

MATERIAL CONTRAVENTION STATEMENT

In respect of the proposed development at

**Former Blakes and Esmonde Motors Site,
Lower Kilmacud Road and The Hill, Stillorgan, Co. Dublin**

Prepared by

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On behalf of

Cairn Homes Properties Ltd.

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TABLE OF CONTENTS

| | | |
|------------|--|-----------|
| 1.0 | INTRODUCTION | 1 |
| 2.0 | MATERIAL CONTRAVENTION STATEMENT IN RESPECT OF 2022-2028 DEVELOPMENT PLAN AND STILLORGAN LAP 2018 | 4 |
| 2.1 | MATERIAL CONTRAVENTION STATEMENT 2022-2028 DEVELOPMENT PLAN – (HEIGHT,) AND STILLORGAN LAP 2018 (HEIGHT, AND PLOT RATIO)..... | 4 |
| 2.2 | JUSTIFICATION FOR MATERIAL CONTRAVENTION – HEIGHT (INCLUDING PLOT RATIO)..... | 7 |
| 2.3 | MATERIAL CONTRAVENTION OF 2022 DEVELOPMENT PLAN DESIGN STANDARDS | 27 |
| 2.4 | JUSTIFICATION FOR MATERIAL CONTRAVENTION – DESIGN STANDARDS.. | 31 |
| 3.0 | MATERIAL CONTRAVENTION STATEMENT 2016 DEVELOPMENT PLAN | 38 |
| 3.1 | MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION - HEIGHT ... | 38 |
| 3.2 | MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION – CAR PARKING 2016 DEVELOPMENT PLAN..... | 41 |
| 3.3 | MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION- QUANTITATIVE APARTMENT STANDARDS 2016 DEVELOPMENT PLAN..... | 43 |
| 4.0 | CONCLUSIONS | 48 |

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1.0 INTRODUCTION

- 1.1 On behalf of the applicant, Cairn Homes Properties Limited, 7 Grand Canal, Grand Canal Street Lower, Dublin 2, we hereby submit this Statement of Material Contravention, in respect of a Strategic Housing Development (SHD) proposal on lands located at the former Blakes and Esmonde Motors site at Stillorgan, Co. Dublin.
- 1.2 The site is located in the administrative area of Dun Laoghaire Rathdown County Council. The Dun Laoghaire Rathdown County Development Plan 2022-2028 was adopted on the 10th of March and will come into force on the 21st of April. As such at the date of the lodgement of this application, the 2022-2028 Plan had been adopted but was not in force. However, when the Board come to determine the application the 2022-2028 Development Plan will be the relevant Development Plan for the purpose of assessing the application. Accordingly, the proposed development has been assessed against the policies and objectives contained in the 2022-2028 Development Plan.
- 1.3 Notwithstanding this, and for completeness, the application has also been assessed against the 2016 -2022 Development Plan which is in force at the date the application was lodged.
- 1.4 In our opinion, the proposed development may materially contravene the Dun Laoghaire Development Plan 2022-2028 and Stillorgan LAP 2018 in respect of:
- Height (2022 Plan, Policy Objective PHP39 and Stillorgan LAP - Policy RS3);
 - Plot Ratio (Stillorgan LAP - Policy RS3);
 - SLO 15 (2022 Plan);
 - Section 12.3.5.2 Separation Between Blocks (2022 Plan);
 - Section 12.3.3 – That certain percentage of 3-bed units in apartments shall apply to Build to Rent developments; (2022 Plan);
 - Section 12.3.5.3 External Storage (2022 Plan);
 - Section 12.3.6 Build to Rent Accommodation (BTR to comply with Section 12.3.5) (2022 Plan);
 - Section 12.3.6 Build to Rent Accommodation (BTR car parking to comply with Section 12.4.5) (2022 Plan);
 - Open Space 15% provision/Private Open Space provision (2022 Plan);
- 1.5 The proposed development may materially contravene the Dun Laoghaire Rathdown Development Plan 2016-2022 in respect of:
- Policy UD6 of Development Plan (Building Height Strategy)
 - Car Parking Provision;
 - Quantitative Apartment Standards Separation between blocks & Communal Open Space).
- 1.6 This statement indicates why, in the applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Planning & Development Act 2000, as amended.
- 1.7 This statement is submitted having regard to the requirement of the prescribed SHD application form to provide a material contravention statement and also having regard to section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:

“5(6) 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 statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant’s opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”

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

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

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

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

- 1.9 Section 37(2)(b) of the Planning and Development Act 2000 (as amended) provides:

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

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

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

(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

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

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

- 1.10 In the event that the Board were to grant permission for the proposed development, the Board’s “reasons and considerations” would have to reference to the matters in Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Stillorgan LAP/County Plan. It is apparent from section

10 (1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

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

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

- 1.11 It is respectfully requested that An Bord Pleanála have regard to the justification provided below which demonstrates how the proposed development complies with national planning policy and guidelines. It is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding the material contravention of the Stillorgan LAP 2018 and the Dun Laoghaire Development Plan 2022-2028, by reference to Section 37(2)(b) of the 2000 Act.

2.0 MATERIAL CONTRAVENTION STATEMENT IN RESPECT OF 2022-2028 DEVELOPMENT PLAN AND STILLORGAN LAP 2018

2.1 This section of the Material Contravention Statement has been prepared for An Bord Pleanála in respect of the 2022-2028 Development Plan and the Stillorgan Local Area Plan 2022-2028 in relation to the following:

- Height (2022 Plan, Policy Objective PHP39 and Stillorgan LAP - Policy RS3);
- Plot Ratio (Stillorgan LAP - Policy RS3);
- SLO 15 (2022 Plan);
- Section 12.3.5.2 Separation Between Blocks (2022 Plan);
- Section 12.3.3 – That certain percentage of 3-bed units in apartments shall apply to Build to Rent developments; (2022 Plan);
- Section 12.3.5.3 External Storage (2022 Plan);
- Section 12.3.6 Build to Rent Accommodation (BTR to comply with Section 12.3.5) (2022 Plan);
- Section 12.3.6 Build to Rent Accommodation (BTR car parking to comply with Section 12.4.5) (2022 Plan);
- Open Space 15% provision/Private Open Space provision (2022 Plan);

2.1 MATERIAL CONTRAVENTION STATEMENT 2022-2028 DEVELOPMENT PLAN – (HEIGHT,) AND STILLORGAN LAP 2018 (HEIGHT, AND PLOT RATIO)

2.1.1 2022 Development Plan Height

2.2 The proposed development is in compliance with the landmark building height of 9 storeys as set out in the LAP and the proposal includes a range of heights (6-8 storeys) which are above the benchmark height of 5 no. storeys indicated in the Stillorgan LAP in the site development framework for the subject site.

2.3 Policy Objective PHP39: Building Design & Height states:

- *“It is a Policy Objective to:
-Encourage high quality design of all new development.
- Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).”*

2.4 The Height Strategy identifies areas for increased height via Local Area Plans, the CDP or SDZs, and states the following in relation to the subject site:

“Building Height: Benchmark height of five storeys across the site, with a landmark building of up to nine storeys at the corner of the N11/Lower Kilmacud Road junction. The transition between the landmark height (9 storeys) and the benchmark height (5 storeys) must be designed to ensure that excessive massing or bulk in the overall design does not detract from the ‘landmark’ nature of the nine storey element.”

2.5 It is noteworthy that the Height Strategy (section 4.2.3) highlights the following in relation to the Stillorgan LAP:

“Whilst the Plan does set specific height parameters, these are set at individual site level in accordance with site strategies, developed based on specific criteria relevant to the sites in question. In accordance with the guidelines the LAP identifies locations for increased height which are sensitive to established residential amenity.

There may be instances however, where an argument can be made for increased height within the plan area and in those instances any such proposals would have to be assessed in accordance with any new performance criteria as set out in section 5 of this Building Heights Strategy as per SPPR 3.”

- 2.6 Section 4.4 of the Strategy states that is overall policy that all proposals for increased height and/or taller buildings:

“over and above the benchmarks of three to four storey in what are called residual suburban areas or

in other identified areas as set out in Policy BH1 below

above what is set out in any of the Local Area Plans or

above any other specified heights in this plan (SUFPP)

must be assessed in accordance with the criteria set out in Section 5.”

- 2.7 Policy Objective BHS 1- Increased Height states:

*“It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, **Stillorgan**, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links **(i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route)** provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NPO 35, SPPR 1& 3). Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5.*

The onus will be on the applicant to demonstrate compliance with the criteria. Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.” (emphasis added).

- 2.8 The Heights Strategy outlines that “for those areas proposals shall generally accord with the policies and objectives as set out in the approved Local Area Plan unless a strong justification has been provided in respect of place making.”

- 2.9 With reference to the N11 corridor, (where the application site is adjacent): the Strategy highlights:

*“The N11 corridor, owing to its width, strategic importance, and public transport facilities, **has the potential to become an attractive urban corridor enclosed by taller buildings of high quality.** In more recent times the N11 corridor has seen a pattern of taller schemes constructed along its route (with access from a secondary road).” (emphasis added).*

- 2.10 Policy Objective BHS 2 – which relates to Building Height in areas covered by an approved Local Area Plan states:

“It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in this draft County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dun Laoghaire Urban Framework Plan area).

*Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 **there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above on the basis of placemaking.** In those instances, any such proposals must be assessed in accordance with the performance-based criteria set out in table 5.1 which is contained in section 5. (emphasis added).*

The onus will be on the applicant to demonstrate compliance with the criteria. Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.”

- 2.11 In this regard, the application site is located in a District Centre and within the area covered by the Stillorgan Local Area Plan 2018. The Heights Strategy allows for increases in height in certain circumstances over and above those identified in Local Area Plans subject to compliance with Section 5 of the Heights Strategy. The proposed scheme does not exceed the maximum height of 9 storeys for the site, although it does exceed the benchmark height of 5 storeys.
- 2.12 Compliance with Table 5.1 of the Heights Strategy is provided in the Statement of Consistency. The proposal meets the Development Management criteria at a county level in respect of achieving in securing the objectives of the NPF, proximity to public transport (adjacent to an existing QBC), integration into the public realm, and no adverse impact on the skyline. With reference to the Development Management Criteria at a District level, the proposal will make a positive contribution to the urban neighbourhood, the proposal is not monolithic and avoids long uninterrupted walls of buildings and will comprise a high-quality finish as well as including a scheme which presents a strong frontage to the N11 (a key throughfare). In addition, the proposed development includes a range of uses comprising a Community Sports Hall, creche, office space as well as 5 no. café/restaurant units. At the site/building scale, the proposal performs well in relation to quantitative performance standards such as sunlight/daylight and microclimate, and overlooking is avoided through omission of windows on key elevations, and the height and massing steps down to the boundary to the south.
- 2.13 Notwithstanding the compliance with necessary criteria, contained in Appendix 1 (of the Apartment Guidelines), if the Board were to consider that the proposed development would give rise to a Material Contravention of the Development Plan in respect of building height a full justification in respect of this matter is set out.

2.1.2 SLO -15

- 2.14 In addition it is noted the 2022 Plan includes SLO 15 - *To accord with the policies of the adopted Stillorgan Local Area Plan.* If it were the case that the Board considered that the development contravened the height/plot ratio guidance of the LAP (and by

extension SLO15), then the justification is provided within the Statement of Material Contravention.

2.1.3 Stillorgan LAP 2018 – Height and Plot Ratio

2.15 The Stillorgan LAP 2018 sets out the following Policy RS3 where *It is an objective of the Council that sites with opportunity for new residential development identified in Chapter 4 shall be designed and developed in accordance with the principles of the Site Framework Strategies.* In relation to the Development Framework (Section 4.5.3.2 refers) for the subject site:

- *Benchmark height of five storeys across the site, with a landmark building of up to nine storeys at the corner of the N11/Lower Kilmacud Road junction.*
- *The transition between the landmark height (9 storeys) and the benchmark height (5 storeys) must be designed to ensure that excessive massing or bulk in the overall design does not detract from the ‘landmark’ nature of the nine storey element.*
- *Indicative Plot Ratio of 1:2.5.*

2.16 While the proposed development is in compliance with the landmark building height of 9 storeys, the proposal includes a range of heights (6-8 storeys) which are above the benchmark height of 5 no. storeys indicated in the Stillorgan LAP. However, An Bord Pleanála may still grant planning permission for the proposed development, should it consider that a material contravention of the Stillorgan LAP (in relation to Policy RS3 and Development Framework) arises.

2.17 The proposed development provides for a plot ratio of 1:2.7 (gross) which is marginally higher than the LAP plot ratio of 1:2.5. However, it is noted the plot ratio in the LAP is indicated as being “indicative”. Also having regard to the proximity to high quality public transport and the location of the site in the district centre, it is considered that a higher plot ratio can be accommodated. The net (ownership) plot ratio is 1:3.2 (based on site of 1.17 hectares). While noted as being indicative a justification is provided below.

2.2 JUSTIFICATION FOR MATERIAL CONTRAVENTION – HEIGHT (INCLUDING PLOT RATIO)

(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

2.18 This section provides a justification in respect of:

- 2022 Plan – Policy Objective PHP39 – Heights Strategy;
- 2022 Plan – SLO 15 - To accord with the policies of the adopted Stillorgan Local Area Plan;
- Stillorgan LAP 2018 Policy RS3 – 5 storey benchmark height and plot ratio;

2.19 The following section addresses relevant national and regional planning policies and guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended) and provides a justification for granting permission for the proposed development under each relevant policy or set of Guidelines, notwithstanding the material contravention issues identified above in section 5.1. The following policy and guidelines are considered relevant:

- Project Ireland 2040 – National Planning Framework;
- Eastern and Midland Regional Economic and Spatial Strategy 2019;
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

2.2.1.1 Project Ireland 2040 – National Planning Framework

2.20 The National Planning Framework 2040 seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl and increase the sustainability of public transport networks. The increase in height results in an increase in plot ratio. As such the justification for increased plot ratio is intrinsically linked to the height of the subject site. The NPF states that:

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

2.21 The proposed development is located within the District Centre of Stillorgan in close proximity to major employment hubs in the Sandyford Industrial Estate area, as well as UCD, and adjacent to existing retail and services in Stillorgan Village. The subject site is also well served by public transport with the high-quality bus corridor along the N11 and in walking distance of 2 no. Luas stops. It is therefore considered that the subject site is an appropriate location for increased building heights and increased densities to support the objectives of the NPF.

2.22 NPO 2a seeks to target and focus 50% of future population and employment growth in the existing 5 no. cities and suburbs, NPO 3b aims to deliver at least 40% of new homes nationally within the envelope of existing urban settlements, and NPO 3b seeks to deliver at least 50% of all new homes in the 5 no. cities and suburbs.

2.23 The proposed development will provide 377 no. residential units within the District Centre of Blackrock, which is within the existing built-up area of Stillorgan within the metropolitan area of Dublin City.

2.24 With reference to NPO 3a, the proposed development accords with the NPF, in particular with its principles of compact growth and the reinforcement of the country's existing urban structure at all levels.

2.25 The NPF seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built-up areas over the lifetime of the framework. In this respect the subject site is located within the District Centre of Stillorgan within Dublin. The area of the site on which the residential units are proposed is zoned for new residential development and is in accordance with the National Planning Framework.

2.26 National Policy Objective 4 seeks to *“ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being”*. The proposed

development will provide for a high quality of residential units in accordance with the Apartment Guidelines 2020. The proposed materials and finishes will also be of a high-quality standard in order to create a unique quality urban place. The proposed development will also provide for café and restaurant uses at ground floor level as well as office floorspace and a creche and Community Sports Hall which will integrate the existing and future residential communities. The mixture of uses will encourage more people, jobs and activity within existing urban areas.

- 2.27 It is considered that the proposed development provides for the creation of an attractive, high quality, sustainable new mixed-use development within the District Centre of Stillorgan which is within the existing built-up area of the city. The provision of the new sustainable development is therefore consistent with the NPF objective.
- 2.1 The proposed development will provide for higher density/height residential development in an existing urban area in close proximity to public transport facilities.
- 2.28 In relation to NPO 4, the proposed development will create a high-quality, attractive and liveable place for future residents. The landscaping proposal will provide high-quality public and communal open spaces for the residents to enjoy. In addition, the proposal provides a number of communal facilities for the residents, comprising some 1,016 sq. m. The proposal in compliance with NPO4 will provide an attractive, liveable well designed high quality urban place, which will enjoy a high quality of life and well-being. The subject lands are located c. 2km to the north of Sandyford Industrial Estate and c. 3 km from UCD, and 4km from St. Vincent's Hospital all major employment centres.
- 2.29 With regard to NPO 11, the proposed development is located within the District Centre of Stillorgan, which has a wide range of local shops, restaurants and cafes, along one of the main routes into the city centre (QBC) and is well served by public transport with Dublin Bus and Luas within walking distance of the site. The existing site is vacant and underutilised and presents an appropriate site for a development that encourages more people, jobs and activity.
- 2.30 In accordance with NPO 13, it is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed building height ranges from 3 no. storeys to 9 no. storeys and is considered appropriate given the context of the site within the urban area. The proposed height of the development is considered appropriate for the location of the site and the availability of public transport facilities and proximity to supporting services and amenities. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 2.31 In accordance with NPO 33, new homes will be provided at a sustainable location, with access to existing services and facilities. The proposal is located within Stillorgan District Centre close to its retail and amenities.
- 2.32 In accordance with NPO 35, the proposal will increased is considered appropriate for this site which is located within the established residential area of Stillorgan, within the District Centre of Stillorgan, and proximate to high-quality (capacity and frequency) public transport.
- 2.33 The proposed development for a mixed-use residential scheme on this brownfield site represents an opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives. The subject site is located within the

metropolitan area of Dublin City which is identified for significant residential growth to 2040.

- 2.34 The proposed development seeks to deliver a significant quantum of residential development at a site that is located within a well-established District Centre location within easy walking distance of a wide range of services, public transport options and amenities.
- 2.35 The NPF provides for a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed development ranging in height from 3 no. storeys to 9 no. storeys is therefore considered appropriate in this location and in accordance with the NPF.

2.2.1.2 Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

- 2.36 The EMRA RSES supports residential development on key urban infill sites, in proximity to public transport facilities. The RSES also supports increased densities, heights and urban consolidation in inner suburban locations.
- 2.37 The RSES states that; *“the Core Strategies of the relevant Local Authorities should demonstrate consistency with the population targets expressed in the NPF and the Implementation Roadmap for the National Planning Framework July 2018. The NPF identifies a target population of 1.4 million people in Dublin City and Suburbs for 2031, an increase of some 220,000 people, and a target of 1.65m. in the MASP an increase of some 250,000 people.”*
- 2.38 As part of the RSES and the accompanying Dublin Metropolitan Area Strategic Plan (MASP), the subject site within the District Centre of Stillorgan, is located within the Dublin City and Suburban boundary. The RSES states that *“the core strategies of development plans relevant to the MASP should have a focus on the delivery of sites in the MASP whilst retaining flexibility to respond to new and future opportunities for the delivery of housing in the metropolitan area, in line with the transitional population projections methodology in the NPF roadmap and a robust evidence-based analysis of demand, past delivery and potential.”*
- 2.39 RPO 3.2: aims to promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas. The subject site is located within the District Centre of Stillorgan, within the existing built up area of Dublin City and suburbs.
- 2.40 RPO 4.3: Supports the consolidation and re-intensification of infill/brownfield sites to provide higher density/height and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- 2.41 With reference to the above, the proposed development will consolidate development on an infill/brownfield site in a high density mixed use development within the existing built up area of Dublin City and its suburbs (within a District Centre) and adjacent to an existing QBC.
- 2.42 RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as

set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

- 2.43 The vision for the RSES is to create a sustainable and competitive region that supports the health and wellbeing of people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all.
- 2.44 The RSES supports the consolidation and re-intensification of infill sites to provide additional height within the existing built-up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- 2.45 The subject development seeks to provide for residential development on an urban site, adjacent to the Stillorgan QBC which provides a high-frequency public transport. The proposed development therefore is compliant with the overall policies and objectives of the RSES in this regard.

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

- 2.46 The subject lands are located adjacent to ‘*Public Transport Corridors*’ in the context of the densities required under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). These areas are defined as being located within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.
- 2.47 The subject site is located adjacent to a high frequency high-capacity bus route. The quality bus corridor which adjoins the site to the east provides for high frequency bus services to the city centre and wider suburbs every few minutes with a high capacity. The site is also within 2km of 2 no. Luas stops at Sandyford and Stillorgan and located within 2.5km of the Dart Station at Blackrock. Details are provided in the Waterman Moylan TTA.
- 2.48 Restricting the height of the development at such a well-served location by public transport is a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site. The proposed height should therefore be considered acceptable having regard to the national planning policy guidelines.
- 2.49 The role of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas is to ensure the sustainable delivery of new development throughout the country.
- 2.50 The Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the Guidelines are accompanied by a Design Manual discussed below which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.
- 2.51 These Guidelines support a plan-led approach to development as provided for in the Planning and Development Act 2000. Section 2.1 of the Guidelines note *that ‘the scale,*

location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy’.

- 2.52 The Guidelines reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 and that *‘the sequential approach as set out in the Departments Development Plan Guidelines (DoEHLG, 2007) specifies that zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities...’.*
- 2.53 Having regard to the above, the subject lands comprise a brownfield site zoned District Centre in the Dun Laoghaire Rathdown Development Plan 2022-2028. The Development Plan adopted a sequential approach when zoning the land for development therefore the location of the site and the land use zoning pertaining to the application site is appropriate for the subject proposal.
- 2.54 Sustainable neighbourhoods require a range of community facilities, and each district/neighbourhood will need to be considered within its own wider locality, as some facilities may be available in the wider area while others will need to be provided locally. The proposed development provides café / restaurant, community sports hall, office space and creche ground floor level providing for a mix of uses and activities in the area.

2.2.1.4 Urban Development and Building Height Guidelines 2018

- 2.55 The proposed height of the development ranges from 3 no. storeys to 9 no. storeys. The average height of the development is 7 no. storeys. The height along the Lower Kilmacud Road proposed for a range between 6-7 storeys. To the south of the site, along the Hill, building 1 ranges in height from 3 no. to 7 no. storeys (3 no.) where the building adjoin the adjacent residential properties. Building 2 along the N11 is largely 7 no. storeys stepping down to 3 no. storeys in a gradual approach towards the southern boundary with the adjoining properties and stepping up to 8 storeys, and then to 9 no. storeys at the junction of the N11 and the Lower Kilmacud Road where a feature building is accommodated. The location of the subject site within the Stillorgan District Centre and its proximity to existing high quality/frequency public transport services provides for an appropriate location for increased heights and densities in excess of the LAP standards. Dun Laoghaire Rathdown Height Strategy states that the wider site shall include a landmark building of 9 no. storeys and a benchmark building height of 5 no. storeys. The landmark building is located at the corner of the N11 and the Kilmacud Road Lower.
- 2.56 The majority of the buildings on the site are 6/7 storeys, stepping up to 8 storeys in building 2 along the N11 and to 9 no. storeys at the corner of the N11 and the Kilmacud Road Lower. The proposed transition in height provides for an appropriate urban design response to the emerging character and scale of development in the area.
- 2.57 As such it is considered that the heights proposed as part of this application are consistent with the policies and objectives of Building Height Guidelines and, in particular with the relevant criteria under Section 3.2 of the guidelines, which are considered below.
- 2.58 The Building Height Guidelines recognise the importance of increasing building height and compact urban development in existing urban areas and promote increased densities and heights. Section 1.4 of the guidelines state:

“However, in recent years, local authorities, through the statutory development and local area plan process, have begun to set generic maximum height limits across their functional area. Frequently, such limits have resulted from local level concerns, like maintaining the character of an existing built up area, for example. However, such limits, if inflexibly or unreasonably applied can undermine wider national policy objectives to provide for more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes”.

- 2.59 Section 1.20 and 1.21 of the Guidelines also acknowledge the importance of increased height stating:

“A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban areas and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning process and particularly so at local authority and An Bord Pleanála levels.

Increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban area, particularly our cities and large towns through enhancing both the scale and density of development and our planning process must actively address how this objective will be secured”.

- 2.60 The Guidelines also note that in assessing applications for increased heights there shall be a presumption in favour of buildings of increased height in urban locations with good public transport accessibility. Section 3.1 of the Guidelines states:

“In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town / city cores and in other urban locations with good public transport accessibility”.

- 2.61 As such in applying the content of the guidelines to the subject site the proposed development is wholly appropriate on the basis of increased height in urban areas well served by quality public transport.

- 2.62 The Guidelines set out a number of criteria for the assessment of increased building heights, at the scale of the relevant city / town, at the scale of district / neighbourhood / street and at the scale of site/ building. Subject to meeting with the relevant criteria under Section 3.2, the Guidelines state that the planning authority shall apply SPPR 3(A).

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

- 2.63 SPPR3 (A) provides:

“It is a specific planning policy requirement that where:

(A). 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”.

- 2.64 In accordance with Part A of SPPR3, where a development complies with the relevant criteria and the planning authority agrees, then permission can be granted for the development notwithstanding conflicting development plan and local area plan policies.
- 2.65 With reference to Section 3.1 of the BHG, the proposed development will contribute positively to NPF objectives of focusing development in key urban centres and on Brownfield development as well as delivering compact growth in urban centres. In this regard, the proposed development is located in a District Centre, on a brownfield site and the increase in benchmark height will deliver compact growth.

2.2.1.4.1 Consideration of Criteria under Section 3.2 of the Building Height Guideline

- 2.66 In response to SPPR3(A) it is considered that the proposed height of the development ranging from 3 no. storeys to 9 no. storeys on the subject site with the majority of the blocks being 6/7 no. storeys in height is considered acceptable having regard to the criteria as set out below.

2.2.1.4.2 At the Scale of the Relevant City/Town

- 2.67 The guidelines set out the criteria for developments at the scale of the relevant city / town (underlined below) as follows:

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

- 2.68 The subject site, located within the district centre of Stillorgan, is well served by existing high quality/frequency and capacity public transport. The site is adjacent to a high frequency quality bus corridor along the N11. Dublin Bus operates a number of staged services connecting Stillorgan to diverse areas including the City Centre, Blackrock (Irish Rail / DART), Heuston (Irish Rail / LUAS), Tallaght (LUAS), Dun Laoghaire (Irish Rail / DART) and Bray (Irish Rail / DART). . In addition “GoAhead” operates a number of outer city services including Ballymun – Bray through Stillorgan. In addition, Wexford Bus Route 740 provides a twice hourly service each way between Dublin and Wexford along the N11 Stillorgan Bypass. The AirCoach service also operates two 24-hour services through Stillorgan.
- 2.69 We refer the Board to the Public Transport Capacity Assessment, prepared by Derry O’Leary – Public Transport Consultant, included with the SHD application.
- 2.70 According to the report, *The Blake’s site is extremely well-located immediately adjacent to the existing very high frequency/high capacity Stillorgan (N11) QBC corridor as well as the orbital route (no. 75/75A). The key bus routes serving the site are best summarised in Table 1 below:*

Table 2.1 – Routes on N11, Northbound AM Peak

| Route | Origin | Destination | Peak Frequency (mins) |
|-------|---------------------|--------------------|-----------------------|
| 46A | Dun Laoghaire | Phoenix Park | 7-8 |
| 145 | Ballywaltrim (Bray) | Heuston Station | 10 |
| 84X | Newcastle/Kilcoole | City Centre | 10 (peak only) |
| 155 | Bray Station | Ballymun (IKEA) | 20 |
| 7B | Shankill | City Centre | 15 (peak only) |
| 75/A | Dun Laoghaire | Tallaght | 30 |
| 47 | Belarmine | City Centre | 30 |
| 46E | Blackrock | City Centre | 2 trips only |
| 7D | Dalkey | City Centre | 1 trip only |
| 84A | Bray Station | Vincent's Hospital | 2 trips only |
| 116 | Whitechurch | City Centre | 1 trip only |
| 118 | Kilternan | City Centre | 1 trip only |

2.71 According to the report, “*Bus capacity for the purposes of this analysis is taken, conservatively, as the seated capacity only, which understates the ultimate true capacity of buses by approximately 20%. Allowing for a proportion of standing patrons, double-deck bus capacity rises to 80 passengers/bus. The average spare seated capacity of routes serving the city over the survey period, is 36%.*”

Table 2.2 – Surveyed passenger by Bus Route, Stillorgan Road (STOP 4727) Northbound

| Route Number | Bus Numbers | Passenger Nos | Average Passengers/Bus | Spare Capacity % |
|--------------|-------------|---------------|------------------------|------------------|
| 46A | 15 | 660 | 44 | 34 |
| 145 | 13 | 675 | 52 | 22 |
| 84X | 8 | 338 | 42 | 37 |
| 155 | 5 | 217 | 43 | 36 |
| 7B | 4 | 142 | 36 | 46 |
| 46E | 2 | 42 | 21 | 69 |
| 7D | 1 | 14 | 14 | 79 |
| 84A | 1 | 15 | 15 | 78 |

| Route Number | Bus Numbers | Passenger Nos | Average Passengers/Bus | Spare Capacity % |
|--------------|-------------|---------------|------------------------|------------------|
| 116 | 1 | 48 | 48 | 28 |
| 118 | 1 | 50 | 50 | 25 |
| 133/X | 3 (SDO) | 0 | | |
| Wexford Bus | 1 (SDO) | 0 | | |
| Total | 51 | 2202 | 43 | 36 |

2.72 The table below indicates the theoretical capacity (seated and standees) of the 51 buses surveyed and the scale of the passenger loadings observed. The newly generated passengers are added to the original total.

Table 2.3 – Comparison of Surveyed Passengers to Total Bus Capacity in survey period

| Bus Nos. | Total Bus Capacity (51buses x 80) | Passengers Surveyed | Passengers (+ Generated) | % Spare Capacity with Generated |
|----------|-----------------------------------|---------------------|--------------------------|---------------------------------|
| 51 | 4,080 | 2,202 | 2,298 | 44% |

2.73 The report outlines that, *“taken over the whole of the morning peak survey period, there is an excessive amount of spare capacity in the bus network, heading northbound, towards Dublin City Centre. The generated trips from the proposed development add only 4.4% to surveyed volumes. It is clear that including other adjacent sites that are being developed, in particular*

- *the Part VIII Scheme at St. Laurence’s Park, Stillorgan, Co. Dublin and*
- *the nearby Leisureplex site now under construction,*

that the increased number of bus passengers that these too will generate will not cause issues with overall bus capacity.”

2.74 The report concludes:

1. *“The AM peak surveys of bus patronage undertaken in March 2022 and the subsequent analysis clearly indicate that the subject site is located on an existing high frequency, high capacity bus route. They confirm that there is more than adequate spare capacity, both pre- and post-development, in the existing bus network on the N11 QBC past the subject site in Stillorgan.*
2. *The additional demand for bus service generated by the development site will result in manageable increases in passenger volumes on the N11 bus routes. At*

the same time, a full “return to normal” level of commuting, post-Covid, is unlikely. The analysis above indicates that a combination of both of these increases is within the capacity of the local routes to handle. However in the event of an increase in patronage, the NTA, through “Measure Bus5”, will respond to increased demand by higher bus frequencies.

3. *The NTA plans for the Bus Connects E-Spine, within the overall redesigned network, increases confidence that it will stay ahead of likely growth in future demand. The assurances from the NTA regarding monitoring of demand and enhancements/amendments to bus services on the E-Spine, as required, offer a high degree of confidence that the proposed development is well located and future residents will lead to increased use of public transport in the achievement of national climate change objectives.*
4. *No capacity constraints in the bus network, either current or planned, are anticipated, based on the analysis and research undertaken on the existing QBC above. “*

- 2.75 The subject site is therefore highly accessible to a high capacity/high quality public transport.

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

- 2.76 The proposed development site does not adjoin any architecturally sensitive areas. A number of two storey residential units are located to the south, east, and west of the site, with buildings of greater height previously permitted to the north of the development at the former Leisureplex site. The subject site is therefore located in an existing urban area set within a range of different character areas. The proposed design and building height have addressed the surrounding developments in this regard.
- 2.77 A number of photomontages have been prepared by Modelworks from various viewpoints throughout the surrounding area. These viewpoints demonstrate the impact of the development within the setting and character of the area. The images clearly demonstrate that the proposed height, scale, and massing of the development is in keeping with the emerging trends in the area and is considered appropriate in this regard.
- 2.78 The proposed height of the development includes the provision of a landmark building at the interface with the N11. The scale of the N11 provides for an appropriate setting for taller buildings. The Building Heights Strategy included as an Appendix document to the Dún Laoghaire-Rathdown County Development Plan 2022-2028 highlights that buildings within a 40 m corridor along the N11 have been built to a height of 7 storeys to make the most of their strategic locations in Public Transport Corridors. The

proposed development which is adjacent to the N11 ranges in height from 3 no. storeys to 9 no. storeys. This height is considered the most appropriate and sustainable height for the location as per the national policy.

- 2.79 The design of the development and the variety in height proposed along each boundary has addressed the context of the existing development adjoining the site. It is considered that the proposed transition in height along each boundary is in keeping with the surrounding context of development in the area.
- 2.80 A landscape and visual impact assessment is included with the SHD submission which notes:

“In conclusion, compact growth policy has implications for townscape character and the composition of views in the areas in which it is implemented. The intrusion of taller buildings into views (from the public realm and existing residential properties) cannot be avoided; nor should it necessarily be ‘minimised’. The objective should rather be to ensure that the new buildings are of a high quality so that, even if prominent, they elevate the quality of their receiving environment and may be considered inoffensive even by affected residents in the area. The proposed development would achieve this and may be considered an appropriate intervention in the evolving townscape of Stillorgan.”

Compact growth policy has implications for townscape character and the composition of views in the areas in which it is implemented. The intrusion of taller buildings into views from the public realm and existing residential properties cannot be avoided; nor should it necessarily be ‘minimised’. In some cases visual ‘impact’ is required. The objective should rather be to ensure that the new development typologies (including taller buildings) are of a high quality so that, even if prominent, they elevate the quality of their receiving environment and may be considered acceptable even by affected residents in the area. The proposed development would achieve this and may be considered an appropriate intervention in the evolving townscape of Stillorgan.”

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.

- 2.81 The subject site is c. 1.4 hectares and is a medium sized site within the district centre. In this regard, the proposed development will provide for a high-quality architectural development that will strengthen the existing, and established streetscape of the area making a positive contribution to place making through the inclusion of a 9 storey building at the junction of the N11 and Kilmacud Road Lower. While new streets are not possible due to the size of the site (and the constraint of the N11), pedestrian permeability is provided in an east west direction. In addition, the proposed development will strengthen the existing urban grain providing a strong urban edge along the boundaries of the site, with additional activity and animation along the northern and western frontage through the inclusion of active uses (café/restaurants) as well as the creche and community sports hall.

Active Frontage**Permeability**

- 2.82 The proposed development will provide for a new civic space within the development that will provide for passive recreation such as sitting / dining area, and landscaped spaces. This civic space will provide for a destination point within the scheme adding animation and activity to the Hill. The provision of additional civic spaces to the corner of the Hill and the Lower Kilmacud Road creates a further focal point to the development and enhances the sense of place at this location.
- 2.83 The proposed development will also provide a number of linkages and new routes through the site that will increase the permeability and accessibility of the development. It is proposed to provide a number of accessible points through the scheme from the Lower Kilmacud Road and a further pedestrian and cycle route directly through the scheme from the Hill to the N11. The provision of these new linkages and spaces will create a new public realm environment for the area.
- 2.84 In terms of “*using massing and height to achieve the required densities*”, the proposed development has provided for a series of 6 no. blocks on the site which vary in scale, height, and massing in response to the immediate context surrounding the site. The massing and height of the development is considered in response to the existing and planned developments immediately adjoining the site, and therefore has created a series of different scales and densities within the development in keeping with the existing character of the area.
- 2.85 The LVIA notes that *Compact growth policy has implications for townscape character and the composition of views in the areas in which it is implemented. The intrusion of taller buildings into views from the public realm and existing residential properties cannot be avoided; nor should it necessarily be ‘minimised’. In some cases visual ‘impact’ is required. The objective should rather be to ensure that the new development typologies (including taller buildings) are of a high quality so that, even if prominent, they elevate the quality of their receiving environment and may be considered acceptable even by affected residents in the area. The proposed development would achieve this and may be considered an appropriate intervention in the evolving townscape of Stillorgan.*”

2.2.1.4.3 At the Scale of District/Neighbourhood/Street

- 2.86 The guidelines set out the relevant criteria for district/ neighbourhood / street context, as defined below, as follows:
- **The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.**

- 2.87 The proposed development has been considered in the context of the surrounding buildings and the overall vision for the Stillorgan Area. The proposed development is of a high architectural quality and sits comfortably within the existing streetscape and urban design context.
- 2.88 The variation in the height and the architectural quality of the development proposed contributes to the overall built environment in the area and creates an interesting urban streetscape at this key urban location. The proposed development in its local context has had regard to the immediate context of the buildings surrounding the site in terms of setting an appropriate scale and mass of the building. In the context of the surrounding properties the proposed development provides for an appropriate transition in height and scale relative to the adjacent buildings.
- 2.89 The proposed development ranges in height from 3 no. storeys to 9 no. storeys. The permitted scheme to the north of the subject site and which comprises of the former Leisureplex site (to the north and under construction) which has been granted permission for 232 no. residential units which ranges in height from 4 no. storeys to 8 no. storeys. In addition, the permitted Part 8 development of library and residential development of between 4 no. and 9 no. storeys. The proposed development is therefore consistent with the overall nature and built environment of the permitted apartment scheme to the north of the application site.

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

- 2.90 The proposed development provides for a variety of building heights and forms within the scheme. The proposed use of materials and façade modulation provides for variety and visual interest to the scheme. The proposed development is divided into a number of separate buildings which also creates an interesting site layout and ground floor spaces within the development. It is therefore considered that the proposed development is not monolithic and avoids long interrupted walls of buildings.
- 2.91 The frontage to Kilmacud Road Lower consists of a series of adjacent / linked Buildings 06, 05, 04 forming a consistent shoulder height before the landmark Building 03 at the N11 junction.
- 2.92 To the South of the site closest to existing dwellings, Buildings 01 and 02 form and protect a wedge-shaped inner courtyard. These two buildings increase in height toward the North, seeking to transition from the established residential context to a higher density/height.
- 2.93 Buildings 01 and 02 present 3-storey gables with no overlooking to the South in a largely unchanged strategy and design from the permitted development. The introduction of active frontages, building entrances and improved permeability all serve to break down the perceived mass of the proposal.

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).

- 2.94 The proposed enhanced public realm along with open spaces and landscaping and active urban frontages will enhance the public spaces in accordance with the principles

of the Stillorgan LAP and the Stillorgan Movement Framework Plan. The proposed development will present an enhanced sense of place and enclose Lower Kilmacud Road, the Hill and the N11.

- 2.95 The Site-Specific Flood Risk Assessment prepared by JBA Consulting Engineers concludes that: *“A substantial green space area is being maintained through the centre of the site in order to function as flood storage and retain any overland flows in high flood events. There is a net increase in floodplain storage within the site for events up to and including the 0.1% AEP event and an unobstructed flowpath across the site to retain existing conveyance routes. The FFLs of highly vulnerable uses within the development are above the 1% AEP climate change(MRFS)and the 0.1%AEP flood levels plus a freeboard >1m. The less vulnerable commercial/retail use within Building 5 is separated from the floodplain via raised ground levels with 300mm freeboard above the 0.1% flood level. Safe access and egress from the property is maintained to all levels of each building with raised levels at basement carpark entrances preventing any ingress of water to basements. In line with the Planning Guidelines the detailed FRA has applied and passed the Justification Test. As a result, it is concluded that the site is in compliance with the core principles of the Planning System and Flood Risk Management Guidelines and has been subject to a commensurate assessment of risk.”*

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.

- 2.96 The proposed development has been carefully designed to provide increased heights of up to 9 storeys at the junction of the N11 and Lower Kilmacud Road, providing an appropriate landmark building which will improve legibility and signify the District Centre of Stillorgan, while also integrating appropriately into the existing and emerging urban area.

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

- 2.97 The proposed development provides for a mix of uses within the site including residential, café/restaurant units, office, creche as well as a Community Sports Hall. The mix of uses provide both employment opportunities and services to the wider community in the café/restaurant spaces and office space. The proposed mix is therefore considered acceptable for the subject development.
- 2.98 The development also provides for a build to rent scheme with a number of different dwelling types available within the scheme including studio, 1 bed, 2 bed and 3 bed units. It is considered that the proposed development provides for an adequate mix of units to serve a wide range of life cycles.

2.2.1.4.4 At the Scale of the Site/Building

- 2.99 The guidelines also set out the following criteria (underlined below) for developments at the scale of the site / building:

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

- 2.100 The proposed buildings have been carefully considered to maximise natural light into the proposed units and open spaces while also integrating into the existing urban

environment. This is set out in the daylight/ sunlight assessment prepared by IES and is submitted with this application. The report concludes that the proposed development will not result in any significant impact on the surrounding properties or within the civic / communal spaces within the development in line with the BRE Guidelines. The conclusions of the IES report notes:

“Across the proposed development, 90% of the tested rooms are achieving Average Daylight Factors (ADF) in accordance with the BRE Guide / BS 8206-2:2008 when Living/Kitchen/Dining spaces are assessed as whole rooms against a 2% ADF target and Bedrooms against a 1% ADF target. The majority of rooms that are below the recommendations are located on the lower floors. However, overall the quality of daylight provision across the development can be considered high.”

71% of the combined proposed public, communal and private amenity spaces situated within the development site will receive at least 2 hours of sunlight over their total area. When considering the private spaces in isolation this equates to 71%. Thus, the amenity areas provided are meeting the BRE recommendations.”

“.....Taking all of the above information into account and based on the results from each of the assessments undertaken, the proposed development performs well when compared to the recommendations in the BRE Guide / BS 8206-2:2008, IS EN 17037:2018 and BS EN 17037:2018 National Annex. With regards to the existing properties there is a negligible impact when considering sunlight and daylight as a result of the proposed development and the proposed development itself performs well with the same regard.”

- 2.101 The proposed development has been modulated having regard to the impact on the surrounding properties. In this regard, the height of the development increased towards the N11 with varying building heights along the Lower Kilmacud Road to retain light breaking through the elevation at this location. The proposed massing and layouts of the development also provides for appropriate light penetration into the communal areas and the individual residential units.
- 2.102 The proposed design of the apartment units has considered the ventilation of the rooms and spaces. The proposed development provides for 53% dual aspect units which promotes the movement of air flow through the units. In addition, c.50% of apartments contain a private balcony or terrace which provides ventilation to the apartment units. The apartment has also been designed to provide for large areas of glazing and window openings which provide for increased ventilation within the apartment units.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlines 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”.

- 2.103 As mentioned above, a daylight / sunlight analysis has been prepared by IES and is submitted with this pre-application submission. The design, form and layout have been informed by the objective to achieve the appropriate results for daylight/ sunlight within the development and to minimise the impact on the surrounding properties.

The report concludes that *“Across the proposed development, 90% of the tested rooms are achieving Average Daylight Factors (ADF) in accordance with the BRE Guide / BS 8206-2:2008 when Living/Kitchen/Dining spaces are assessed as whole*

rooms against a 2% ADF target and Bedrooms against a 1% ADF target. The majority of rooms that are below the recommendations are located on the lower floors. However, overall the quality of daylight provision across the development can be considered high.”

71% of the combined proposed public, communal and private amenity spaces situated within the development site will receive at least 2 hours of sunlight over their total area. When considering the private spaces in isolation this equates to 71%. Thus, the amenity areas provided are meeting the BRE recommendations.”

- 2.104 Having regard to the conclusions set out above it is considered that the proposed development is in line with the BRE Guidelines.

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

- 2.105 The reduction in ADF in some units is typically expected on urban site that provide for higher density development. In addition, due to the layout of the development and the need to address a number of key frontages, some rooms may be orientated in a less favourable direction to achieve the appropriate BRE recommendations. In this regard a balance must be struck between the overall site layout and response to the street scape and the minor reduction in VSC of some of the proposed some units may achieve.

- 2.106 The compensatory design features are outlined in the IES report as follows:

“design features have been incorporated into the development where rooms do not achieve the daylight provision targets in accordance with the standards they were assessed against. These design features again help to balance off and compensate the lower levels of daylight measured in the applicable spaces and are summarised as follows:

- 84% of the apartment units have a floor area 10% greater than the minimum floor area requirements as required by the Design Standards (Dec 2020). Note that larger floor areas make it more difficult to achieve the recommended daylight levels
- 53 % of the apartment units are dual aspect which is above the 33% minimum requirement for locations close to high quality public transport (QBC on Stillorgan Road) as required by the Design Standards (Dec 2020) for locations. As a result, more apartment units than the recommended minimum will achieve quality daylight from dual-aspect orientations.
- Furthermore, an additional 20% of communal open space above the minimum requirements required by the Design Standards (Dec 2020) is proposed across the development.

2.2.1.4.5 Specific Assessments

- 2.107 Specific assessment as set out in the Guidelines also include the following:

Specific Impact assessment of the microclimatic effects such as down draft. Such assessments shall include measures to avoid/ mitigate such microclimatic

effects and where appropriate shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.

2.108 The proposed development is not considered a tall building so as to fall under the category that may give rise to any significant concerns in terms of microclimatic effects. A wind assessment has been prepared to demonstrate the appropriateness of the proposed height and massing within the development. The wind study has informed various elements of the design including landscaping and modulation of façade treatments.

2.109 The wind study states that in general the proposed development is likely to provide a suitable environment for pedestrians and its occupants and the conclusions include:

“Overall, the proposed development is expected to provide a suitable environment for pedestrians and occupants to carry out a wide variety of ‘sitting’, ‘standing’ and ‘strolling’ activities. • Wind mitigation measures, have been adopted throughout the design to reduce the windiness across the site and to keep the wind conditions within acceptable limits. Mitigations include alterations to the building design and the landscaping plan.”

- **In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight line and / or collision.**

2.110 As set out in the ECIA prepared by Altemar, *there are no significant wintering bird sites in the vicinity of the proposed development. No Brent geese or other wintering birds were observed on site. The site is a brownfield site, proximate to a dual carriageway and primarily consists of built land and recolonising bare ground and would not be a foraging area suitable for wintering birds.*

2.111 The ECIA further states:

“Once developed, the site would be seen as a stable ecological environment. It would be expected that there will be no significant ecological impact arising from the day to day operation of the proposed. Development including arising from bird/bat collision.”

2.112 With reference to bats, surveys were undertaken during the active bat season on the 26th May 2020 and 21st September 2021. The Bat report (contained in the ECIA by Altemar) notes that

“There are no buildings or trees on site that would form potential roosting sites for bats. No roosts or bats emerging from the nearby buildings or trees were observed. The trees on site have no features that would act as potential roosting areas. There is no evidence of a current or past bat roost on site. There are no features that would be expected to form a potential bat roost. The site is already brightly lit and no foraging activity was noted during the site assessments. No negative impacts on these animals are expected to result from the proposed redevelopment.

The proposed development is within a built-up area with existing lighting. The likelihood of bat collision is not significant as the materials proposed for the apartment blocks are generally solid and would have good acoustic properties to reflect echolocation signals. As a result the buildings would be clearly visible to bat species. The impact of the proposed development on bats will be negligible in the short and long term.”

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

- 2.113 The proposed development as previously mentioned is not considered a sufficiently tall building so as to impact on the telecommunication channels in the area. An assessment of the potential impact of the development has been carried out by ISM and is submitted with this application. The report concludes that “*ISM has not identified any telecommunication channels that will be effected by the height and scale of the former Blakes and Esmonde Motors development*”.

An assessment that the proposed maintains safe air navigation;

- 2.114 We refer the Board to the email from the IAA (Appendix 5 of the Statement of Consistency) which confirms that there will be no impact from the proposed development in respect of air navigation.

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

- 2.115 An urban design statement has been prepared by OMP which sets out the proposed development in urban design terms. A series of verified views have also been prepared by Modelworks which indicate the impact of the proposed development on the surrounding built environment and urban landscape. The Visual Impact Assessment by Modelworks demonstrate that this development is appropriate to its context and will not have a detrimental impact on the wider area. There are no protected structures on the subject site and the IAC report confirms that: “*Due to the level of ground disturbance across the development area, twinned within the results of the 2017 testing, no adverse impacts are predicted upon the archaeological resource as a result of development going ahead. It is highly likely that any archaeological deposits that may have been located within the site have been removed during modern development.*”

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

- 2.116 An AA screening report and NIS has been prepared by Altemar and is submitted with this application:

“In a strict application of the precautionary principle, it has been concluded that mitigation measures were required during construction to prevent impacts on South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. Effects on two European sites are likely from the proposed works in the absence of mitigation measures, as a result of the indirect hydrological connection from the site, via the surface water drainage network, which discharges to the Priory Stream. As a result, there is potential for downstream effects on the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA from the project during site clearance, enabling, construction, landscaping and drainage works in the absence of mitigation and mitigation measures are outlined in the CMP.

For this reason, a NIS was carried out to assess whether the proposed project, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites’ conservation objectives, will adversely affect the integrity of the European Sites. All other European sites were screened out at initial screening.

Construction on this site will create localised light and noise disturbance. This would not impact European sites. Mitigation measures will be in place to ensure there are no significant impacts on the Priory Stream that leads to conservation sites. A project ecologist will be appointed to oversee works in relation to the enabling works and the implementation of mitigation measures as outlined on site. The implementation of mitigation measures outlined, which will be followed, will be sufficient to prevent adverse effects on the integrity of European sites.

Following the implementation of the mitigation measures outlined, the construction and presence of this development would not be deemed to have a significant impact on the integrity of European sites.

This report presents an Appropriate Assessment Screening and NIS for the proposed development. It outlines the information required for the competent authority to screen for appropriate assessment and to determine whether or not the proposed development, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites' conservation objectives, will adversely affect the integrity of the European site.

On the basis of the content of this report, the competent authority is enabled to conduct an Appropriate Assessment and consider whether, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites' conservation objectives, will adversely affect the integrity of the European site."

No significant effects are likely on European sites, their features of interest or conservation objectives. The proposed project will not will adversely affect the integrity of European sites."

- 2.117 The proposed development is below any relevant threshold for EIA. An Environmental Impact Assessment Screening Report, prepared by Enviroguide has been submitted as part of the application which provides the necessary information to enable the Board to carry out a screening assessment for the purposes of determining whether an EIA is required. The authors of the Environmental Report (Enviroguide), taking into account all expert reports submitted with the application, conclude "Based on the assessment carried out in the appropriate sections of this Screening Report, it can be concluded that the Proposed Development will not have significant effects on the environment during both the Construction and Operational Phases and as such an EIAR is not required."

2.2.1.4.6 Conclusions

- 2.118 Having regard to the assessment of the proposed development under the criteria under Section 3.2 in accordance with SPPR3, a set out above, it is considered that the proposed development is compliant with the relevant standards and the proposed height of 3 no. to 9 no. storeys is permissible.
- 2.119 In the event that the Board decided to grant permission for the proposed development notwithstanding the height provisions of the development plan, it would be appropriate that the Board would refer to the Building Height Guidelines and SPPR 3(A) in particular, in its reasons and considerations, as a justification for granting permission. It is respectfully submitted that there is a very clear planning policy framework as set out above in the National Planning Framework and the general policies and objectives of the Urban Development and Building Height guidelines, which provide a very clear basis and rationale for granting permission for the proposed development, in accordance with the objectives of SPPR 3.

- 2.120 The Stillorgan LAP identifies a landmark building of the subject site of 9 no. storeys. In this regard it is established that the subject site is an appropriate location for increased building heights. The proposed development at 9 no. storeys (with benchmark heights of 6-8 storeys) provides for the appropriate scale/height and density for residential development in existing urban areas and adjacent to high quality public transport corridor.
- 2.121 The proposed development provides for a mix of both residential and commercial uses within the subject site. The site is zoned for district centre and therefore a mix of uses are required. The provision of the ancillary residential amenity spaces as well as office space, café/restaurant/creche/Community Sports Hall at ground floor (and lower ground floor) level provide for the appropriate mix of uses within the district centre ensuring the main retail focus is on the village centre adjacent, which is appropriate.
- 2.122 The Guidelines also state that the implementation of the National Planning Framework requires increased height, scale, and height of development in town and city cores with an appropriate mix of uses.
- 2.123 The Guidelines also place significant emphasis on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks.

“In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors”.

- 2.124 The proposed development provides for a high-quality mixed-use development in an existing urban area. The site is well served by quality public transport and is located within an existing district centre. The Stillorgan LAP identifies the subject site as a location appropriate for taller buildings providing for a landmark building at the junction of the N11 and the Lower Kilmacud Road. The proposed development seeks to further consolidate development within the District Centre and a feature building is provided at the junction of the Lower Kilmacud Road and the N11. The overall height and context of the development is in keeping with the emerging context of the area, in particular the Leisureplex site at 8 no. storeys.
- 2.125 The proposed design and quality of the development provides for an appropriate landmark feature and extension of the existing village centre providing for high quality residential development well served by public transport.
- 2.126 The proposed development does not contain any tall buildings and it is considered that the proposed development is not likely to give rise to any additional environmental impacts of significance in the context of environmental impact regulations.
- 2.127 Having regard to the assessment of the proposed development under the criteria under Section 3.2 in accordance with SPPR3, a set out above, it is considered that the proposed development is compliant with the relevant standards and the proposed height of 3 no. to 9 no. storeys is permissible.

2.3 MATERIAL CONTRAVENTION OF 2022-2028 DEVELOPMENT PLAN DESIGN STANDARDS

2.128 Chapter 12 of the 2022 Plan provides design standards for development. While the proposal comprises a BTR development, and the provisions of SPPR8 apply, if the Board considered that the proposal comprised a material contravention in relation to the following requirements of the 2022 Development Plan, a justification is provided:

- Section 12.3.5.2 Separation Between Blocks;
- Section 12.3.3 – That certain percentage of 3-bed units in apartments shall apply to Build to Rent developments;
- Section 12.3.5.3 External Storage;
- Section 12.3.6 Build to Rent Accommodation (BTR to comply with Section 12.3.5).
- Section 12.3.6 Build to Rent Accommodation (BTR car parking to comply with Section 12.4.5).
- Open Space 15% provision/Private Open Space provision

2.3.1 Design Standards

9.1 With reference to the proposed mixed use development which includes a Build to Rent residential development SPPR8 requires:

*“Specific Planning Policy Requirement 8
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;

(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, 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;

(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.

- *(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*
- *(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.”*

2.129 Chapter 12 of the 2022 Plan provides design standards for development summarised as follows:

| Design Standard | Compliance |
|---|---|
| Section 12.3.5.2 Separation Between Blocks. A general minimum distance is required of 22m between opposing windows in the case of apartments up to 3 storeys and in taller blocks a greater separation distance may be prescribed. The CDP notes that in certain instances, | The apartment blocks have in general a separation distance of c. 22m between each block reducing in some places and the CDP notes that reduced separation distances may be acceptable in certain instances. Undue overlooking between apartments is addressed |

| Design Standard | Compliance | | | | | | | | | | | | | | | | | | | | |
|--|---|--|-------------|---------|------------------------|----------|------------------------|----------|---------------|---------|--------------------|-----------------------------|------------------|----------|----------------------|----------|----------------------|----------|-----------|-----------|--|
| <p>depending on orientation and location in built up areas, reduced separation distances, may be acceptable.</p> | <p>through careful design of primary windows. This is considered to be in accordance with NPO13 of the NPF which promotes performance enabling alternative solutions in urban areas, for planning and related standards, that seek to achieve well-designed high-quality outcomes. There is no material contravention, in this regard. However if the Board considered a material contravention was relevant a justification is provided in the Material Contravention Statement</p> | | | | | | | | | | | | | | | | | | | | |
| <p>Section 12.3.5.3 External Storage <i>Table 12.3: Minimum Storage Space Requirements</i></p> <table border="1" data-bbox="209 618 587 752"> <thead> <tr> <th colspan="2">Minimum Requirements</th> </tr> </thead> <tbody> <tr> <td>One Bedroom</td> <td>3 sq.m.</td> </tr> <tr> <td>Two Bedroom (3 person)</td> <td>5 sq. m.</td> </tr> <tr> <td>Two Bedroom (4 person)</td> <td>6 sq. m.</td> </tr> <tr> <td>Three Bedroom</td> <td>9 sq.m.</td> </tr> </tbody> </table> <p>The Plan also notes that apartment schemes should provide external storage for bulky items outside individual units, in addition to minimum apartment storage requirements. Proposed Material Amendment no. 168 indicates external storage standards shall accord with or exceed the levels outlined in Table 12.3b below.</p> <p><i>Table 12.3b</i></p> <table border="1" data-bbox="209 994 791 1106"> <thead> <tr> <th>Number of Bedrooms</th> <th>Storage area (cubic metres)</th> </tr> </thead> <tbody> <tr> <td>Studio/1 bedroom</td> <td>4m cubed</td> </tr> <tr> <td>2 bedroom (3 person)</td> <td>6m cubed</td> </tr> <tr> <td>2 bedroom (4 person)</td> <td>8m cubed</td> </tr> <tr> <td>3 bedroom</td> <td>10m cubed</td> </tr> </tbody> </table> | Minimum Requirements | | One Bedroom | 3 sq.m. | Two Bedroom (3 person) | 5 sq. m. | Two Bedroom (4 person) | 6 sq. m. | Three Bedroom | 9 sq.m. | Number of Bedrooms | Storage area (cubic metres) | Studio/1 bedroom | 4m cubed | 2 bedroom (3 person) | 6m cubed | 2 bedroom (4 person) | 8m cubed | 3 bedroom | 10m cubed | <p>All apartments are compliant with the Development Plan Internal storage requirements and the Apartment Guidelines 2020.</p> <p>There is no provision in the proposed development for external storage for apartments. The proposed development is a BTR development SPPR8(i) and (ii) apply. If the Board considered a material contravention was relevant a justification is provided in the Material Contravention Statement.</p> |
| Minimum Requirements | | | | | | | | | | | | | | | | | | | | | |
| One Bedroom | 3 sq.m. | | | | | | | | | | | | | | | | | | | | |
| Two Bedroom (3 person) | 5 sq. m. | | | | | | | | | | | | | | | | | | | | |
| Two Bedroom (4 person) | 6 sq. m. | | | | | | | | | | | | | | | | | | | | |
| Three Bedroom | 9 sq.m. | | | | | | | | | | | | | | | | | | | | |
| Number of Bedrooms | Storage area (cubic metres) | | | | | | | | | | | | | | | | | | | | |
| Studio/1 bedroom | 4m cubed | | | | | | | | | | | | | | | | | | | | |
| 2 bedroom (3 person) | 6m cubed | | | | | | | | | | | | | | | | | | | | |
| 2 bedroom (4 person) | 8m cubed | | | | | | | | | | | | | | | | | | | | |
| 3 bedroom | 10m cubed | | | | | | | | | | | | | | | | | | | | |
| <p>Section 12.3.6 Build to Rent Accommodation. The Plan states that “BTR accommodation must comply with all apartment standards set out in Section 12.3.5.</p> | <p>The proposed BTR Development does not comply with all apartment standards (as it is a BTR Development) and is subject to the provisions of SPPR 7 and SPPR8. These have been set out in this table. If the Board considered a material contravention was relevant a justification is provided in the Material Contravention Statement</p> | | | | | | | | | | | | | | | | | | | | |
| <p>Section 12.3.6 Build to Rent Accommodation. On-site car parking must comply with the requirements set out in Section 12.4.5.</p> | <p>For Zone 2 the standard parking is 1 space per 1 and 2 bedroom apartment and 2 spaces per 3 bedroom apartment. The Plan does not provide a specific car parking standard for “Residential – Build to Rent”. Nevertheless, SPPR8(iii) applies which states that “<i>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.</i>” While the proposal is in compliance with the Apartment Guidelines it is not in compliance with the Development Plan. If the Board considered a material contravention was relevant a justification is provided in the Material Contravention Statement.</p> | | | | | | | | | | | | | | | | | | | | |

2.3.2 Residential Mix

- 2.130 Section 12.3.3.1 of the Plan sets out the requirements in relation to residential mix and notes that *“planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County.”*
- 2.131 Table 12.1 of the Plan sets out the mix requirements for apartment developments. For scheme of 50+ units, the Development Plan requires:
- *Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios.*
 - *Minimum 20% 3+ bedroom units*
- 2.132 It is further noted the following is currently in the Development Plan.
- “That the requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix on page 233.”*
- 2.133 The above would result in a requirement for a minimum of 20% 3+ bedroom units in Build To Rent apartment developments and up to 80% studio, one and two bedroom units whereas the proposed Build To Rent development proposes 2.1% 3+ bedroom units and 97.9% studio, one and two bedroom apartments.
- 2.134 However, we would note that SPPR 8 of the Apartment Guidelines clearly states that there is ***“SPPR8(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.”*** in respect of Build to Rent developments.
- 2.135 There is no provision in SPPR 8 for the mix to be modified or varied by Planning Authority's in Development Plans based on a HNDA, unlike SPPR 1 for non-Build to Rent apartment developments. The no unit mix restriction is a mandatory requirement of the SPPR8.
- 2.136 Notwithstanding this, if the Board were to consider that the proposed development would give rise to a Material Contravention of the Development Plan in respect of development mix, we have set out a full justification in respect of this matter below.

2.3.3 Open Space/Private Open Space

- 2.137 The Plan notes that to qualify as public open space the area must be designed and located to be publicly accessible and useable by all in the County; generally free from attenuation measures; and capable of being taken in charge (i.e. must accord with the Council policy on taking in charge of open spaces).
- 2.138 With reference to the 2022 Plan public open space requirement is 15% of the site, which equates to some 1,675 sq. m. The proposed development provides 10% public open space of some 1,177 sq. m which is below the 2022 Plan requirement.
- 2.139 The proposed development provides 4,111 sq. m of communal open space which is above the Apartment Guidelines requirements of 2,214 sq. m. Additional public realm improvements are also provided on the wider site (on lands under the ownership of Dun Laoghaire Rathdown County Council comprising c. 2,392 sq. m.

2.140 The Plan acknowledges that in apartment developments and higher density scheme that it may not be possible to provide the 15% requirement and that ***High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space.***

2.141 The 2022 Plan outlines the following communal standards which Private amenity space for apartments shall accord.

Table 12.9 Communal Open Space Standards

| Unit Type | Minimum Area per Unit |
|----------------------|-----------------------|
| Studio | 4 sq. m |
| One Bed | 5 sq. m |
| Two bedrooms (3 bed) | 6 sq. m |
| Two bedrooms (4 bed) | 7 sq. m |
| Three bedrooms | 9 sq. m |
| Four + | 12 sq. m. |

Table 12.11: Balconies / Winter Gardens: Minimum Private Open Space Standards for Apartment Developments

| Type/No. of bedrooms | Minimum square metres |
|----------------------|-----------------------|
| Studio | 4 sq. m. |
| One | 5 sq. m. |
| Two (3 persons) | 6 sq. m. |
| Two (4 persons) | 7 sq. m. |
| Three | 9 sq. m. |
| Four + | 12 sq. m. |

2.142 With reference to private open space for apartments, the 2022 Plan outlines that:

*“In exceptional cases in ‘urban centres’, for reasons of maintenance of streetscape character, or the preservation of residential amenity of adjoining property, the Planning Authority **may accept the provision of communal open space in lieu of private open space.**”*

2.143 It is also outlined that the 2022 Plan states that:

Where a Built to Rent scheme avails of lower private amenity space based on the nature of the use a condition should be attached to any grant of permission to state that planning permission shall be sought for a change of tenure to another tenure model following the period specified in the covenant.

2.144 While the Plan does allow a high degree of flexibility in respect of open space, for higher density proposals, a justification is provided in respect of open space provision in the material contravention statement.

2.4 JUSTIFICATION FOR MATERIAL CONTRAVENTION – DESIGN STANDARDS

2.145 The following section provides a justification in respect of the following Development Plan requirements:

- Section 12.3.5.2 Separation Between Blocks;
- Section 12.3.3 – That certain percentage of 3-bed units in apartments shall apply to Build to Rent developments;
- Section 12.3.5.3 External Storage;
- Section 12.3.6 Build to Rent Accommodation (BTR to comply with Apartment Standards in Section 12.3.5).
- Section 12.3.6 Build to Rent Accommodation (BTR car parking to comply with Section 12.4.5).
- Open Space 15% provision/Private Open Space provision

(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

2.146 The following section addresses relevant national and regional planning policies and guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended) and provides a justification for granting permission for the proposed development under each relevant policy or set of Guidelines, notwithstanding the material contravention issues identified.

2.147 For ease of reference the justification is provided under the headings above.

2.4.1.1.1 Design Standards Section 12.3.5.2 Separation Between Blocks

2.148 The apartment blocks have in general a separation distance of c. 22m between each block reducing in some places and the CDP notes that reduced separation distances may be acceptable in certain instances.

2.149 It is noted that NPO13 of the NPF which states “*In urban areas, **planning and related standards**, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieved targeted growth and that protect the environment*”.

2.150 The Apartment Guidelines state in Section 2.23 that:

*“The National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. **In particular, general blanket restrictions** on building height or **building separation distance** that may be specified in development plans, should be replaced by performance criteria, appropriate to location. While it would not be appropriate for these Guidelines to indicate performance criteria for building height or building separation distance relative to location, it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland’s cities.”*

2.151 The daylight / sunlight performance of the scheme has been tested specifically for the natural light and sunlight penetration to the communal spaces and the IES report submitted with the application states:

“...on March 21st 71% of the combined proposed public, communal and private amenity spaces situated within the development site will receive at least 2 hours of sunlight over their total area. When considering the private spaces in isolation this equates to 71%. Thus, the amenity areas provided are meeting the BRE recommendations.”

2.152 All of the proposed communal open spaces will receive good levels of natural lighting to ensure these spaces will be attractive and functional spaces as set out in the KFLA Landscape Report, that offers a high level of amenity to residents in terms of their potential to meet the active or passive recreational needs of residents of the scheme.

2.153 It is submitted that the performance based assessments support minor deviances from the guideline 22m separation distance between constituent blocks which are considered to be of no material consequence, to the residential amenity of future residents, and that the development is consistent with national policy objectives for urban consolidation, sustainable land use within a District Centre, adjacent to an

existing high capacity/frequency public transportation corridor, and national policy on housing delivery and high-quality outcomes.

2.4.1.1.2 Section 12.3.3 – That certain percentage of 3-bed units in apartments shall apply to Build to Rent developments

2.154 The National Planning Framework is the Government’s plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.

2.155 The proposed mix is in response to the NPF, which recognises that *“currently, 7 out of 10 households in the State consist of three people or less, with an average household size of 2.75 people. This is expected to decline to around 2.5 people per household by 2040. Yet, the stock of housing in Ireland is largely comprised of detached and semi-detached houses with three to four bedrooms.”*

2.156 It is respectfully submitted that the proposed development provides an appropriate mix and response to the need to address how the trend towards smaller households can be accommodated within higher density housing developments, within the existing footprint of towns, while also protecting the residential amenity of the environs of the subject lands.

2.157 The proposed development will include apartments which can accommodate the expected fall in household size. The proposed BTR development of 377 no. units, by providing a mixture of one and two bed apartments, in the District Centre where in the wider environs of Stillorgan, is predominately characterised by larger family size houses would indeed contribute to the variety of accommodation types and sizes in the county.

2.158 It is submitted that the proposed development would accommodate a range of age cohorts and household types, including downsizing and freeing up underoccupied larger units in the wider environs of Stillorgan, all of which will contribute to achieving a sustainable mix of household sizes and types in the county.

2.159 The Apartment Guidelines highlight that a key aspect of Build to Rent (BTR) is its potential to accelerate the delivery of new housing at a significantly greater scale than at present. For traditional housing, the pace of development is largely determined by the rate at which individual homes, including apartments, can be sold. With BTR, once constructed, the overall scheme is available to the rental sector over a much shorter timescale on completion and the investment model is therefore capable of delivering a much higher volume of housing than traditional models.

2.160 Furthermore, the Apartment Guidelines state that

“This potential for accelerated housing construction through BTR can make a significant contribution to the required increase in housing supply nationally, identified by Rebuilding Ireland, and the scale of increased urban housing provision envisaged by the National Planning Framework.”

Design Standards and Residential Mix

2.161 Specific Planning Policy Requirement 8 (SPPR 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;*

(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, 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;*

(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.*

(iv) *The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*

(v) *The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations."*

2.162 With reference to the 2022 Development Plan and the *requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix* is contrary to SPPR 8 (i) of the Apartment Guidelines which clearly states that there is **"No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise."** in respect of Build to Rent developments.

2.163 There is no provision in SPPR 8 for the mix to be modified or varied by Planning Authority's in Development Plans based on a HNDA, unlike SPPR 1 for non-Build to Rent apartment developments.

2.164 The no unit mix restriction is a mandatory requirement of the SPPR8 in respect of BTR development, which the application comprises.

2.4.1.1.3 Section 12.3.5.3 External Storage:

2.165 Table 12.3 of the 2022 Plan provides minimum storage space requirements which are consistent with the requirements of the Apartment Guidelines. The Plan further requires that in addition to this internal requirement, that Apartment schemes should also provide external storage for bulky items outside individual units (i.e., at ground or basement level).

2.166 Within the development each Studio and 1 no. bedroom apartment have a minimum storage of 3 sq. m. The 2-bedroom apartments are in compliance with the Development Plan requirement of 6 sq. m. All 3-bedroom apartments are in compliance with the Development Plan 9 sq. m and Apartment Guidelines 2020.

- 2.167 There is no provision in the proposed development for external storage for apartments. The proposed development is a BTR development SPPR8(i) and (ii) apply.
- 2.168 In relation to storage, we would note that SPPR8(ii) of the Apartment Guidelines confirms that *“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, compensatory communal support facilities and amenities within the development”*
- 2.169 It is submitted that the required provision of additional external storage space is an unnecessary additional obligation over and above required in the Apartment Guidelines 2020 that could potentially have significant impacts on the internal site layout of the development its ability to meet other critical development standards, including amenity of future residents such as cycle parking provision, open space provision and appropriate and safe circulation spaces.
- 2.170 It is clear that a flexible approach is promoted in the Apartment Guidelines 2020 rather than a prescriptive minimum standard that must be adhered to in all instances. Paragraph 3.33 of the Apartment Guidelines outlines that a shortfall of internal storage space provision could be offset by up to 50% through the provision of external storage space provision. From this, it is clear that contrary to the 2028 Plan, the full provision of external storage space is not an additional requirement to the provision of internal storage space provision but rather an offset mechanism.
- 2.171 It is respectfully submitted that the provision of additional external storage space units would have a negative impact on the internal design of the scheme. Given that internal storage space is provided within all units and is fully in accordance with the storage provisions of the Apartment Guidelines 2020 and there is no requirement for external storage.
- 2.4.1.1.4 Section 12.3.6 Build to Rent Accommodation (BTR to comply with Apartment Standards in Section 12.3.5).
- 2.172 The proposed development complies with SPPR8 of the Apartment Guidelines. Justification is provided in the commentary contained in Section 2.4 of this Statement.
- 2.4.1.1.5 Section 12.3.6 Build to Rent Accommodation (BTR car parking to comply with Section 12.4.5)
- 3.1. National Policy Objective 13 of the National Planning Framework states that:
- “In urban areas, planning and related standards, including in particular building height **and car parking** will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieve targeted growth and that protect the environment”.* (emphasis added).
- 2.173 The proposals seek to minimise reliance on private car use and encourage sustainable modes of transport. The National Planning Framework seeks to minimise car-parking in accessible locations and to maximise a modal shift to public transport due to proximity to public transport routes.
- 2.174 With regard to NPO 27, the proposed development is designed to minimise reliance on private car use and encourage sustainable modes of transport. The reduced car parking provision proposed (0.32 spaces per unit) and high levels of cycle parking (761

- no. spaces) is to encourage a sustainable alternative mode of transport to the motorcar. The NPF seeks to minimise car-parking in accessible locations and to maximise a modal shift to public transport due to proximity to public transport routes.
- 2.175 The NPF seeks to increase the sustainability and viability of public transport networks and meet the housing needs of our growing population through densification and combating urban sprawl.
- 2.176 The NPF states that *“In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”*.
- 2.177 RPO 5.3 of the RSES states that *“Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.”*
- 2.178 The proposed development is designed to minimise reliance on private car use and encourage sustainable modes of transport. The reduced car parking provision proposed (0.32 spaces per unit) and high levels of cycle parking (866 no. spaces) is to encourage a sustainable alternative mode of transport to the motorcar.
- 2.179 We note the provisions of SPPR8 of the 2020 Apartment Guidelines, Part (iii), which states:
- “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;”**
- 2.180 The proposed development is for a Build to Rent development under SPPR7 of the 2020 Apartment Guidelines and a Mobility Management Plan as well as a Car Parking Rationale document prepared by Waterman Moylan is submitted with the application.
- 2.181 The apartment guidelines state that *“the quantum of car parking or the requirement for any such provision for apartment developments will vary having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria”*.
- 2.182 Using the criterion in the Apartment Guidelines, the subject site is located in a central and / or accessible urban location which is considered to be generally suitable for small to large scale and higher density development, that may wholly comprise of apartments. These sites are identified as being:
- *Within walking distance (i.e. up to 15 minutes or 1,000-1,500m) of principal city centres, or significant employment locations, that may include hospitals*
- 2.183 St. John of God’s Hospital is located c. 400m to the south east of the proposed development.

- *Site within easy walking distance (i.e. up to 5 minutes or 400-500m) to/ from high frequency (i.e. min 10-minute peak hour frequency) urban bus services.*

- 2.184 The subject site is located adjacent to a high frequency (less than 10 minute peak hour frequency) bus corridor along the N11 catering for a number of bus routes to and from the city and meets the criterion above.
- 2.185 The apartment guidelines state that for central and accessible urban locations, that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 2.186 Having regard to the above the subject site is located in an area that is considered central and highly accessible as to merit reduced car parking provision within the development. The availability of high frequency public transport routes in close proximity to the site provide for a high level of accessibility to the city and the surrounding area, thus reducing the need for the use of private vehicles at this location.
- 2.187 As such it is considered that notwithstanding the development plan standards, and the blanket classification by Dun Laoghaire Rathdown County Council that the entire County is an intermediate location, having regard to the Section 28 Guidelines, for Sustainable Urban Housing; Design standards for New Apartments, the proposed level of car parking at 0.32 per residential unit is considered acceptable in this regard.

2.4.1.1.6 Open Space 15% provision/Private Open Space provision

- 2.188 With reference to the 2022 Plan public open space requirement is 15% of the site, which equates to some 1,675 sq. m. The proposed development provides 10% public open space of some 1,177 sq. m which is below the 2022 Plan requirement.
- 2.189 The proposed development provides 4,111 sq. m of communal open space which is above the Apartment Guidelines requirements of 2,214 sq. m. Additional public realm improvements are also provided on the wider site (on lands under the ownership of Dun Laoghaire Rathdown County Council comprising c. 2,392 sq. m.
- 2.190 It is also noted that section 4.20 of the Residential Density Guidelines 2009 (SRD) does not require a 15% public open space quantum (which are indicated for greenfield sites). The SRD state *'in other cases, such as large infill sites or brown field sites public open space should generally be provided at a minimum rate of 10% of the total site area;'* The proposal is compliant with the SRD in respect of public open space provision.
- 2.191 The SRD 2009 further note that *"Where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered."* In this regard, the proposed development is located within the District Centre of Stillorgan, close to its wide range of facilities.
- 2.192 It is submitted that noting the high quality provision of open space within the scheme and higher level of communal open space provision over and above (c.+82%) the required and the above provisions of national guidance it is submitted that it is appropriate in this instance to allow a relaxation in the provision of public open space, and that the Board could consider an appropriate condition requiring the provision of a financial contribution in lieu of such provision.

3.0 MATERIAL CONTRAVENTION STATEMENT 2016 -2022 DEVELOPMENT PLAN

3.1 MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION - HEIGHT

3.1 Policy UD6 of the 2016 Development Plan states: *“It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.”*

3.2 It is considered that permission for the proposed development should be granted having regard to national and regional planning guidelines for the area, Ministerial Guidelines under section 28 and policy directives as outlined in the following justification.

3.3 Section 37(2)(b) of the Act sets out four distinct criteria which allows the Board to materially contravene a development plan. This statement of material contravention addresses each of the items and it is our considered opinion that the current proposal satisfies the criteria as follows:

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

3.4 The proposed development of 377 no. BTR apartments is considered to be of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government’s Action Plan for Housing and Homelessness – Rebuilding Ireland.

3.5 The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing in the Metropolitan Dublin Area, of which Stillorgan forms a part of, having social and economic ramifications for sustainable national growth. On this basis, it is submitted that the proposed development is, by definition, of strategic and national importance.

3.6 In this regard the proposed BTR development will allow for new residential community, built to a high standard and quality, which can be rented within a District Centre, with its range of amenities and services, proximity to high quality high frequency public transport services.

3.7 The delivery of housing and the appropriate use of zoned land in a District Centre is considered to underpin key Government policy such as Rebuilding Ireland as well as the National Planning Framework and the National Policy Objectives in the National Planning Framework, in particular Objective 11, the subject site’s location within the District Centre of Stillorgan.

3.8 Having regard to the foregoing, it is considered that the proposal is of both national **and** strategic importance, although it should be noted that it is only necessary for the purposes of the statutory provision that it is of strategic **or** national importance. The application site has the 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 issued in July 2016.

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

3.9 **Response:** This is not relevant to the subject building height justification.

(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

3.10 The following section addresses relevant national and regional planning policies and guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended) and provides a justification for granting permission for the proposed development under each relevant policy or set of Guidelines, notwithstanding the material contravention issues identified. The following policy and guidelines are considered relevant:

- Project Ireland 2040 – National Planning Framework;
- Eastern and Midland Regional Economic and Spatial Strategy 2019;
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

3.1.1.1 Project Ireland 2040 – National Planning Framework

3.11 The National Planning Framework 2040 seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl and increase the sustainability of public transport networks. The NPF states that:

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

3.12 The proposed development is located within a district centre in close proximity to major employment hubs in the Sandyford Industrial Estate area and within the District Centre of Stillorgan. The subject site is also well served by public transport with the high-quality bus corridor along the N11. It is therefore considered that the subject site is an appropriate location for increased building heights and increased densities to support the objectives of the NPF.

3.13 NPO 2a seeks to target and focus 50% of future population and employment growth in the existing 5 no. cities and suburbs, NPO 3b aims to deliver at least 40% of new homes nationally within the envelope of existing urban settlements, and NPO 3b seeks to deliver at least 50% of all new homes in the 5 no. cities and suburbs.

3.14 With reference to NPO 3a, the proposed development accords with the NPF, in particular with its principles of compact growth and the reinforcement of the country’s existing urban structure at all levels.

3.15 The proposed development will provide 377 no. residential units within the District Centre of Stillorgan, which is within the existing built-up area within the metropolitan area of Dublin City. The area of the site on which the residential units are proposed is zoned for new residential development and is in accordance with the National Planning Framework.

3.16 With regard to NPO 11, the proposed development is located within the District Centre of Stillorgan, which has a wide range of local shops, restaurants and cafes, along one of the main routes into the city centre (QBC) and is well served by public transport with

Dublin Bus walking distance of the site. The existing site is underutilised and presents a key opportunity site as identified in the NPF for redevelopment of a mixed-use scheme.

- 3.17 In accordance with NPO 13, it is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed building height ranges from 3 no. storeys to 9 no. storeys and is appropriate given the context of the site within the urban area. The proposed height of the development is considered appropriate for the location of the site and the availability of public transport facilities and proximity to supporting services and amenities. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 3.18 In accordance with NPO 33, new homes will be provided at a sustainable location, with access to existing services and facilities. The proposal is located within Stillorgan District Centre close to its retail and wide range of services and amenities.
- 3.19 In accordance with NPO 35, the proposal will increase residential density (267 units per hectare gross), through the inclusion of additional height which is considered appropriate for this site which is located within the established residential area of Stillorgan, within the District Centre of Stillorgan, and high-quality public transport options.
- 3.20 The NPF provides for a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed development ranging in height from 3 no. storeys to 9 no. storeys is therefore considered appropriate in this location and in accordance with the NPF.

3.1.1.2 Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

- 3.21 The EMRA RSES supports residential development on key urban infill sites, in proximity to public transport facilities. The RSES also supports increased densities, heights and urban consolidation in inner suburban locations.
- 3.22 RPO 3.2: aims to promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas. The site of the proposed development is located within the District Centre of Stillorgan, within the existing built-up area of Dublin City and suburbs.
- 3.23 RPO 4.3: Supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City. The proposed development will consolidate development on an infill/brownfield site in a high-density mixed-use development within the existing built-up area of Dublin City and its suburbs (within a District Centre).
- 3.24 The subject development seeks to provide for residential development on an urban site, adjacent to the Stillorgan QBC which provides a high-frequency public transport. The proposed development therefore is compliant with the overall policies and objectives of the RSES in this regard.

3.1.1.3 Urban Development and Building Height Guidelines 2018

- 3.25 The proposed height of the development ranges from 3 no. storeys to 9 no. storeys. The majority of the buildings on the site are 6-7 storeys, stepping up to 8 storeys in building 2 along the N11 and to 9 no. storeys at the corner of the N11 and the Kilmacud Road Lower. The proposed transition in height provides for an appropriate urban design response to the emerging character and scale of development in the area.
- 3.26 As such it is considered that the heights proposed as part of this application are consistent with the policies and objectives of Building Height Guidelines and, in particular with the relevant criteria under Section 3.2 of the guidelines, which are set out above in section 2.2.

3.2 MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION – CAR PARKING 2016-2022 DEVELOPMENT PLAN

- 3.27 The Board may consider that the proposed development potentially materially contravenes the car parking standards set out by the Development plan, which outline “1 space per 1-bed unit and 1.5 spaces per 2-bed unit” for apartments.

- 3.28 The car parking standards set out for residential land uses in Table 8.2.3 of the Development Plan. The requirements for residential development, which are noted as minimum standards relative to different unit sizes are as follows:

1 per studio unit, 1 per 1-bed unit, 1.5 per 2-bed unit, 2 per 3 bed (depending on location)

- 3.29 This equates to a requirement for 384 no. car parking spaces for the residential element of the scheme. 119 residential car parking spaces are proposed which is less than the minimum standard of the County Development Plan, which equates to a ratio of 0.32 spaces per residential unit.

- 3.30 The requirements of Table 8.2.4 for commercial development, which are noted as maximum standards are as follows:

Café/Restaurant – 1 per 15 sq.m GFA

Childcare Services – 1 space per 1 staff member (including set down)

Sports Club/Recreation Centre/Gymnasium – 1 space per 20 sq. m GFA

Offices - 1 space per 100 sq.m. gross floor area to include parking for visitors

- 3.31 This equates to a maximum range of up to c. 113 car parking spaces to serve the commercial element of the proposed development. The proposed development does not provide for any additional car parking spaces to serve the, café, restaurant, creche or Sports Hall uses. It is considered that the majority of users of the commercial units will be on foot having regard to the proximity to the Village Centre and the nearby residential developments.

- 3.32 A traffic and transport report has been prepared by Waterman Moylan and is submitted with this application. The document sets out proximity and access to existing and proposed public transport infrastructure. The N11 is a QBC with high frequency of bus services and is proposed for upgrade to a spine road for the BusConnects upgrades to the city bus infrastructure. A parking ratio of 0.32 is proposed to service the residential element of the scheme. Such parking provision is in line with the 2020 Apartment Guidelines which state:

“In larger scale and higher density development, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such as rail and bus stations located in close proximity.”

3.33 The proposed parking provision has been formulated to take into account the close proximity to the Stillorgan QBC (and proposed BusConnects) and a number of other bus routes; all to provide a sustainable level of car parking for the proposed mixed-use development, and to reflect the proposal as a ‘Build-to-Rent’ development.

3.34 The following sets out a justification in respect of car parking.

(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

3.35 The objective for having a “standard” requirement for residential parking of 1 space per 1 bed unit and 1.5 space per 2 bed unit as set out in Table 8.2.3, requiring this development to provide over 384 car parking spaces, conflicts with Policy ST3 of the Dun Laoghaire Development Plan which seeks a modal shift away from private cars as well as the commentary within Section 8.2.4.5 which requires a reduced car parking standards for any development.

3.36 It is submitted that a strict adherence and application of Table 8.2.3 of the Development Plan, does not take into account the location of the site and the conditions where reduced car parking may be appropriate as set out in Section 8.2.4.5.

3.37 Noting the sustainable location of the proposed development (within a District Centre and adjacent to a QBC), the wide range of the mix of uses surrounding the development and within, the availability of car parking controls in the area (as well as parking available in Stillorgan Village), the inclusion of a MMP in the SHD (prepared by Waterman Moylan) it is considered that the proposed development can avail of the reduced car parking standards allowable under Section 8.2.4.5, and that there is a potential conflict between the minimum standard and the wider commentary of the CDP which seeks to reduce car parking standards.

(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

3.2.1.1 Project Ireland 2040 – National Planning Framework (NPF)

3.38 National Policy Objective 13 of the NPF states that:

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

3.39 The proposals seek to minimise reliance on private car use and encourage sustainable modes of transport. The NPF seeks to minimise car-parking in accessible locations

and to maximise a modal shift to public transport due to proximity to public transport routes.

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

3.2.1.2 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020)

- 3.41 We note the provisions of SPPR8 of the 2020 Apartment Guidelines, Part (iii), which state:

“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;”

- 3.42 The proposed development is for a Build to Rent development under SPPR7 of the 2020 Apartment Guidelines and a Mobility Management Plan as well as a Car Parking Rationale document prepared by Waterman Moylan is submitted with the application.

- 3.43 The subject site is located in a central and / or accessible urban location which is considered to be generally suitable for small to large scale and higher density development, that may wholly comprise of apartments.

- 3.44 Having regard to the above notwithstanding the development plan standards, the proposed level of car parking at 0.32 per residential unit is considered acceptable in this regard.

3.3 MATERIAL CONTRAVENTION STATEMENT AND JUSTIFICATION- APARTMENT STANDARDS 2016-2022 DEVELOPMENT PLAN

- 3.45 Section 8.2.3.3 of the DLRCC County Development Plan 2016-2022 provides recommendations with regard to quantitative standards.

- 3.46 It is highlighted that the ‘Advisory Note’ contained in Section 8 of the Development Plan acknowledges that the standards of the Apartments Guidelines supersede those of Section 8.2.3.3. (i), (ii), (v), (vii) and (viii) of the Development Plan, and that the SPPRs set out in the Apartments Guidelines take precedence over the standards and specifications as set out in Section 8.2.3.3 of the Development Plan.

- 3.47 In this regard we note that SPPR 8 of the Apartment Guidelines 2020:

“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;

(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, 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;

(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.

(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;

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

3.48 Notwithstanding this, with regard to the Quantitative Standards, the material contravention statement addresses the following:

- Section 8.2.3.3 (iv) Separation between Blocks
- Public / Communal Open Space – Quantity Section 8.2.8.2

Table 3.1 –Design Standards

| Design Standard | Comments/Justification |
|---|--|
| 8.2.3.3 (iv) Separation between Blocks. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable | The apartment blocks have in general a separation distance of c. 22m between each block reducing in some places below the standard. Undue overlooking between apartments is addressed through careful design of primary windows. This is considered to be in accordance with NPO13 of the NPF which states “ <i>In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieved targeted growth and that protect the environment</i> ”. A justification is provided if it were the case that the Board considered there was a material contravention in respect of separation distances. |
| Public / Communal Open Space – Quantity Section 8.2.8.2 The Planning Authority will require public ¹ and/or communal open space to be provided within new residential and large- | Section 8.2.8.2(i) of the development plan sets out a standard of 15sqm – 20 sqm of open space per person for residential developments with a minimum of 10% of |

¹ For the purposes of this section, ‘Public’ open space refers to all areas of open space within a new development (be that public (taken in charge), communal, semi private or otherwise) that is accessible by all residents/ employees of the development and in certain cases may be accessible by the wider general public. ‘Public’ open space within new developments may not necessarily be taken in charge or be publicly owned/controlled by the Council. (page 205)

| Design Standard | Comments/Justification |
|--|--|
| <p>scale commercial developments. An absolute default minimum of 10% of the overall site area for all residential developments shall be required to be reserved for use as Public Open and/or Communal Space.</p> <p>Open Space: For all developments with a residential component – 5+ units - the requirement of 15 sq.m-20 sq.m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high-quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2.</p> | <p>the total site area reserved for public and/or communal open space, which would comprise between 8,722 sq.m and 11,630 sq. m. According to the Plan, <i>“a lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii).”</i> The proposed open space within the development consists of 5,139 sq.m of public open space and communal open space which is below this higher standard, however, the provision exceeds the default minimum of 10% of the site area. Therefore, it is considered that the quantity and exceptional high quality of open space is in accordance with the provisions of the development plan. Furthermore the proposed development is in compliance with the Apartment Guidelines 2020 and in particular Appendix 1 in respect of communal open space. It is also noted that SPPR8(ii) allows for a reduced amount of Communal Open Space provided in a BTR scheme <i>“on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.”</i> In this regard, the proposed development provides some c. 1,016 sq. m of communal support facilities. While it is considered that there is no material contravention in respect of open space, noting Section 8.2.8.2(i) of the Development Plan, a justification for the provision of open space is included.</p> |

(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

- 3.49 The proposed development of 377 no. apartments is considered to be of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland.
- 3.50 Noting the material contraventions identified above, the following section addresses relevant national and regional planning policies and guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended) and provides a justification for granting permission for the proposed development under each relevant policy or set of Guidelines, notwithstanding the material contravention issues identified. The following policy and guidelines are considered relevant:

- Project Ireland 2040 – National Planning Framework;
- Sustainable Urban Housing: Design Standards for New Apartments (2020);

3.3.1.1 Project Ireland 2040 – National Planning Framework

- 3.51 The National Planning Framework is the Government’s plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 3.52 The proposed quantum of development and residential density is in response to the NPF, which recognises that “currently, 7 out of 10 households in the State consist of three people or less, with an average household size of 2.75 people. This is expected to decline to around 2.5 people per household by 2040. Yet, the stock of housing in Ireland is largely comprised of detached and semi-detached houses with three to four bedrooms.”
- 3.53 It is respectfully submitted that the proposed development provides an appropriate mix and response to the need to address how the trend towards smaller households can be accommodated within higher density housing developments, within the existing footprint of towns, while also protecting the residential amenity of the environs of the subject lands.
- 3.54 The proposed BTR development can accommodate the expected fall in household size.
- 3.55 The proposed BTR development of 377 no. units, by providing a mixture of one and two bed apartments, in the District Centre where in the wider environs of Stillorgan, is predominately characterised by larger family size houses would indeed contribute to the variety of accommodation types and sizes in the county.

3.3.1.2 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020)

- 3.56 The Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guideline 2020) build upon the provisions of the NPF.
- 3.57 The Apartment Guidelines 2020 confirm that in order to meet housing demand, it is necessary to significantly increase supply and in particular housing supply “must include a dramatic increase in the provision of apartment development” where it states:

*“To meet housing demand in Ireland, **it is necessary to significantly increase supply.** This is a key pillar of the overarching Rebuilding Ireland Housing Action Plan. The National Planning Framework targets increased housing supply in Ireland’s cities and urban areas in particular. For the reasons outlined earlier, **increased housing supply must include a dramatic increase in the provision of apartment development.**” (JSA emphasis).*

3.3.1.2.1 Design Standards Separation Between Blocks

- 3.58 Please refer to Section 2.4.1.1.1 above for the justification.

3.3.1.2.2 Public / Communal Open Space – Quantity Section 8.2.8.2

- 3.59 Section 8.2.8.2(i) of the development plan sets out a standard of 15sqm – 20 sqm of open space per person for residential developments with a minimum of 10% of the total site area reserved for public and/or communal open space, which would comprise between 8,722 sq.m and 11,630 sq. m. According to the Plan, *“a lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii).”*
- 3.60 The proposed open space within the development consists of 5,288 sq.m of public open space and communal open space with is below this higher standard, however, the provision exceeds the default minimum of 10% of the site area.
- 3.61 It is also noted that section 4.20 of the Residential Density Guidelines 2009 (SRD) requires that *“in other cases, such as large infill sites or brown field sites public open space should generally be provided at a minimum rate of 10% of the total site area;”* The proposal is compliant with the SRD in respect of public open space provision.
- 3.62 Furthermore the proposed development is in compliance with the Apartment Guidelines 2020 and in particular Appendix 1 in respect of communal open space. It is also noted that SPPR8(ii) allows for a reduced amount of Communal Open Space provided in a BTR scheme *“on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.”* In this regard, the proposed development provides some c. 1,016 sq. m of communal support facilities.
- 3.63 It is submitted that noting the high quality provision of open space within the scheme and higher level of communal open space provision over and above (c.+82%) the required and the above provisions of national guidance it is submitted that it is appropriate in this instance to allow a relaxation in the provision of communal open space (as per Development Plan requirement).

4.0 CONCLUSIONS

- 4.1 It is submitted that the justification set out within this statement clearly demonstrates that the additional benchmark height proposed can be accommodated due to the location of the subject site adjacent to quality public transport corridors and the policies and objectives set out within the Section 28 Guidelines in particular the Urban Development and Building Height Guidelines (Section 3.2), and the National Planning Framework.
- 4.2 In addition, the proposed level of car parking proposed is consistent with the policies and objectives set out within the Section 28 Guidelines, in particular the Sustainable Urban Housing: Design standards for New Apartments 2020.
- 4.3 Having regard to:
- The location of the site within the District Centre of Stillorgan, adjacent to high quality, high frequency public transport on the N11 Quality Bus Corridor, and to established social, retail and employment in the area,
 - The provisions of the National Planning Framework, in particular compliance of the proposed development with National Policy Objectives (NPO) NP02a, NPO3a, NPO3b, NP04, NPO11, NPO13, NPO27, NPO33 and NPO35,
 - Compliance with Regional Policy Objectives (RPO) RPO 3.2, RPO 5.3, RPO 5.4 and RPO 5.5.
 - Compliance with Section 3.2 of the Urban Development and Building Height Guidelines 2018.
 - The provisions of the Apartment Guidelines 2020.

it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and grant permission for the development in accordance with national policy and guidelines.

