála to grant permission for the proposed development.

## Site Context

The proposed site is located on Redforge Road, to the immediate north of Blackpool Retail Park. The site is situated c. 200m from Blackpool Shopping Centre and approximately 2km from Cork City Centre. The total gross site area comprises 0.73 hectares and has a flat topography. The site is irregular in shape.

The site is accessible via Redforge Road which runs along the eastern boundary of the site. The site is within easy walking distance of a number of commercial and community facilities, including local shops, churches and schools. The major employment of Cork City and Blackpool are within close proximity and both are well connected by public transport. The site is served by the 215, 243 and 248 bus route all of which have numerous stops within 200m of the site. The closest stop is located less than 100m to the north of the site. A bus serves the site every 30 minutes Monday to Friday.



Fig. 1 Subject site at Redforge Road outlined in red.

## Legislative Context

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

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

*(II) where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000”*

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

*“(6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.*

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

*(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development. and demonstrate that the Board should support this SHD application, as the proposal addresses the matters specified in Section 37(2)(b)(iii) and (iv) of the Planning and Development Act 2000 (‘the Act’).”*

In this regard, Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers:

*(i) the proposed development is of strategic or national importance,*

On determining that point (i) is applicable, it must be determined that one of the sub-sections set out below is relevant.

*(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.*

## Justification for Material Contravention

The proposed development is considered to materially contravene the Cork City Development Plan in relation to the height of the proposed buildings and apartment design (size and floor to ceiling height). In both instances, national guidance has changed since the adoption of the Plan in 2015.

Ministerial Guidelines can be issued to planning authorities in relation to any function of the Planning and Development Act, 2000 (as amended) under Section 28 with Section 28(1C) stating:

*Without prejudice to the generality of subsection (1), guidelines under that subsection may contain specific planning policy requirements with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply.*

While new Guidelines will ultimately form part of the Development Plan as part of the next review of the Plan, Section 28(1C) requires that planning authorities adhere to new Guidelines immediately which can lead to inconsistencies in local planning policy and the national guidelines.

This Material Contravention Statement will address the inconsistencies between the City Development Plan 2015 and the 'Urban and Building Height, Guidelines for Planning Authorities' and 'Sustainable Urban House: Design Standards for New Apartments, Guidelines for Planning Authorities', both of which were published in 2018 and 2020 respectively.

### Proposed Material Contraventions

#### Height

The Cork City Development Plan 2015 provides a classification of building heights which are considered appropriate in various locations in the City with Paragraph 16.25 of the Plan stating:

*Within the context of Cork City the following building height categories can be identified:*

- *Low-rise buildings (1-3 storeys in height);*
- *Medium-rise buildings (less than 32metres in height, 4-9 stories approximately). Buildings which are taller than the general building height in any area will be considered "taller" even where they are less than 10 storeys;*
- *Tall buildings (32metres or higher, the approximate equivalent of a 10 storey building with a commercial ground floor and residential in the remaining floors).*

Section 16.28 identifies those buildings of between 3-5 storeys will be considered in Suburban Areas. In exceptional circumstances buildings may be considered with a height of up to 20-23 metres (6-7 storeys).

A number of tall buildings locations are identified in the CDP 2015. As the subject site has not been identified for a tall building, this would normally limit the building height to 3-5 storeys as the site is situated in a suburban area.

The buildings proposed on the subject site range in height from 4 to 9 storeys and are therefore classed as 'tall' and 'medium-rise' buildings in the Cork City Development Plan 2015.

#### Apartment Size and Ceiling Heights

Chapter 16 of the CDP 2015 provides a minimum floor area for apartments and their associated private open space. These standards apply unit sizes ranging from 1 bedroom to 4 bedrooms, the CDP does not provide any standard for studio apartment units.

Fig. 2 Tables 16.5 and 16.7 of the Cork City Development Plan 2015

**Table 16.5 Minimum Overall Apartment Gross Floor Areas**

Dwelling type	Size
One bedroom	55 sq. m.
Two bedroom / 3 persons	80 sq. m.
Two bedroom / 4 persons	90 sq. m.
Three bedroom	100 sq. m.
Four bedroom	115 sq. m.

**Table 16.7 Private Open Space Standards (Min. Requirements)**

Unit Type	Area (sq. m.) per Unit	
	City Centre, Docklands and Inner Urban Areas	Suburban Areas
Townhouses/Terraced Houses	30	48-60
Detached/ semi-detached Houses (1-2 beds)	30	48-60
Detached/ semi-detached Houses (3-5 beds)	30-50	60-75
Duplexes	5-8	12-15
Apartments – 1 Bed	6 sq. m.	
Apartments – 2 Bed	8 sq. m.	
Apartments – 3 Bed	12 sq. m.	

In addition to the minimum areas, the CDP 2015 references minimum floor to ceiling heights in Paragraph 16.54 of the Plan:

*Floor-to-Ceiling Heights*

*16.54 Providing decent floor-to-ceiling heights has significant benefits for dwellings, including more attractive living spaces, better daylight / sunlight / ventilation, and improved storage space opportunities. Apartments will have a minimum floor to ceiling height of 2.7m (3m floor to floor) apart from in exceptional circumstances relating to architectural conservation and historic character of townscapes and the significant character of streets and their existing building elevations.*

The proposed apartments range in size from 1 to 2-bed and provide a range of sizes to accommodate a range of household sizes. The units have been designed to comply the 2020 *Sustainable Urban House: Design Standards for New Apartments* and therefore fall below the minimum thresholds for unit size and private amenity space outlined in the CDP 2015 in some instances thereby contravening the development plan.

# Context for Proposed Material Contravention

## National Planning Framework

Project Ireland 2040 was published by the Government of Ireland in February 2018 with the objective to provide details for the new national planning and capital expenditure plans. These plans aim to achieve balanced regional development by outlining a clear hierarchy for the urban centres outside the greater Dublin area, with Cork being promoted as the State's second city, fulfilling a nationally important role in counterbalancing the Capital.

It advocates densification and greater building height as measures to grow our cities and towns in a more sustainable manner and achieve the objectives of consolidation and compact growth. The NPF specifically identifies the importance of infill and brownfield development in urban areas as particularly challenging and necessitating a more flexible approach to realising these higher level planning objectives. Section 4.5 of the NPF states:

*“To enable brownfield development, planning policies and standards need to be flexible, focusing on design-led and performance-based outcomes, rather than specifying absolute requirements in all cases.”*

To ensure that urban infill and brownfield sites can accommodate a significant proportion of future development and population growth, National Policy Objective (NPO) 11 states:

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

The NPF explicitly endorses a more “dynamic approach” to land use in urban areas, particularly those that are undergoing change, and recommends preparation of a masterplan for such sites. This position is reflected in NPO 13, as follows:

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

The proposed SHD application is accompanied by a design statement which illustrates that the proposed development is consistent with the approach endorsed by the NPF to ensure that regeneration at this highly accessible brownfield site is undertaken with a focus on design-led outcomes. The proposed development has considered the potential for future development on the adjacent lands to the north as well as the public infrastructure that will be provided by Cork City Council. The proposed development illustrates how the residential scheme will work with the changes to Centre Park Road and the construction of the Monahan's Road extension as this infrastructure is developed.

Additionally, the NPF places a strong policy emphasis on increasing building heights in appropriate locations to facilitate higher density development and a sustained increase in housing output. It recognises the role of apartment type developments in countering historical patterns of sprawl in Ireland's urban settlements and accommodating the long term trend towards smaller household size. To achieve higher density housing of the scale required, NPO 35 seeks to:

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

The subject land is a brownfield site located in Cork City’s South Docklands, an area identified to play a critical role in the delivery of new housing for the City and are identified as having potential for tall buildings in Objective 16.7 of the Plan. Locations of the tall buildings in the South Docklands are identified in the Volume 2 – Zoning and Objectives Maps. While there are several tall building locations identified in the South Docklands, they are not within the subject site. The proposed development will provide much needed housing and realise effective density consistent with the national policy objectives of the NPF.

## Regional Spatial and Economic Strategy for the Southern Region (RSES)

RSES is a strategic document, which identifies high-level requirements and policies for the Southern Region, setting out the high-level statutory framework to empower each local authority to develop CCDPs, Local Area Plans (LAPs) and LECPPs that are coordinated with regional and national objectives.

The sustainable growth of Metropolitan Cork requires consolidation, regeneration, infrastructure led growth and investment in each of the following locations: city centre (including the Docklands and Tivoli), potential light rail transit (LRT) corridor, strategic bus network corridor and suburban area nodal points and corridors along the Ballincollig to Mahon LRT line, district centres, north and south environs, Glanmire, city and suburban area expansion (sustainable and infrastructure led).

The proposed development of the Former Ford Distribution Site forms part of the regeneration of the Docklands envisioned in the RSES and will provided the first phase the regeneration envisioned for this area by providing a high quality residential scheme and associated social infrastructure.

## Urban Development and Building Height Guidelines

The Urban Development and Building Heights Guidelines for Planning Authorities (2018) highlight the positive contribution that taller buildings can make to our cities and towns. Paragraph 2.5 of the Guidelines state that *“increased building height is a key factor in assisting modern place making and improving the overall quality of our urban environments”.*

The Urban Development and Building Height Guidelines give expression to NPO 13 in the NPF. SPPR 1 of the Guidelines seek to encourage increased building height and density in locations with good public transport accessibility to secure the objectives of the NPF and so prohibit the inclusion of blanket numerical limitations on building height in local statutory planning policies:

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

The proposed development is strategically located in close proximity to major employment centres in Blackpool and the City Centre.

The design approach has also evolved to respond to the distinct qualities of this site which benefits from high levels of accessibility to public transport, consistent with SPPR 1.



Section 2.2 of the Guidelines states, *“to meet the needs of a growing population without growing our urban areas outwards requires more focus in planning policy and implementation terms on reusing previously developed ‘brownfield’ land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements.”*

Further, Section 2.4 of the Guidelines note the substantial financial investment that has been committed to public transport infrastructure and active travel modes. It is considered that the current proposal is aligned with the objective of optimising the outcomes associated with this investment by providing for increased density and height within a sustainable transport corridor/network to ensure *“improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure”*.

### Building Height and the Development Management Process

Section 3.1 of the Guidelines state *“it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.”*

As detailed in earlier in this report, the subject site benefits from good public transport accessibility and proximity to major employment centres and is therefore an appropriate location for increased building height.

Planning authorities are obliged to consider the following principles when assessing applications for buildings taller than prevailing building heights in urban areas:

Principle	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 Strategic Objective to deliver compact growth in our urban centres?	The subject site is a strategic infill, brownfield site located in Cork City. It is close to major employment centres in Blackpool and the City Centre. The proposed development will deliver 114 no. Build to Rent residential units with ancillary services and a retail unit.
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?	A number of areas in Cork City are identified as areas having potential for tall buildings. The proposed scheme includes buildings classified as ‘medium buildings’ in the City Development Plan on lands which were not specifically identified as being a prescribed location for a building with a height greater than 32 metres. The current Development Plan, which is under review, predates the publication of these Guidelines.
Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?	Yes, the current development plan pre-dates the publication of these Guidelines and limits the number of buildings of a height greater than 32 metres to specific locations in the City. The restrictions on height that relate to other development lands in the City have been removed by these Guidelines. The proposed development is located within an area of the City identified for regeneration but is restricted in relation to height.

Section 3.2 of the Guidelines include development management criteria that are required to be addressed in applications for taller buildings:

At the scale of the relevant city / town	
Criteria	Proposed development
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	The proposed development is located within a highly accessible area in terms of access to public transport facilities. The area is served by the 215, 143 and 248-bus route which has numerous stops located within 200m of the site.
Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.	<p>The proposed development has taken a considered approach to height which reflects the context of the site.</p> <p>A Landscape and Visual Impact Assessment (LVIA) accompanies this planning application.</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>The proposed redevelopment has been designed to achieve the desired higher density appropriate for this brownfield site.</p> <p>Blocks vary in height to create variety and interest throughout the scheme.</p> <p>The Planning and Design Statement that accompanies this application sets out the proposed scheme's contribution to place making in detail.</p>
At the scale of district / neighbourhood / street	
Criteria	Proposed development
The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.	<p>The proposed development will contribute positively to the development of a sense of place by replacing an existing commercial use with a new residential development.</p> <p>The proposed buildings will provide an active frontage along Redforge Road.</p> <p>Within the scheme, new amenity/public open space will improve the urban environment.</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.	A range of building heights has been utilised to create a dynamic built environment with rich character, variety and form, where the taller buildings will provide a focus and vistas along Redforge Road. Staggering of building heights and articulation in the building façades has been incorporated into the design to avoid monolithic, long walls and this approach will be enhanced by distinct building forms and a varied selection of materials/finishes.

	A contemporary palette of materials is proposed, to create a distinct identity while ensuring a cohesive approach that avoids unnecessary architectural embellishment.
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 “ <i>The Planning System and Flood Risk Management – Guidelines for Planning Authorities</i> ” (2009).	The redevelopment of this site will deliver substantial improvement to the landscape of this area.  A Flood Risk Assessment has been prepared by JODA Consulting Engineers and accompanies the SHD application.
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.	The site layout has been informed by enhancing connections to the wider area and improving legibility at this site. The scheme provides for generously proportioned street/corridor along Redforge Road and a central courtyard, whilst the layout also allows for visual connections through the site and by providing strategic ‘gaps’ in the massing of buildings. Amenity spaces are easily accessible and identifiable and have been designed with a user-centred approach, particularly for the needs of pedestrians. The proposed development incorporates public and semi-public areas that are well defined and overlooked, whilst the ground floor uses present an active frontage to the streetscape and provide a sense of security. It will provide connections to the neighbouring landscape, specifically the public parks to the north of the site..
The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.	A range of uses, such as commercial and a residential amenity space have been provided to support the future residential community and the existing community within the area.
At the scale of the site / building	
Criteria	Proposed development
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.	The scale, massing and urban grain have been developed to maximise the natural daylight ventilation and views. Care has been taken to minimise overshadowing and loss of light to adjoining properties/apartments and open spaces (see Daylight, Sunlight and Overshadowing Study prepared by Passive Dynamics).
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’.	The accompanying Daylight, Sunlight and Overshadowing Study prepared by Passive Dynamics demonstrates how the proposed development has been carefully designed to optimise access to daylight and minimise overshadowing.
Where a proposal may not be able to fully meet all the requirements of the daylight provisions above,	The accompanying Daylight, Sunlight and Overshadowing Study prepared by Passive

<p>this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</p>	<p>Dynamics demonstrates the proposal complies with BRE standards.</p>
<p>Specific Assessments</p>	
<p>Criteria</p>	<p>Proposed development</p>
<p>Specific impact assessment of the micro-climate effects such as down draft. Such assessments shall include measures to avoid / mitigate such micro-climate effects and, where appropriate, shall include an assessment of the cumulative micro-climate effects wherever taller buildings are clustered.</p>	<p>A Wind Microclimate Assessment has been prepared by B-Fluid. Micro-climate effects were assessed as part of the design process and modifications and mitigation measures have been introduced to the scheme which form part of the design being proposed to ensure a safe and comfortable environment within the scheme.</p>
<p>In development locations in proximity to sensitive bird and / or bat areas, proposed development needs to consider the potential interaction of the building location, building materials and artificial lighting it impact flight lines and / or collision.</p>	<p>As part of the Ecological Impact Assessment and Natura Impact Statement, the sensitivity of the site for protected species was considered. No relevant species were identified as being impacted by the proposed development.</p>
<p>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</p>	<p>It is not considered that there will be an impact on telecommunication channels.</p>
<p>As assessment that the proposal maintains safe air navigation.</p>	<p>The proposed scheme does not fall within the public safety zones for the Cork International Airport. As requested in the Board's Opinion, the Irish Aviation Authority and Operator of the Cork Airport will be issued a copy of the application.</p>
<p>An urban design statement including, as appropriate, impact on the historic built environments.</p>	<p>A Planning and Design Statement has been prepared and accompanies this application.</p>
<p>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</p>	<p>An NIS, EIA Screening and Ecological Impact Assessment have been prepared and accompany the application. The City Development Plan in which the site is zoned for development was subject to SEA.</p>

Having regard to the foregoing, it is our professional opinion that the proposed development meets all of the relevant development management criteria set out under the Urban Development and Building Heights Guidelines for Planning Authorities.

Section 3.2 of the Guidelines state that where *“An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals”*, Strategic Planning Policy Requirement (SPPR) 3 shall apply in accordance with Section 28 (1C) of the Planning and Development Act 2000 (as amended), as follows:

*“It is a specific planning policy requirement that where;*

*(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*

*2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

*then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.”*

## Design Standards for New Apartments Guidelines for Planning Authorities, 2020

The Design Standards for New Apartments Guidelines were updated in 2020 to take account of recent evidence of projected future housing demand and the prevailing housing market, within the policy context of the National Planning Framework and Rebuilding Ireland. It focuses on locational criteria and planning standards for apartment developments generally.

It identifies apartment development as pivotal to the delivery of the ambitious growth targets set out in the NPF and key to increasing housing supply in cities and urban areas. Paragraph 2.2 of the Guidelines state:

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

Section 1.11 of the Apartment Guidelines stipulates that:

*The Guidelines apply to all housing developments that include apartments that may be available for sale, whether for owner occupation or for individual lease.*

Furthermore, Section 1.21 of these Guidelines states that:

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

The Cork City Development 2015 was adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the City Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines.

The proposed development complies with design standards as set out in New Apartment Guidelines 2020. The requirement to comply with these Guidelines in relation to unit size, private amenity space and floor to ceiling heights in the key justification for contravening the City Development Plan in relation to the standards set out in the Plan. Please refer to the Housing Quality Assessment by Butler Cammoranesi Architects which provides details on the unit size, private amenity space and floor to ceiling heights for each of the proposed units.

## Cork City Development Plan 2015

Against this national planning policy backdrop, the proposed development has been designed to create a high-quality, vibrant and attractive urban neighbourhood on this strategically located brownfield site. It is noted that the Cork City Development Plan 2015 was adopted prior to publication of the:

- National Planning Framework (2018);
- Regional Spatial and Economic Strategy for the Southern Region (RSES) (2020);
- Urban Development and Building Heights Guidelines (2018); and
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020).

The Cork City Development Plan (CDP) 2015-2021 sets out Cork City Council's policies for the development of Cork City to 2021 and beyond. It establishes the following vision for Cork City:

*“The vision for Cork City over the period of this Development Plan and beyond is to be a successfully, sustainable regional capital and to achieve a high quality of life for its citizens and a robust local economy, by balancing the relationship between community, economic development and environmental quality. It will have a diverse innovative economy, will maintain its distinctive character and culture, will have a network of attractive neighbourhoods served by good quality transport and amenities and will be a place where people want to live, work, visit and invest in.”*

To achieve this vision, the Core Strategy set out in the plan establishes a framework for the development of the city, derived from the strategic goals of the CDP. This is set around the population targets for the city, as outlined in Chapter 2 of the plan. In 2011 the overall population target for the City, as per the CDP is 150,000 up to 2022, with a growth of 25.8% on 2011 levels which were recorded at 119,230 (this was the population of the city prior to the city boundary extension). This equates to a target of 64,955 households by 2022 with a requirement for approximately 20,032 new housing units.

The CDP puts forward several policies to achieve the projected level of growth in the city and promote sustainable residential communities. Objective 6.1 provides a number of residential strategic objectives:

- a) *To encourage the development of sustainable residential neighbourhoods;*
- b) *To provide a variety of sites for housing to meet the various needs of different sections of the population;*
- c) *To continue to work with the Approved Housing Bodies and to actively engage with all key stakeholders in the provision of housing;*
- d) *To continue to regenerate and maintain existing housing;*
- e) *To encourage the use of derelict or underused land and buildings to assist in their regeneration;*
- f) *To promote high standards of design, energy efficiency, estate layout and landscaping in all new housing developments;*
- g) *To protect and, where necessary, enhance the amenities and the environment of existing residential areas.*

Objective 6.8 of the CDP aims to achieve residential developments which provide a mix of house types and sizes to meet the needs of a range of households and to provide mixed communities and tenures. It is an objective to:

*“... encourage the establishment of sustainable residential communities by ensuring a mix of housing and apartment types, sizes and tenures is provided...The needs of special groups such as the elderly and disabled shall also be considered as part of this process.”*

With regards density, Objective 6.9 states that the Council will:

*“Promote suitable densities to meet the needs outlined in the Core Strategy as set out in Chapter 16 Development Management.”*

The CDP states that:

*“... within the city the minimum residential density in Suburban areas should be 35-50 dwellings per hectare. Densities greater than 50 dwellings per hectare will normally require a mix of houses and apartments. Densities higher than this baseline level will be appropriate in other types of locations:*

- *Along bus routes densities should be to a minimum density of 50 dwellings per hectare (subject to constraints imposed by the character of the surrounding area);*
- *At larger development sites (>0.5 hectares in size, the size of a residential block) capable of generating and accommodating their own character;*
- *Major development areas and mixed-use areas (including the central areas, District, Neighbourhood and local centres).”*

However, paragraph 16.12 states that the appropriate density for any site will be determined by a wide range of factors including the surrounding context, building heights and setting.

In relation to dwelling sizes, paragraph 16.43 suggests that the provision of a range of housing types and sizes will increase in importance as trends show a decline in family households with the provision of 3 / 3+ bedroom units seen as increasingly important in achieving balanced communities as they are attractive to families.

The CDP outlines that it is the Councils policy to make the most sustainable use of existing urban lands, and that the planning authority will consider the appropriate development of infill housing on suitable sites on a case by case basis taking into account their impact on adjoining homes, traffic safety, etc. In general, infill housing should comply with all relevant development plan standards for residential development. However, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of developing vacant, derelict and underutilised lands.

# Statement in Relation to the Material Contravention of the Development Plan

The proposed development has been designed to a high standard and is in compliance with the current National Guidelines which take precedent over the Cork City Development Plan 2015. In relation to height, the proposed development has been designed to reflect the brownfield, urban nature of the site making it an ideal location for increased density and height. While the site has not been specifically identified for a 'tall building' in the City Development Plan, the site can readily accommodate the height proposed. It should also be noted, that while the development proposed is 9 storeys at its highest point, each block has been designed with varying levels of height with the design also addressing sunlight, daylight, overlooking and visual impact.

With respect the design standard for new apartments, Appendix A of the CDP 2015 notes that the Design Standards for New Apartments (2007) have been to set out the requirements for apartments in the Development Plan. The standards in relation to apartments size and design have been reviewed twice since the adoption of the CDP 2015. The proposed apartments are fully compliant with these standards in relation to unit size, amenity space and ceiling heights detailed in the 2020 Apartment Guidelines.

It is considered that the proposed development is a material contravention to the CDP 2015 in relation to the proposed height of the block and the apartment standards. In this regard, Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers:

*(i) the proposed development is of strategic or national importance,*

The proposed development is at a scale which is to be considered under the Strategic Housing Development planning process which, in itself, confirms the strategic importance of the current application, in accordance with Section 372(b)(i). The proposal is for a residential led development and the national importance of the proposal is confirmed in the Government's plan *Rebuilding Ireland* designed to accelerate housing supply to address the housing shortage.

On determining that point (i) is applicable, it must be determined that **one** of the sub-sections set out below is relevant.

*(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.*

It is respectfully submitted that permission should be granted in accordance with sub-section (iii) as the proposed development is consistent with the relevant national and regional planning policies and Section 28 Ministerial Guidelines.



## Conclusion

It is submitted that the proposed development is broadly compliant with the provisions of the Cork City Development Plan 2015-2021, apart from the building height and apartment design parameters and would therefore be in accordance with the proposed planning and sustainable development of the area.

It is submitted that while a grant of permission for the proposed Strategic Housing Development would not materially contravene a land use zoning objective of the Development Plan, it would materially contravene objectives of the plan with regard to building height and apartment design. It is submitted that having regard to the provisions of section 37(2)(b)(i), (iii) and (iv) of the Planning and Development Act 2000, as amended a grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

- (a) the proposed development is considered to be of strategic or national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended; and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.
- (b) It is submitted that in respect of building height, permission for the proposed development should be granted having regard to Government policies as set out in Project Ireland 2040 National Planning Framework in particular Objectives 13 and 35 and the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018.
- (c) It is submitted that in respect of apartment design and size, the proposed development should be granted permission having regard to Government Policy set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020).