

**Material Contravention Statement of the  
Dublin City Development Plan 2016-2022 and the  
Clongriffin Belmayne (North Fringe) Local Area Plan  
2012-2018 (as extended to December 2022)  
(And also the Draft Dublin City  
Development Plan 2022-2028)**

*In respect of*

**Proposed Strategic Housing Development**

*at*

**Site 10, Northern Cross, Malahide Road, Dublin 17**

*Prepared for*

**Camgill Property a Tri Limited**

*Prepared by*

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**DOCUMENT CONTROL SHEET**

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## **1.0 INTRODUCTION**

- 1.1 On behalf of the applicant, Camgill Property a Tri Ltd, we hereby submit this Material Contravention Statement in support of a Strategic Housing Development (SHD) application for Site 10, Mayne River Avenue, Northern Cross, Malahide Road, Dublin 17.
- 1.2 The subject site of c. 0.76 hectares is located in the north western part of the established Northern Cross development area and provides a logical extension of the perimeter blocks to the east to visually complete the northern edge onto the River Mayne Corridor. The site was previously occupied by a temporary car park for Mylan's offices at Northern Cross, however, this temporary permission lapsed and the site is being used as a construction compound for Block 2.
- 1.3 This statement provides a justification for a material contravention of the Dublin City Development Plan 2016-2022 and the Clongriffin-Belmayne (North Fringe) Local Area Plan 2012-2018, as extended to 2022, should the Board be of the view that the proposed development contravenes (i) Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height, (ii) Section 16.10.1 of the Development Plan as it relates to unit mix and (iii) Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP in respect to the implementation of the Malahide Road / R107 (including North Fringe Improvements) road improvement scheme.
- 1.4 This statement also provides a justification for a material contravention of the Dublin City Development Plan 2022-2028 in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the new Dublin City Development Plan as it relates to a requirement to provide community, arts and culture and artist workspaces as currently set out in Section 12.5.3 and Objective CUO22, and Universal Design requirements for new apartment developments as set out in Section: 5.5.5 Housing for All, Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout.

### ***Proposed Development***

- 1.5 In summary, the proposal is for a Strategic Housing Development of 156 no. residential units in 2 no. apartment blocks. Block 10A, containing 71 no. apartments, has a height of part eight and part ten storeys, and Block 10B, containing 85 no. apartments, has a height of part ten and part eleven storeys, all above a common basement area. The unit mix consists of 75 no. 1 beds and 81 no. 2 beds (32 no. 1 bed units and 39 no. 2 bed units within Block 10A, and 43 no. 1 bed units and 42 no. 2 bed units within Block 10B). The proposal includes all associated development.

### ***Potential Material Contraventions***

- 1.6 Having regard to the provisions of the Dublin City Development Plan 2016-2022 (hereinafter 'Development Plan') and the Clongriffin-Belmayne (North Fringe) Local Area Plan 2012-2018 (as extended to 2022) (hereinafter 'LAP'), it is respectfully requested that the Board have regard to the justification provided for potential material contraventions of the Development Plan and LAP, in the event that the Board is of the

view that the proposed development constitutes a material contravention of the following objectives of the Development Plan and LAP:

- **Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP** as it relates to building height;
- **Section 16.10.1 of the Development Plan** as it relates to unit mix;
- **Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP** in respect to the implementation of the Malahide Road/R107 (including North Fringe Improvements) road improvement scheme.

- 1.7 It is considered that the Board may determine that the proposed development materially contravenes the above objectives of the Development Plan and LAP and therefore represents a material contravention of the Development Plan.
- 1.8 For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.
- 1.9 The Statement of Consistency and Planning Report accompanying this application demonstrates compliance with all other relevant policies and objectives of the Development Plan and LAP. Significantly, the proposed SHD does not contravene either the Development Plan or the Local Area Plan in relation to the zoning of land, whether materially or at all, as residential use is permissible under the Z14 zoning objective of the subject site.
- 1.10 It is respectfully submitted that the proposed development is in accordance with the provisions of the National Planning Framework 2018, the Urban Development and Building Heights Guidelines for Planning Authorities, 2018 (hereinafter 'Building Height Guidelines') and the Sustainable Urban Housing: Design Standards for New Apartments, 2020 (hereinafter 'Apartment Guidelines'). It is therefore respectfully submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development in the event that it is determined that the proposed development materially contravenes the Development Plan and the LAP.

#### ***Draft Dublin City Development Plan 2022-2028***

- 1.11 Section 5 of this Material Contravention Statement addresses the Draft Dublin City Development Plan 2022-2028 (hereinafter 'draft Development Plan'), and the Proposed Material Alterations which are currently on public display, and provides a justification for potential material contraventions of the Dublin City Development Plan 2022-2028 in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the following aspects of the new Dublin City Development Plan:
- **Section 12.5.3 and Objective CUO22- Provision of Community & Cultural Space**
  - **Section: 5.5.5 Housing for All- Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout**

- 1.12 For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.
- 1.13 The Statement of Consistency and Planning Report accompanying this application demonstrates compliance with other relevant policies and objectives of the draft Development Plan, and proposed material alterations. Significantly, the proposed SHD does not contravene either the draft Development Plan or the Local Area Plan in relation to the zoning of land, whether materially or at all, as the uses are permissible under the Z14 zoning objective.
- 1.14 It is therefore respectfully submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and it is determined that the proposed development materially contravenes the Plan.

## **2.0 LEGISLATIVE CONTEXT**

- 2.1 The Planning and Development (Housing) and Residential Tenancies Act, 2016, states the way in which An Bord Pleanála may grant permission for a development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land, is 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.”*

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

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

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

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

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

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

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

2.3 A response to the relevant criteria above is provided in Section 4 of this report, and demonstrates that one or more of the criteria in section 37(2)(b) are satisfied in respect of the proposed SHD development, thereby enabling the Board to decide to grant permission, notwithstanding the potential material contraventions of (i) Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height, (ii) Section 16.10.1 of the Development Plan as it relates to unit mix and (iii) Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP in respect to the implementation of the Malahide Road/R107 (including North Fringe Improvements) road improvement scheme.

2.4 Section 5 of this statement also provides a justification, under the relevant criteria above, for a material contravention of the Dublin City Development Plan 2022-2028 (based on the Draft and Proposed Material Alterations) in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the new Dublin City Development Plan as it relates to a requirement to provide community, arts and culture and artist workspaces as currently set out in Section 12.5.3 and Objective CUO22, and Universal Design requirements for new apartment developments as set out in Section: 5.5.5 Housing for All, Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout.

2.5 as it relates to cultural facilities as currently set out in Section 12.5.3, Objective CUO22 of the draft Development Plan, and Universal Design requirements under Section 5.5.5, Objective QHSNO10 Universal Design and Section 15.9.2 of the City Development Plan.

### **3.0 CURRENT LOCAL PLANNING POLICY CONTEXT AND POTENTIAL MATERIAL CONTRAVENTIONS**

3.1 The current local planning policy context in respect to the potential material contraventions is summarised below, with an explanation for the inclusion of this Material Contravention Statement with the subject application. Separately Section 5

- addresses the Draft Development Plan, including the Proposed Material Alterations, which are currently on display.
- 3.2 The potential material contraventions of the Development Plan and LAP are addressed in turn below.

**Section 16.7.2 of the Development Plan & Section 7.9 / Objective UD07 of the LAP – Building Height**

- 3.3 Chapter 16 of the Dublin City Development Plan 2016-2022 provides detailed development management standards for residential development and Section 16.7.2, in particular, provides height limits for development and sets out the areas designated for Low-Rise, Mid-Rise and Taller Development within the City.
- 3.4 Section 16.7.2 of the Development Plan states the following:

*“Planning applications will be assessed against the building heights and development principles established in a relevant LAP/SDZ/SDRA. **Proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA in addition to the assessment criteria for high buildings and development plan standards.** Chapter 15 provides guiding principles for the design of potential high buildings in SDRAs, where appropriate. All areas outlined in the table below are considered to be in the low-rise category unless the provisions of a LAP/SDZ/SDRA indicate otherwise” (emphasis added)*

- 3.5 Under Section 16.7.2 of the Development Plan, in general, 28m equates to 9 storeys residential or 7 storeys office, 16m equates to 5 storeys residential or 4 commercial generally, and 50m is equivalent to 16 storeys residential or 12 storeys commercial. Areas defined as ‘Low-Rise’ can achieve building heights of up to 16m (5 storey residential) in the outer city and up to 24m (8 storey residential) in the inner city. In ‘Mid-Rise’ areas, building heights of up to 50m (16 storeys residential) are permissible. In areas designated for ‘Taller Development’, building heights can exceed 50m.
- 3.6 The subject site is located within the North Fringe which is designated as being a mid-rise area under section 16.7.2 of the Dublin City Development Plan 2016-2022 where building heights of up to 50m or 16 storeys residential can be achieved.
- 3.7 However, as set out above, under Section 16.7.2 of the Development Plan development proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA, therefore Section 7.9 / Objective UD07 of the LAP is applicable.
- 3.8 In Section 7.9 of the LAP, Objective UD07 states the following in relation to building height:

*“The height strategy for the LAP will seek positive integration of new building height with established character. **Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys).** **Heights of 2-6 storeys (including a setback at the top floor of a 5/6 storey building) may be facilitated subject to quality design criteria and set back requirements along the river corridor to complete the urban form of pavilion buildings to complete Marrsfield, one location for a landmark profiled building (10-14 storey office height equivalent) is***

- designated adjacent to Clongriffin Rail Station.*** *In other locations, where 4storeys residential height is proposed, some flexibility will be allowed on the height equivalent(13m) to achieve design improvements to the façade.” (emphasis added)*
- 3.9 In summary, the LAP provides for a minimum building height of 5 storeys in the Key District Centres and one location for a landmark 10-14 storey (office height) building adjacent to Clongriffin Rail Station.
- 3.10 The subject development proposes building heights ranging from 8 to 11 storeys over a common basement area, with a maximum height of c. 40 metres from the nearest ground level.
- 3.11 The proposed height is less than the 50 metres permissible for development within the North Fringe area (classified as being in a mid-height area) under section 16.7.2 of the Dublin City Development Plan 2016-2022.
- 3.12 It is also submitted that the height is justified in the context of the LAP which supports 5 storeys plus in such locations. However, it is recognised that the proposed heights could be considered to not be consistent with the LAP requirements in respect to landmark buildings (given the heights in excess of 10 storeys proposed on the subject site), and therefore, the Board may determine that the proposals represent a material contravention of Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height. As set out in Section 4, the proposed building height is considered to be justified in the context of the Building Height Guidelines and having regard to recent permissions in the area.

***Section 16.10.1 of the Development Plan – Unit Mix***

- 3.13 Section 16.10.1 of the Development Plan states that where apartment developments comprise 15 units or more the residential unit mix shall contain:
- A maximum of 25-30% one-bedroom units,
  - A minimum of 15% three- or more bedroom units.
- 3.14 Under this SHD application, the proposed unit mix is as follows:
- 75 no. 1 bed units (48%)
  - 81 no. 2 bed units (52%)
- 3.15 It is recognised that the proposed mix would not be consistent with the Development Plan requirements as the number of one bed units exceed 30% and there are no 3 bed units proposed.
- 3.16 However, notwithstanding this, the proposed mix is consistent and considered to be justified in the context of the Apartment Guidelines 2020 and specifically Specific Planning Policy Requirement 1 (SPPR1) of the Apartment Guidelines which states:

*“Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA),*



*that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)."*

- 3.17 The proposed unit mix is consistent with the guidance set down in SPPR1 of the Apartment Guidelines 2020, as the percentage of 1 bed units does not exceed 50%. There is no requirement for 3 bed units under SPPR1. Having regard to the above, it is considered that even where the proposed unit mix is not consistent with the unit mix set out in the Development Plan, the mix is justified under SPPR1 of the Apartment Guidelines (which were issued under Section 28 of the 2000 Act). However, should the Board consider the proposal to constitute a material contravention of the Plan, a justification for granting permission under S. 9(6) of the Act is provided below.

***Objective MTO31 of the Development Plan & Section 6.5 / Objective MTP2 of the LAP - Road Objective***

- 3.18 The Clongriffin-Belmayne Local Area Plan 2012 contained provision for a by-pass road of the R107 / Malahide Road junction in order to ease the traffic congestion levels experienced in the area, Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP refers.
- 3.19 The indicative route of the bypass was north of the subject site following a similar line to the River Mayne before turning south and joining the R139 past Bewley's facility, and then re-joining the Malahide Road nearby the vehicular entrance to Clarehall Shopping Centre. This road objective is also indicated in the City Development Plan and is as follows and as indicated on the extract from the Development Plan Map B presented at Figure 3.1 below:

*"MTO31: To initiate and/or implement the following road improvement schemes and bridges within the six year period of the development plan, subject to the availability of funding and environmental requirements and compliance with the 'Principles of Road Development' set out in the NTA Transport Strategy. Roads:*

- *Malahide Road/R107 (including North Fringe Improvements)"*

**Figure 3.1: Extract from the current Dublin City Development Plan 2016-2022, Map B with indicative Road Objective and site identified**



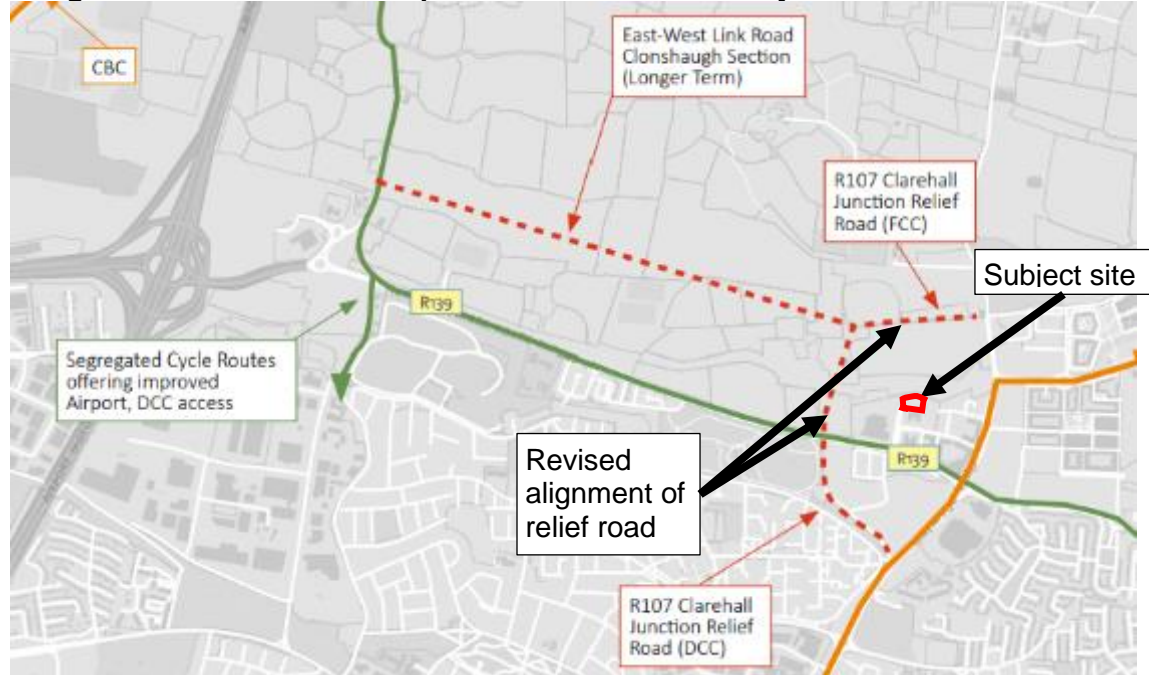
Source: Dublin City Development Plan 2016-2022, Map B

- 3.20 However, during the review of the LAP and the subsequent decision to extend its lifetime up to 2022, the Planning Authority's Chief Executive's Report prepared in November 2017 notes that:

*"Objective MT09 seeks co-ordination with Fingal County Council on trans-boundary transportation priorities. To this end a **cross-boundary transportation study** has commenced involving Dublin City Council, Fingal County Council, the National Transport Authority and Transport Infrastructure Ireland. This study is to progress the development of new roads infrastructure / public transport requirements as they pertain to DCC's North Fringe area and Fingal's South Fringe area. **The proposed R107 and R139 (Malahide Road junction) By-Pass (R107 realignment) will be examined as part of this study.**" (Emphasis added)*

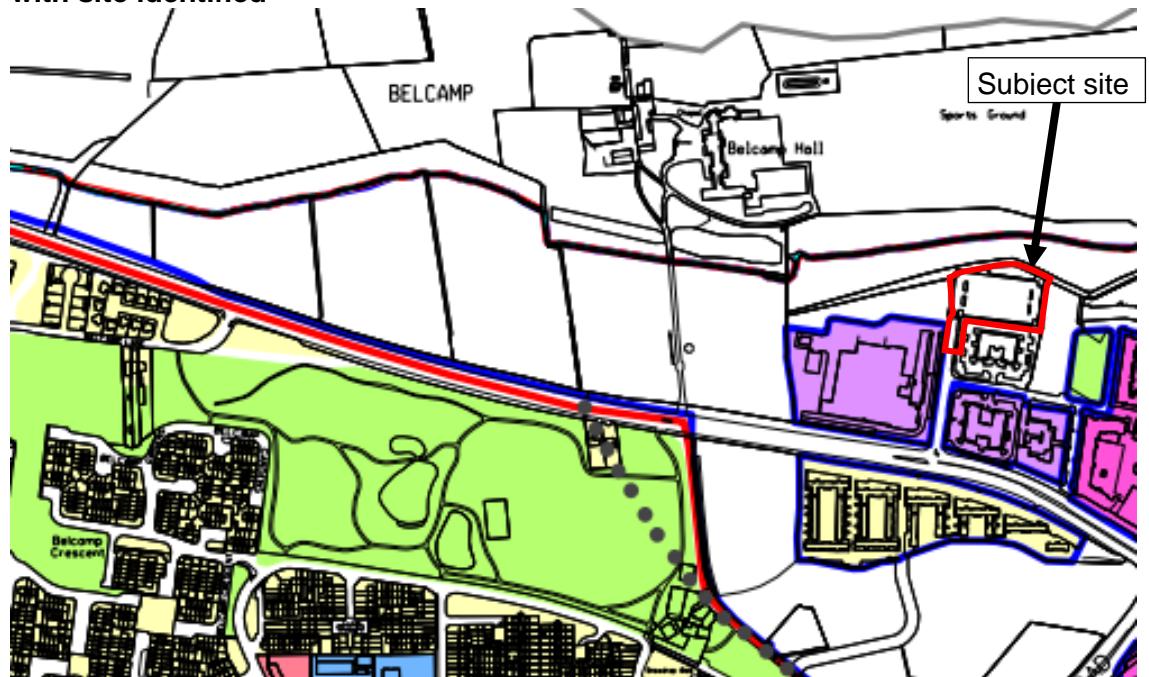
- 3.21 The South Fingal Transport Study, published in January 2019, no longer includes the previously proposed Malahide Road bypass road objective to the immediate north of Northern Cross, through the River Mayne Riparian Corridor, but rather proposes a new road alignment further north and west as shown in the extract presented at Figure 3.2 below.
- 3.22 We understand that these new road objectives for the area supersede the proposals in the current Development Plan and LAP zoning / objective maps as demonstrated by the publication of the Draft Dublin City Development Plan 2022 – 2028 which no longer includes the subject road objective immediately north of the subject site as shown in the extract from the Draft Dublin City Development Plan 2022 – 2028, Map B presented at Figure 3.3 below.

**Figure 3.2: Extract from the South Fingal Transport Study, 2019 Fingal/Dublin Fringe Recommendations Map with indicative Road Objective and site identified**



Source: South Fingal Transport Study, 2019

**Figure 3.3: Extract from the draft Dublin City Development Plan 2022-2028, Map B with site identified**



Source: Dublin City Development Plan 2022-2028, Map B

3.23 Therefore, the proposed development will not impact on the delivery of the proposed R107 and R139 (Malahide Road junction) By-Pass (R107 realignment), and is justified in the context of the South Fingal Transport Study, 2019 Fingal/Dublin Fringe



Recommendations Map and the Draft Dublin City Development Plan 2022-2028, Map B.

- 3.24 Also, of relevance to the Roads Objective is the current SHD application for the Belcamp lands to the north and west of Site 10. The SHD application was submitted on the 5/5/22 and relates to lands at Belcamp Hall (Protected Structure), Malahide Road (R107), the R107/R123 junction, Carr's Lane, and R139 Road, Belcamp, Dublin 17. The SHD website is [www.belcampshd.ie](http://www.belcampshd.ie).
- 3.25 This current SHD application, ABP Ref.: 313494-22, is for the construction of 2,527 no. residential units (473 no. houses, 2054 no. apartments), creche and associated site works, including a Linear Park along the River Mayne and road infrastructure, including the East-West Link Road and the Belcamp Parkway, which reflects the requirements of the South Fingal Transport study as they relate to the subject lands. The extent of the Linear Park and road infrastructure connecting the Malahide Road and the R139 is illustrated in Figure 3.4 below.

**Figure 3.4: Belcamp SHD proposed site layout with subject site identified**



Source: [www.belcampshd.ie](http://www.belcampshd.ie)

- 3.26 The proposed road infrastructure within the Belcamp SHD includes two new arterial roads, the East-West Link Road and the Belcamp Parkway, a north-south arterial road which will form a new junction with the R139. The application documentation states that it is proposed to include the main internal transportation infrastructure as part of the first phase of the SHD development, including Belcamp Parkway and the East-West Link Road, to ensure there is adequate transportation provision in place before the development is occupied. Thus, this application will deliver the road infrastructure previously planned to the north of Site 10 and now superseded by the South Fingal Transport Study 2019.

- 3.26 Notwithstanding the above, given that the adopted Development Plan Map B and LAP have not been updated to reflect the South Fingal Transport Study 2019, the Board may determine that the proposals represent a material contravention of Objective MTO31 of the 2016-2022 Development Plan & Section 6.5 / Objective MTP2 of the LAP in respect to the R107 and R139 (Malahide Road junction) By-Pass (R107 realignment).
- 3.27 For the purposes of clarity in relation to the Planning and Development (Housing) and Residential Tenancies Act, 2016, which states that An Bord Pleanála may grant permission for a development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land, we highlight that objectives, including road objectives, on the Development Plan maps are not considered to be objectives in relation to the zoning of land for the purposes of section 9(6)(b) of the 2016 Act, but more correctly characterised as specific map based objectives.

#### **4.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION IN CONTEXT OF SECTION 37(2)(B) CRITERIA**

- 4.1 In the event that the Board considers that the proposed development constitutes a material contravention of (i) Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height, (ii) Section 16.10.1 of the Development Plan as it relates to unit mix and (iii) Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP in respect to the implementation of the Malahide Road/R107 (including North Fringe Improvements) road improvement scheme, a justification for such material contraventions is set out below, under the relevant criteria set out under Section 37(2)(b) of the Planning & Development Act 2000, as amended. Under each of the relevant criteria below, we outline with a heading which potential material contravention is justified under each.

##### ***Part (i) - Proposed Development is of Strategic or National Importance***

##### **All**

- 4.2 The proposed development includes provision of 156 no. residential units on lands zoned Z14 under the Development Plan.
- 4.3 As outlined in the Statement of Consistency and Planning Report, the proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.
- 4.4 The proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended (Act of 2016).
- 4.5 The 2016 Act is an act to facilitate the implementation of Rebuilding Ireland, An Action Plan for Housing and Homelessness, which plan notes that the accelerated delivery of housing is a key priority for government. The delivery of housing is a key objective of Pillar 3 of the plan and of the recently published Housing for All strategy from the Government. It is considered therefore that the proposed development will contribute to the national strategic objective of delivery of housing.

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

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

- 4.7 The proposed development delivers on Government Policy to increase delivery of housing from its current under supply. The Rebuilding Ireland Action Plan for Housing and Homelessness (2016), and consequently the 2016 Act, recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of Rebuilding Ireland – Action Plan focuses on the delivery of housing stock as a key objective to tackle homelessness and support a growing population.

- 4.8 The Government’s Housing for All: A New Housing Plan for Ireland, published in September 2021, seeks to increase new housing supply to an average of at least 33,000 new units per year over the next decade. In terms of first steps to increase new housing supply, the Plan includes for *‘in accordance with the National Planning Framework, focus on adequate supply of serviced zoned lands to meet housing need, at required density.’*

- 4.9 It is submitted that, with regard to S.37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on 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 (July 2016), and Housing for All – A New Housing Plan for Ireland (2021). It is also of importance in terms of delivery of housing in accordance with the Development Plan and the LAP.

- 4.10 The proposed development is therefore considered to be strategic in nature and will deliver on national policy objectives in respect to the delivery of housing on serviced, zoned land located within the Dublin Metropolitan Area and within close proximity of high frequency bus services, and therefore the potential material contraventions of the Development Plan and LAP are justified.

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

- 4.11 The following section shall demonstrate how the proposed building height and unit mix is justified in the context of recent National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned serviced lands in proximity to public transport corridors, and which have been published since the

adoption of the Dublin City Development Plan 2016-2022 and the Clongriffin – Belmayne LAP 2012. These include:

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

### **Unit Mix- Section 16.10.1**

#### **Project Ireland: National Planning Framework 2040 (NPF)**

- 4.12 The NPF seeks to increase densities in appropriate urban locations to consolidate urban sprawl, increase the sustainability of public transport networks and meet the housing needs of our growing population.
- 4.13 National Policy Objective 11 formalises the above and states that *'in meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'*.
- 4.14 National Policy Objective 33 seeks to *'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location'*.
- 4.15 National Policy Objective 35 seeks to *'Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'*.
- 4.16 The NPF identifies that to meet the targets set out in the above objectives, that it will necessitate a significant and sustained increase in urban housing output and apartment type development in particular.
- 4.17 It is clear from the NPF that there is a strong emphasis towards providing apartment type development in appropriate locations within existing urban areas and along public transport corridors in order to provide for the critical mass needed to make the public transport services viable.
- 4.18 While there is no national policy objective specific to housing mix, the NPF acknowledges the trend towards smaller household sizes, and subsequently supported in SPPR1 of the Apartment Guidelines 2020, and therefore the NPF supports the principle of a high density development on the subject site and the associated unit mix proposed in the subject application.

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

- 4.19 The Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020) build upon the provisions of the NPF. Under section 9(3)

- of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.
- 4.20 The Apartment Guidelines 2020 state:
- “These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.*
- 4.21 Accordingly, where SPPR’s are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.
- 4.22 Full details on consistency with the Apartment Guidelines 2020 is set out in the Planning Report & Statement of Consistency and the JSA Architects HQA submitted with this application. However, having regard to the above and specific to the mix of units, SPPR1 is directly relevant and states the following:
- “SPPR 1- Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).”*
- 4.23 The proposed development provides for the following mix of units:
- 75 no. one bed units (48%)
  - 81 no. two beds (52%)
- 4.24 The proposed unit mix is consistent with the guidance set down under SPPR 1 of the Apartment Guidelines 2020, as no studios are proposed and the percentage of 1 beds does not exceed 50%. There is no requirement for 3 bed units under SPPR 1.
- 4.25 Furthermore, a HDNA has not been prepared to support the unit mix criteria in Section 16.10.1 of the City Development Plan and therefore the unit mix requirement in the CDP is not evidence based as required under current national policy and Guidelines.
- 4.26 The Apartment Guidelines 2020 acknowledge the importance of apartment living in terms of addressing the challenges of meeting the housing needs of a growing population in our key cities and towns, particularly given the identified trend towards smaller average household size. Therefore, it is submitted that the proposed unit mix is consistent with the Apartment Guidelines 2020 and specifically SPPR 1. Further justification for the proposed unit mix, in the context of existing and permitted



- development at Northern Cross is provided in Section 7 of the Planning Report & Statement of Consistency.
- 4.27 As demonstrated above, the proposed unit mix is consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location, and given the provisions of S. 9(3) of the Act and SPPR 1 of the Guidelines can be permitted without a material contravention of the Plan.
- 4.28 However, should the Board consider the proposed unit mix to contravene S. 16.10.1 of the Development Plan, and having regard to the above and the provisions of the Apartment Guidelines 2020, it is respectfully submitted that the Board can approve the proposed development under section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential conflict with Section 16.10.1 of the City Development Plan.

### ***Building Height***

#### *Urban Development and Building Height Guidelines 2018' (Building Height Guidelines)*

- 4.29 As noted above, if it is considered by the Board that the proposals represent a material contravention of Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height, as set out below the proposed building heights are considered to be justified in the context of the Building Height Guidelines.
- 4.30 The 'Urban Development and Building Height Guidelines 2018' (Building Height Guidelines) were published on the 7<sup>th</sup> of the December 2018 under Section 28 of the Planning and Development Act 2000, as amended. Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. SPPRs as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.
- 4.31 Therefore, the Strategic Planning Policy Requirements (SPPRs) in the Building Height Guidelines will take precedence over the planning policy set out in the Development Plan and LAP as it relates to building height.
- 4.32 SPPR 3 (a) states:
- "It is specific planning policy requirement that where:*
- (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic national policy parameters set out in the National Planning framework and these guidelines;*
- then the planning authority may approve such development, even where specific objectives of the relevant development plan, local area plan or planning scheme may indicate otherwise".*
- 4.33 Compliance with the relevant Building Height Guidelines Development Management Criteria set out in the Building Height Guidelines, namely at the scale of the relevant

town / city, at the scale of district / neighbourhood / street and at the scale of a site / building, is demonstrated in Table 4.1 below, with reference to accompanying application documentation (repeated in the Planning Report & Statement of Consistency also).

**Table 4.1: Compliance with Building Height Guidelines Criteria**

<b><i>Building Height Guidelines Development Management Criteria</i></b>	<b><i>Justification for proposed building heights under Building Height Guidelines Development Management Criteria</i></b>
<b><i>At the scale of the relevant city/town</i></b>	
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>	<ul style="list-style-type: none"> <li>• A Public Transport Capacity Study has been prepared by Transport Insights and accompanies this application. It demonstrates that the site is well served by existing public transport, which has capacity to cater for the proposed development.</li> <li>• The subject lands are accessible, with the Northern Cross development area located directly adjacent to a number of high frequency services providing high levels of connectivity with Dublin City Centre, local town centres and train stations, particularly Clongriffin train station. The subject site is also adjacent to a number of proposed routes under Bus Connects, including 3 no. spine routes along Malahide Road and the R139.</li> <li>• The Malahide Road will be upgraded to become one of the core bus corridors under the Bus Connects scheme with the implementation of dedicated and improved bus lane facilities. This will also see the introduction of enhanced pedestrian and cycle facilities along arterial routes proximate to the subject site, enhancing the existing facilities on this route at present. The site is also within a 10 minute cycle of Clongriffin DART station. The site is therefore considered to be benefit from excellent accessibility in respect of public transport.</li> </ul>
<i>Development proposals incorporating increased building height...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</i>	<ul style="list-style-type: none"> <li>• The scale of the proposed development is considered to integrate appropriately with its surroundings, whilst introducing an element of increased height to define a strong urban edge to the River Mayne Riparian Corridor to the north. The 8 to 11 storey heights enhance the legibility and sense of enclosure to this future amenity area, whilst incorporating suitable setbacks / buffers.</li> <li>• The development is considered to provide for an appropriate proportional framing of the proposed open space to the north and south of the block. The proposal enhances the sense of enclosure, resulting in open space enclosed on two sides by blocks of up to 9</li> </ul>

<p><i>qualified practitioner such as a chartered landscape architect.</i></p>	<p>(Block 2, under construction) and 8 to 11 storeys in height.</p> <ul style="list-style-type: none"> <li>• The accompanying elevations and sections provided by JSA Architects and the Photomontages and CGI's prepared by Digital Dimensions, illustrates the proposed building height in the context of the existing urban environment. The application is accompanied by an LVIA prepared by Murray Associates which assesses the landscape and visual impacts of the proposal.</li> <li>• As acknowledged by the Planning Authority in the pre-application discussions, the assembly of buildings forming Northern Cross sit at the northern edge of the Planning Authority's administrative area and together with existing, approved and proposed developments the entire would be considered to form a coherent urban block which will be further integrated with the Belmayne district in time through the development of Belmayne Square to the east.</li> </ul>
<p><i>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.</i></p>	<ul style="list-style-type: none"> <li>• The proposed development site extends to approximately 0.76 ha and is therefore not considered to constitute a 'larger urban redevelopment site'. Notwithstanding this, the proposals are considered to make a positive contribution to place-making through a high-quality development and associated improvements to the public realm.</li> <li>• The development creates visual interest at the site through a high-quality design which responds to the surrounding pattern of development. The northern frontage of the buildings, facing the future linear park along the riparian corridor of the River Mayne, is of a style and materiality consistent with that of adjacent blocks while providing a strong urban edge. Both the northern and southern frontages of the blocks have been designed as such to maximise light and provide a visually interesting façade, which while of similar style and materiality to the nearby residential and mixed use developments, has been carefully modulated and broken down to provide a sense of visual interest, while allowing for the introduction a centrally located plaza.</li> <li>• In this respect, the proposals are considered to be of an appropriate scale, height and massing to complement the existing urban form whilst successfully introducing a high quality element of complementary architecture to the site, making optimal use of the subject lands.</li> </ul>

<b><i>At the scale of district / neighbourhood / street</i></b>	
<p><i>The proposal responds to its overall natural built environment and makes a positive contribution to the urban neighbourhood and streetscape</i></p>	<ul style="list-style-type: none"> <li>• The use of height at Site 10 over and above existing block heights would allow for a variety of heights within the district creating visual interest when viewed on approach and marking the beginning of the built-up area of Dublin City.</li> <li>• In the context of the district of Northern Cross the environment is composed of five to eight storey dense urban blocks with strong street edges. Recent permissions at Site 2 for 7 to 9 storeys and Site 5 for 8 to 12 storeys, took consideration of the urban form of the location where buildings of such height could be successfully integrated into the streetscape. In this instance, where the two blocks would form the northern extent of Northern Cross as it relates to the river valley this presents a suitable context and prominence to accommodate signature buildings as proposed.</li> <li>• The proposed development will significantly enhance the existing streetscape within Northern Cross, particularly along the internal roadways of Mayne River Street and Mayne River Avenue, by virtue of its context sensitive and carefully considered design. It will provide for high quality contemporary design at an appropriate location and make a significant positive contribution to the existing urban neighbourhood and streetscape at this location.</li> <li>• It is considered that the proposal introduces a high quality development at an underutilised site. The proposed development responds appropriately to the massing and scale of the surrounding urban pattern and scale, with higher built elements of the proposal to the central block edges.</li> <li>• The proposals constitute the sustainable development of the site and will provide integration with the existing context and enhancing the urban neighbourhood and public realm through the introduction of high quality landscaping and public realm improvements which are accessible to the public. The access road for the development to the north and west of the proposed blocks incorporates and connects to the end of Mayne River Street to the east and Mayne River Avenue to the south. This will add positively to the quality and appearance of the KDC when viewed as a whole.</li> </ul>
<p><i>The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks</i></p>	<ul style="list-style-type: none"> <li>• The use of height above the established base of c. 6-8 storeys will avoid the form monotony which can be created by all blocks being of similar height.</li> </ul>

<p><i>or slab blocks with materials / building fabric well considered.</i></p>	<ul style="list-style-type: none"> <li>• The proposal introduces apartment buildings to be constructed with high quality materials which relate well to the site's location and the style and palette of neighbouring properties. The use of a range of external finishes to the scheme provides for visually interesting facades, which creates the impression of reduced massing, while remaining sympathetic to the neighbouring developments to the east. The incorporation of cladding to the upper level in association with the vertical rise of the external surfacing serve to reinforce the vertical emphasis of the design.</li> <li>• The layout and siting of the development has been sensitively chosen to complement existing buildings within Northern Cross and to provide for a strong edge to the Mayne River corridor and new link street from east to west within the site, which connects with the established street network at Northern Cross. The development will not be of an overbearing scale, imbuing a greater sense of place upon the development site area. Elevations have been carefully designed and introduce varied aspects, through materials and elements deviating from the dominant building line, particularly along the northern and southern elevations where the modulated design mitigates any potential long uninterrupted walls with cognisance taken to minimise any potential impacts developing from the scale of the proposal to the adjacent office building and emerging proposals for development on this site. This is complemented by a high quality hard and soft landscaping scheme, which further enhances the visual appeal of the proposals, as well as attracting public use and animation long the street frontage.</li> <li>• The proposed development will enhance the existing public space within Northern Cross, through enhancement of public realm and improvements regarding accessibility to the future linear park along the River Mayne (see BelcampSHD.ie). It will provide for a high quality contemporary development at an appropriate location and make a significant contribution to the extended streetscape and public realm, providing for an enhanced sense of scale and enclosure. This contributes to a sense of place and benefits from passive surveillance from the adjoining residential buildings.</li> <li>• The proposal introduces a development which is compatible with its land use zoning and adjacent</li> </ul>
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	<p>developments. The additional height for the proposed development makes optimal use of a presently unused area of land which benefits from a strategic location within both Northern Cross and the KDC area as a whole. The layout of the blocks contributes to the enhancement of public open space while allowing for a high level of pedestrian permeability throughout the exterior of the proposal.</p>
<p><i>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).</i></p>	<ul style="list-style-type: none"> <li>• The site benefits from being proximate to the River Mayne inland waterway and associated riparian corridor to the north of the application site, the existence of which facilitates the consideration of the higher built form. The proposal has been sensitively designed to take account of the existing urban design context and the future linear park to the riparian corridor to the north to which it provides an enhanced sense of connection, through the provision of visual improvements, in tandem with enhanced amenity value associated with the public space.</li> <li>• The proposed development is part 8 to part 10 and part 10 to part 11 storeys, which places it slightly taller than adjacent developments yet not at a scale that would prove detrimental to the visual and residential amenity of the area. The introduction of the element of increased building height will strengthen the northern extremity of the Key District Centre along the river corridor, contributing to the sense of scale and enclosure in the context of the future park, adjoining built elements and surrounding road network.</li> <li>• At the height proposed, the development will assist with wayfinding within Northern Cross as a whole while also improving passive surveillance and perceived level of safety and security within the immediate area.</li> </ul>
<p><i>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.</i></p>	<ul style="list-style-type: none"> <li>• The proposed development will add interest and articulation to the site and its context, while effectively breaking down the scale and massing of the scheme to ensure that it sits comfortably within its setting. It will make a positive contribution to the legibility of the area, the wider KDC, and the surrounding area.</li> <li>• The development will introduce a new residential population at the location who will benefit from the site’s accessibility in terms of public transport and existing pedestrian links. The development will integrate successfully with the site’s location and increase pedestrian movement and activity in the area, where currently footfall levels on internal routes within Northern Cross are low.</li> </ul>

	<ul style="list-style-type: none"> <li>The CGI / Photomontage brochure provides visualisations of the proposed development, demonstrating the positive contribution it makes to the Northern Cross development area.</li> </ul>
<b>At the scale of the site/building</b>	
<p><i>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.</i></p> <p><i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd Edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.</i></p> <p><i>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</i></p>	<ul style="list-style-type: none"> <li>The proposed scale, massing and height of the development has been informed by the existing and emerging built environment in the surrounding area. The development introduces a slightly higher built element to the surrounding urban frame which seeks to optimise the site's location and position. The scale and height of the proposed residential blocks take cognisance of the surrounding urban form, stepping down in height at the block edges with increased heights at centre. This is seen to integrate successfully with the urban environment whilst introducing an element of height which effectively responds to the site's prominent location, whilst minimising any potential negative effects to the surrounding context.</li> <li>A Daylight &amp; Sunlight Assessments Report, including shadow analysis, has been carried out by Digital Dimensions in accordance with the most up to date BRE Guidelines, BS and EN standards and also including an assessment against the earlier 2009 BRE Guidelines, 2<sup>nd</sup> Edition, in the interests of completeness. Please refer to the assessment for a detailed description of the approach taken and analysis of the performance of the development and impact on / relationship with existing / permitted and proposed surrounding land uses / developments.</li> </ul> <p>The assessment demonstrates that the scheme performs well against the various recommended standards and is meets or exceeds the minimum targets. Therefore, compensatory measures are not required, however, the building does include ample communal amenity space and public open space which connects to the planned linear park to the north (see <a href="http://www.belcampSHD.ie">www.belcampSHD.ie</a>). It should also be acknowledged that the site is located within a KDC and SDRA, and the proximity to existing and proposed buildings and associated daylight and sunlight results are appropriate in this context.</p>

<p><i>might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</i></p>	
<p><b>Specific Assessments</b>  <i>To support proposals at some or all of these scales, specific assessments may be required</i></p>	
<p><i>Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</i></p>	<ul style="list-style-type: none"> <li>• A Microclimate Report prepared by TMS accompanies the application. The aim of this assessment was to determine if there was considered to be potential microclimate effects arising from the proposed development, including cumulative impacts associated with permitted and proposed development. The Report demonstrates that the proposed development will result in an acceptable design response in respect to the wind environment and will enhance the quality of the adjacent planned public park in terms of its shelter / useability. Design mitigation measures are incorporated on upper balconies and terraces based on the assessment undertaken and to ensure an acceptable microclimate environment for future residents.</li> </ul>
<p><i>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.</i></p>	<ul style="list-style-type: none"> <li>• As outlined above, the application is accompanied by an Ecology Report, an AA Screening / Natura Impact Statement, an EIA Screening Report and Article 299B Statement which demonstrate that the proposed building heights will not result in any adverse impacts on birds or bats based on the surveys undertaken and surrounding pattern of development.</li> </ul>
<p><i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i></p>	<ul style="list-style-type: none"> <li>• ISM was commissioned to undertake a Telecommunications Assessment of the proposed development, as addressed in the accompanying Telecommunications Report.</li> </ul> <p>The report finds that the proposed heights sought by the Applicant will impact the identified Radio Frequency links and therefore mitigation is incorporated into the design, as illustrated on the application drawings, in the form of telecommunications infrastructure affixed to steel support poles mounted on ballasts at roof level of Block 10 B, including: 2no. 0.8m Radio Antennas (5G) and 2No. 2.0m Radio Antennas (2G/3G/4G) enclosed within radio friendly GRP shrouds which is sufficient to mitigate potential interference with existing Radio link telecommunication channels identified herein.</p>

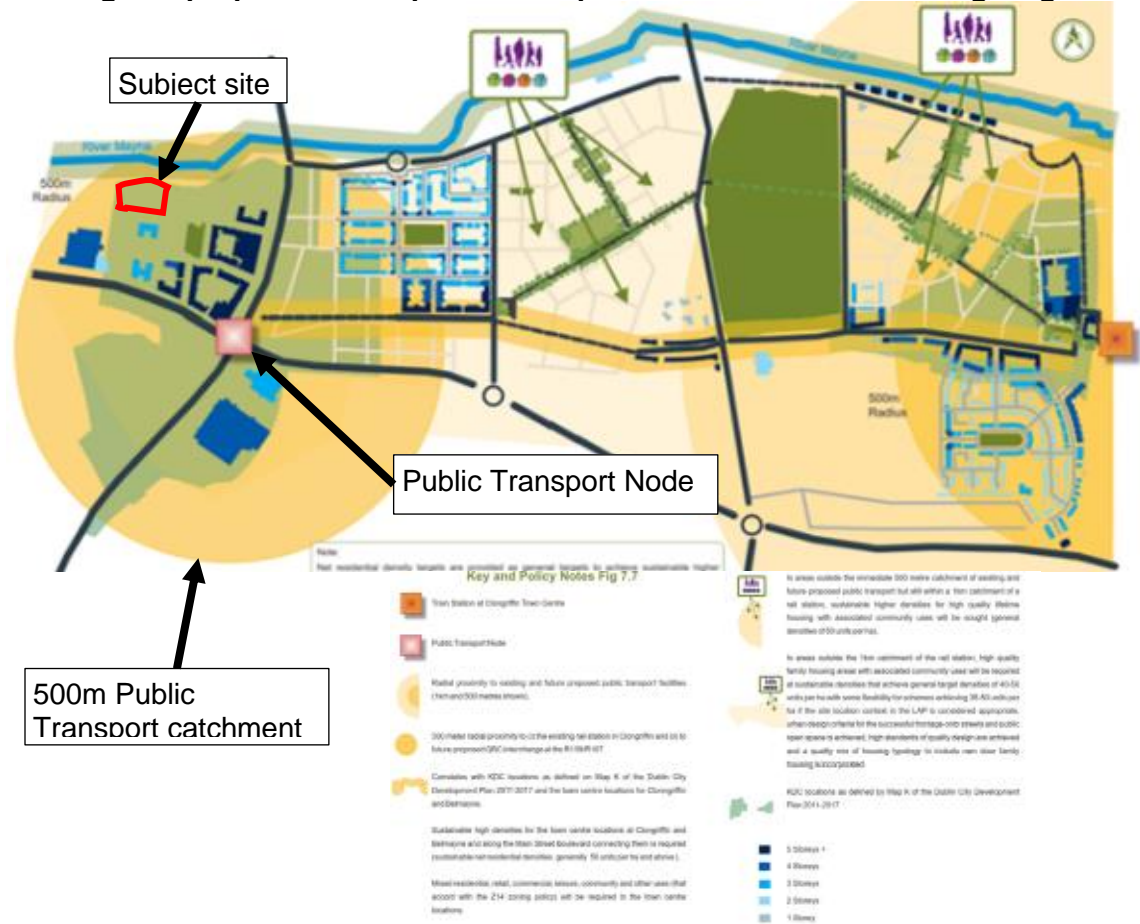


	<p>Based on this approach, ISM therefore conclude that the proposal being made by the Applicant within its submission to An Bord Pleanála allows for the retention of important Telecommunication Channels, such as Microwave links, to satisfy the criteria of Section 3.2 of the Building Height Guidelines (2018).</p>
<p><i>An assessment that the proposal maintains safe air navigation.</i></p>	<ul style="list-style-type: none"> <li>• In terms of aviation impacts, the application will subject to consultation with DAA and IAA as part of the formal application process, as they are statutory consultees.</li> </ul> <p>In addition, given the presence of PV panels at roof level, the application is accompanied by a Glint and Glare Analysis Report by JVT, which demonstrates the proposals will not adversely impact on safe air navigation.</p> <p>Thus, and based on the existing pattern of development in Northern Cross, with heights of 5 to 9 storeys already present, and recent permissions for up to 12 storeys on the Malahide Road, it is not envisaged that the proposed heights will result in any adverse impacts in respect to safe aviation.</p>
<p><i>An urban design statement including, as appropriate, impact on the historic built environment.</i></p>	<ul style="list-style-type: none"> <li>• The application is not located within a historic built environment; however, it is accompanied by the following documentation of relevance to this requirement: <ul style="list-style-type: none"> <li>- Architectural Design Statement prepared by JSA Architects;</li> <li>- Archaeological Assessment Report by IAC;</li> <li>- Landscape and Visual Impact Assessment prepared by Murray &amp; Associates and CGI and Photomontage Brochure prepared by Digital Dimensions.</li> </ul> </li> </ul> <p>The above documentation demonstrates the appropriateness of the proposed heights and design for the subject site at Northern Cross.</p>
<p><i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i></p>	<ul style="list-style-type: none"> <li>• As outlined above, the application is accompanied by an Ecology Report, an EIA Screening Report, an Article 299B Statement and an AA Screening Report / Natura Impact Statement. The reports demonstrate that the proposed building heights are not likely to result in any adverse environmental impacts.</li> </ul>

4.34 As outlined above, the subject development proposes block heights ranging from 8 to 11 storeys over a common basement area, with a maximum height of c. 40 metres. The proposed height is considerably less than the 50 metres permissible for development

- within the North Fringe area (classified as being in a mid-height area) under section 16.7.2 of the Dublin City Development Plan 2016-2022. The proposed height is also in accordance with Objective UD07 of the LAP which refers to a minimum of 5 storeys within the area designated as a Key District Centre (KDC).
- 4.35 However, it is recognised that the proposed heights could be considered to not be consistent with the LAP requirements in respect to landmark buildings (given the heights in excess of 10 storeys proposed on the subject site), and therefore, the Board may determine that the proposals represent a material contravention of Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height.
- 4.36 The proposed height range of 8 to 11 storeys takes account of permitted development in the wider area. Of particular note is the approved SHD on the adjoining Site 2 where up to 9 storeys is permitted and is currently under construction and Site 5 where an 8 to 12 storey development is permitted, and expected to proceed to construction in late 2022 / early 2023. Also of note is the recently permitted SHD at Parkside to the east of Northern Cross (Reg. Ref.: ABP-312003-21) which includes 5 no. blocks ranging in height from 1 to 9 storeys.
- 4.37 The height at this location has also been informed by comments supporting the proposed height received from the Planning Authority at Pre-Application stage. In their response to An Bord Pleanála in respect of the proposed development in accordance with Section 6(4)(b)(ii) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Planning Authority highlighted the following:
- “Recent permissions at Site 2 for nine storeys and Site 5 for 8 to 12 storeys took consideration of the urban form of the location where buildings of such height could be successfully integrated into the streetscape. In this instance, where the two blocks would form the northern extent of Northern Cross as **it relates to the river valley this presents a suitable context and prominence to accommodate signature buildings as proposed. Furthermore the use of height above the established base of c.6-8 storeys would avoid the form monotony which can be created by all blocks being of similar height.**”* (Emphasis added)

**Figure 4.1: Site location in the context of the Northern Cross KDC areas and existing and proposed 500m public transport catchments and building height**



Source: Clongriffin-Belmayne (North Fringe) LAP 2012-2018, (extended to 2022)

- 4.38 From the above analysis, it is considered that the proposal meets the criteria for higher buildings as set out within the Building Height Guidelines and therefore can be approved under the provisions of SPPR 3. The site is well placed to absorb a high-density development which is appropriately scaled and designed in the context of its urban surroundings, whilst introducing an element of increased building height which will strengthen this area of the Key District Centre, whilst responding to the scale and width of the adjacent development and the Northern Cross development as a whole.
- 4.39 Having regard to the above and the provisions of the Building Height Guidelines and SPPR3, it is respectfully submitted that the Board can approve the proposed development under section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential conflicting policies / objectives of the Development Plan and LAP.

**(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’.**

***Road Objective***

- 4.40 Section 3 above provides details of a potential material contravention of the road objective to the north of Site 10, i.e. Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP in respect to the implementation of the Malahide Road/R107 (including North Fringe Improvements) road improvement scheme (see supporting maps in Section 3 above).
- 4.41 As outlined above, the South Fingal Transport Study, published in January 2019, no longer includes the previously proposed Malahide Road bypass road objective to the immediate north of Northern Cross, through the River Mayne Riparian Corridor, but rather proposes a new road alignment further north and west as shown in the extract presented in Section 3 above. In planning terms, the revised road objectives for the area will ensure that the River Mayne Riparian Corridor can be delivered as an important recreational and ecological amenity for the area and ensures it is no longer impacted by the delivery of a road to alleviate traffic congestion on the R107 and R139 / Malahide Road
- 4.42 We understand that the new road objectives for the area supersede the proposals in the current Development Plan and LAP zoning / objective maps. This view is supported by the publication of the Draft Dublin City Development Plan 2022 – 2028 which no longer includes the subject road objective immediately north of the subject site.
- 4.43 Further evidence of the revised route of the subject road objective is the permitted development at Site 2 and Site 5 Northern Cross.
- 4.44 In addition, we note the Belcamp Hall SHD application, which is currently under consideration by the Board under Reg. Ref.: 313494-21, includes the revised road alignment recommended in the South Fingal Transport Study, 2019, and not the alignment indicated on the adopted Development Plan Map B and the LAP as shown in the site plan extract presented at Figure 4.2 below.
- 4.45 Thus, given the pattern of development and permissions granted in the area since the roads objective to the north of Site 10 was included in the Development Plan and LAP, it is respectfully submitted that it is appropriate for the Board to grant permission for the proposed development even if it is considered that the proposals contravene Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP, as these objectives are superseded by more recent studies / applications and are no longer deliverable / desirable for the area.

**Figure 4.2: Belcamp Hall SHD application Reg. Ref.: 313494 site layout with revised by-pass road alignment in accordance with the Fingal Transport Study**



Source: [www.belcampshd.ie](http://www.belcampshd.ie)

## 5.0 **DRAFT DUBLIN CITY DEVELOPMENT PLAN 2022-2028**

5.1 This section of this Material Contravention Statement addresses the Draft Dublin City Development Plan 2022-2028 (hereinafter 'draft Development Plan'), and the Proposed Material Alterations which are currently on public display, and provides a justification for potential material contraventions of the Dublin City Development Plan 2022-2028 in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the following aspects of the new Dublin City Development Plan:

- **Section 12.5.3 and Objective CU022- Provision of Community & Cultural Space**
- **Section: 5.5.5 Housing for All- Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout**

5.2 Section 8 of the Planning Report and Statement of Consistency sets out how the proposed development is consistent with the planning policies, objectives and standards with the exception of objective CU022 and Universal Design requirement under Section 5.5.5 and 15.9.2, which is discussed below. Compliance with specific standards of the new plan, specifically EV charging, can be addressed by a condition of planning if considered necessary and would not be considered to be a material contravention in planning terms.

### Cultural and Community Floor Space

5.3 Chapter 12, Section 12.5.3 'Supporting Cultural Vibrancy in the City' of the draft Development Plan relates to cultural facilities within the City. As part of the preparatory work for the draft Development Plan, a cultural infrastructure study was undertaken of

- the city, and is published as a background document for the Plan. The study provides a detailed analysis of the extent of cultural infrastructure within the city; where challenges lie; and makes a number of recommendations.
- 5.4 In respect of community, arts and cultural facilities within SDRAs, which the subject site is located within (whilst also exceeded 10,000 sq.m in total floor area), objective CUO22 refers, and is as follows:
- CUO22 - SDRAs and large Scale Developments- *“All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide for 5% community, arts and culture and artist workspaces internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.”*
- 5.5 The proposed development has a GFA exceeding 10,000 sq.m and therefore this objective would appear to apply. In terms of delivery of community floorspace, we note that while the *“Dublin City Cultural Infrastructure Study” (Cultural Infrastructure Study)* concludes that Dublin City Council should aspire to a 5% increase in the provision of cultural assets per annum over the life of the Development Plan, it recommends that a mapping exercise is undertaken by the City Council to get an understanding of “where” and “what” cultural infrastructure is in the City and that infrastructure could be developed in a number of locations where it is found that there are deficits in cultural infrastructure.
- 5.6 The Cultural Infrastructure Study highlights that:
- “Any roadmap for an ever-evolving city like Dublin needs to be agile and responsive. Shifts in the market, and even changing public attitudes, can immediately impact cultural infrastructure, positively and negatively, and policy must be flexible and regularly reviewed to take advantage of what is working and remove what isn’t.”*
- And that:
- “increasingly cities are realising that **it is less about building new infrastructure and more about flexing existing assets** to make them adaptable to behavioural changes and needs through enhancements or change of use. Future use of refined and enhanced data should help with identification or priority action areas, the development of cultural hubs and potentially allow for the repurposing of existing infrastructure to address a shortfall. The city has a huge opportunity to leverage use of vacant buildings in the city for cultural use, possibly under licence through the Council’s Arts Office.” (emphasis added)*
- 5.7 The subject SHD application is a wholly residential development and does not include any floorspace for community or cultural use.

Justification

- 5.8 It is recognised that the non-inclusion of floorspace for community, arts, cultural facilities would not be fully consistent with the draft Development Plan requirements as set out in policy objective CUO22 above. In the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board considers that the proposed development constitutes a material contravention of the new Dublin City Development Plan as it relates to cultural facilities as currently set out in Section 12.5.3 of the draft Development Plan, the proposed residential scheme is considered to be justified in the context of the Cultural Infrastructure Study undertaken as part of the draft Development Plan process, and the existing provision of community floorspace within the Northern Cross area as a whole. The Cultural Infrastructure Study did not identify Northern Cross as an area with a deficit of community facilities or as a priority action area. As demonstrated in the Social and Community Infrastructure Audit / Assessment that accompanies this application, there is a good range of social and community infrastructure serving this area of Dublin City.
- 5.9 An allocation of 5% of the floor area of the proposed scheme for community, arts and culture and artist workspaces would effectively reduce the number of units by c. 10, based on an average floorspace of 73 sq.m per unit (14,473 sq.m GFA of residential accommodation / 100\*5 = 724 sq.m) and would be contrary to Government Policy to increase delivery of housing from its current under supply as set out in the Rebuilding Ireland Action Plan for Housing and Homelessness (2016), and consequently the 2016 Act, which recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of Rebuilding Ireland – Action Plan focuses on the delivery of housing stock as a key objective to tackle homelessness and support a growing population.
- 5.10 As outlined above, the Government’s Housing for All: A New Housing Plan for Ireland, published in September 2021, seeks to increase new housing supply to an average of at least 33,000 new units per year over the next decade.
- 5.11 The proposed development has been designed in accordance with the Apartment Guidelines 2020 as set out in the accompanying Planning Report and Statement of Consistency prepared by JSA. It is noted that the Apartment Guidelines do not require the provision of *‘community, arts and culture and artist workspaces internal floorspace as part of their development at the design stage’*. In this regard Policy Objective CUO22 of the draft Plan conflicts with published Section 28 Guidelines and is inconsistent with Government guidance in this respect.
- 5.12 Therefore, it is submitted that should a material contravention be considered to arise in respect to CUO22, that it is justified as follows:
- Under S.37(2)(b)(i) the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on 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 (July 2016), and Housing for All – A New Housing Plan for Ireland (2021).



- Under S.37(2)(b)(iii) the reallocation of much needed residential accommodation to community or cultural uses would be contrary to Government guidelines and policy to deliver much needed housing in suitable urban locations.
- Under S. 37(2)(b)(iv) the pattern of development and recent permissions in the area does not result in a requirement for community / cultural or artists uses on the subject site, as evidenced by the “Dublin City Cultural Infrastructure Study” produced as a background paper to the Draft City Development Plan and which does not identify Northern Cross as an area with a deficit of community facilities or as a priority action area.
- **Section: 5.5.5 Housing for All- Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout**

5.13 Section 5.5.5 of the Draft Plan includes the following objective:

**“Objective QHSNO10 Universal Design-** *It is an Objective of Dublin City Council: To require that a minimum of 10% of dwellings in all schemes over 100 units are designed to accommodate people with disabilities and older people in accordance with the Universal Design Guidelines for Homes in Ireland 2015.”*

5.14 The Proposed Material Alterations seek to alter this objective as follows:

**“Objective QHSNO10 Universal Design-** *It is an Objective of Dublin City Council: To ensure that 50% of apartments in any development that are required to be in excess of minimum sizes should be designed to be suitable for older people/mobility impaired people, people living with dementia and people with disabilities in accordance with the guidelines set out in the Universal Design Guidelines for Homes in Ireland 2015, the DHLG&H’s Design Manual for Quality Housing 2022 and the DHP&LG & DH’s Housing Options for Our Ageing Population Policy Statement 2019.”*

5.15 In addition, Section 15.9.2 of the Draft Plan relates to Unit Size / Layout and requires the following:

*“The majority of all apartments in any proposed scheme of 10 or more apartments (excluding Build to Rent accommodation) shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not included as units that exceed the minimum by at least 10%). The layout of the larger units of each type should be designed in accordance with the guidance set out in Universal Design Guidelines for Homes in Ireland 2015.”*

5.16 The Proposed Material Amendments to the draft Plan, published in July 2022, include an alteration to Section 15.9.2 of the draft development plan relating to “Unit Size/Layout”. The proposed alteration states the following:

*“The majority of all apartments in any proposed scheme of 10 or more apartments (Excluding Build to Rent accommodation) shall exceed the minimum floor area types, by a minimum of 10% (any studio apartments must be included in the total, but are not included as units that exceed the minimum by at least 10%). In accordance with the Housing Options for an Ageing Population Policy Statement 2019, 50% of the apartments that are in excess of the minimum sizes should be designated in accordance with the guidance set out in the Universal Design Guidelines for Homes in Ireland 2015*



*to ensure that they are suitable for older people, mobility impaired people and people with disabilities.”*

- 5.17 While the proposed development fully accords with the requirement to have the majority of units at least 10% greater than the minimum sizes (with actually 99% of the units exceeding the minimum requirement by 10% or more), we note that the proposed development does not meet the requirement of the draft Development Plan or Proposed Material Alterations outlined above in respect to Universal Design requirement. Instead, as required under current Building Regulations, all of the proposed units within the development have been designed to be compliant with Technical Guidance Document M of the Building Regulations 2010, and the Apartment Guidelines 2020, which is in conflict with the aforementioned policy. The below provides a justification for a material contravention of these aspects of the new Plan, should they be adopted, in respect of the proposed development.

#### Justification

- 5.18 Technical Guidance Document M of the Building Regulations 2010 relates to Access and Use, and provides the general criteria required for building design in relation to access, including fire safety, access ramps and alignment with the Disability Act 2005. The proposed development has been designed by JSA Architects, and associated design team members, to comply to the relevant standards which are contained within this technical document and as such it is respectfully submitted that this is an acceptable standard for the proposed development to adhere to.
- 5.19 A justification for a material contravention in terms of non-compliance with new more onerous Universal Design apartments is set out below, under the relevant parts of section 37(2)(b)(iii) of the 2000 Act. The justification for the proposed development in the context of Section 37(2)(b)(i) has been set out in preceding sections and applies here also and therefore is not repeated.

**Part (iii) 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**

- 5.20 The following section demonstrates why the proposed unit sizes, design and layout is justified in the context of Section 37 (2)(b)(iii) of the 2000 Act for the reasons set out below in the context of the National Planning Framework 2040 and the Apartment Guidelines 2020.

#### **National Planning Framework (NPF) 2040**

- 5.21 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.
- 5.22 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.

- 5.23 National Policy Objective 3a of the NPF states that it is a national policy objective to *'deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements'*.
- 5.24 The proposed development is a strategically located in an underutilised site in close proximity to public transport connections and proposed strategic transport links, within the existing built-up envelope. The proposed development is therefore compliant with the objective of the NPF.
- 5.25 Objective 11 of the National Planning Framework states that *'there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth'*.
- 5.26 The proposed development will implement a high-quality scheme which integrates appropriately with the established land uses in the area and promote increased densities and population growth in urban areas.
- 5.27 The implementation of the proposed amendment to the draft Plan is considered to conflict with national planning objectives which promote compact growth and increased densities at urban locations. The provision of an excessively high proportion of universally accessible apartments in a new Development Plan, with significant implications for the design of schemes (particularly those well-advanced through a detailed pre-application process with DCC and ABP), will serve to reduce the potential quantum of apartments on individual sites and restrict densities achievable. This is inconsistent with national planning policy.

**Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities 2020**

- 5.28 The *'Sustainable Urban Housing: Design Standards for New Apartments'* (Apartment Guidelines 2020) were first published in March 2018 and amended in December 2020 following the Ministerial review of the shared accommodation / co-living aspect contained therein. The guidelines provide for updated guidance on apartment developments in response to the National Planning Framework and Rebuilding Ireland.
- 5.29 Details as to how the proposed development complies with the relevant requirements of the Apartment Guidelines 2020 is outlined below.

SPPR 3- Floor Areas

- 5.30 SPPR 3 of the Apartment Guidelines 2020 states that the following minimum floor areas for apartments apply:
- Studio apartment (1 person) Minimum 37 sq.m
  - 1 bedroom apartment (2 persons) Minimum 45 sq.m
  - 2 bedroom apartment (4 persons) Minimum 73 sq.m
  - 3 bedroom apartment (5 persons) Minimum 90 sq.m
- 5.31 The HQA and drawings prepared by JSA Architects, which accompany this application, demonstrate that the proposed development complies with and exceeds the standards outlined in the Sustainable Urban Housing: Design Standards for New Apartments 2020,

- with all units in excess of the minimum requirements outlined above. The proposed development includes an extensive emphasis on including larger units, with 99% of units exceeding the minimum standards for area by at least 10% as set out in the HQA. Accordingly, the proposed development aligns with the requirements under SPPR 3 in addition to the further guidance provided in tandem with that specific requirement.
- 5.32 While we note that the Guidelines permit 3 person, 2 bed units which have a smaller size requirement, we note that the proposal does not include any of these units, and that all 2 bed units adhere to the minimums required for 4 person, 2 bed units.
- 5.33 The Apartment Guidelines do not suggest or set out any requirement for the provision of a defined quantum of units to adhere to the Universal Design Guidelines as proposed by Dublin City Council in the new Development Plan, which conflicts with Section 28 Guidelines implemented the Department of Housing, Planning & Local Government. Section 4.1 of the Apartment Guidelines references Part M of the Building Regulations which sets out standards to ensure that buildings are accessible and usable by everyone, including children, people with disabilities and older people. The proposed development is fully compliant with the Guidelines in this regard.
- 5.34 As demonstrated above, the proposed unit sizes are consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location. Having regard to the above and the provisions of the Apartment Guidelines and SPPR3, it is respectfully submitted that the Board can approve the proposed development under section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential conflict with Section 5.5.5, Objective QHSNO10 Universal Design and Section 15.9.2 of the City Development Plan.

## **6.0 CONCLUSION**

- 6.1 This statement provides a justification for a material contravention of the Dublin City Development Plan 2016-2022 and the Clongriffin-Belmayne (North Fringe) Local Area Plan 2012-2018, as extended to 2022) should the Board be of the view that the proposed development contravenes (i) Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP in relation to building height, (ii) Section 16.10.1 of the Development Plan as it relates to unit mix and (iii) Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP in respect to the implementation of the Malahide Road / R107 (including North Fringe Improvements) road improvement scheme.
- 6.2 This statement also provides a justification for a material contravention of the Dublin City Development Plan 2022-2028 (based on the Draft and Proposed Material Alterations) in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the new Dublin City Development Plan as it relates to a requirement to provide community, arts and culture and artist workspaces as currently set out in Section 12.5.3 and Objective CUO22, and Universal Design requirements for new apartment developments as set out in Section: 5.5.5 Housing for All, Objective QHSNO10 Universal Design and Section 15.9.2 – Unit Size / Layout.
- 6.3 The Statement of Consistency / Planning Report accompanying this SHD application demonstrates compliance with all other relevant policies and objectives of the City

- Development Plan and LAP, and also the Draft Development Plan 2022-2028, including the Proposed Material Alterations, which are currently on display.
- 6.4 In respect to building heights, it has been demonstrated that the proposal complies with the provisions of SPPR3 of the Building Height Guidelines, 2018, and thus should a material contravention be considered to arise in respect to Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP, it is justified having regard to Section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended).
- 6.5 In respect to unit mix, it has been demonstrated that the proposals comply with SPPR1 of the Apartment Guidelines, 2020, and thus should a material contravention of Section 16.10.1 of the Development Plan be considered to arise it is justified having regard to Section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended).
- 6.6 In respect to the roads objective under Objective MTO31 of the Development Plan and Section 6.5 / Objective MTP2 of the LAP, it is considered that should a material contravention be considered to arise that it is justified having regard to Section 37(2)(b)(i) and (iv) of the Planning and Development Act, 2000 (as amended).
- 6.7 In respect to the Draft Development Plan, and Proposed Material Alterations, and the requirements under Objective CU022, in relation to the provision of community, arts and cultural facilities, and Section 5.5.5, Objective QHSNO10 Universal Design and Section 15.9.2 of the City Development Plan, as it relates to Universal Design requirements for new apartment developments, it is considered that should a material contravention be considered to arise that it is justified having regard to Section 37(2)(b)(i), (iii) and (iv) of the Planning and Development Act, 2000 (as amended).