

Material Contravention Statement

For Development at Old Fort Road, Ballincollig, Cork
on behalf of O'Flynn Construction Co. Unlimited Company

May 2022



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1. Introduction

This Material Contravention Statement accompanies a Strategic Housing Development (SHD) application by O'Flynn Construction Co. Unlimited Company, for 123 no. residential units, creche/childcare facility and all ancillary development at Old Fort Road, Ballincollig, Cork.

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

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

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

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

The proposed development lies within the boundary of Ballincollig Town and therefore the provisions of the 2014 Cork County Development Plan, the 2017 Ballincollig Carrigaline Municipal District Local Area Plan and the 2022 Draft Cork City Development Plan are all relevant to the consideration of the proposed development and therefore any potential material contraventions of these plans is considered in this report.

The report will address where national guidelines and the regional spatial and economic strategy for the area supersede the standards within the 2014 Cork County Development Plan, the 2017 Ballincollig Carrigaline Municipal District Local Area Plan and the 2022 Draft Cork City Development Plan and, together with the supporting planning application documentation, will provide sufficient justification for An Bord Pleanála to grant permission for the proposed development.

2. Site Context

The proposed site is located in the town of Ballincollig, approximately 200m to the north of the main street and 8.2km from Cork City Centre. The site is 1.9km from the N22 – Ballincollig Bypass which is situated to the south of the site. The site area comprises 1.23 hectares and has a sloping topography. The site is rectangular in shape and formed part of the overall Ballincollig town centre redevelopment. Permission for the development of these land was originally granted under Ref. 03/122 on September 12th, 2003.

The site is within easy walking distance of a number of commercial and community facilities including local shops, churches and school. The main street of Ballincollig is situated 200m to the south and the Castlewest (Ballincollig) Shopping Centre is less than 100m to the south. The major employment centre of Barrack Square is to the east of the site with Dell EMC to the west of the town. The site is adjacent to a number of residential developments including 'Waltham Abbey' housing estate to the west and 'The Crescent' apartment complex to the south. The site is located approximately 200m from a bus route and stop, offering transport connections to the wider County and City via the 220 and 233 bus routes. A bus serves the area every 15 minutes 7 days a week, 24 hours a day. The area is well serviced with several large amenity sites located within walking distance of the site with the closest being the Ballincollig GAA Club bounding the site to the north east and the Ballincollig Regional Park 1.4km to the west.

3. Legislative Context

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

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

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

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

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

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

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

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

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

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

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

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

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.

4. Context for Proposed Material Contravention

4.1 National Planning Framework

Project Ireland 2040 was published by the Government of Ireland in February 2018 with the objective to provide details for the new national planning and capital expenditure plans. These plans aim to achieve balanced regional development by outlining a clear hierarchy for the urban centres outside the greater Dublin area. National Policy Objective (NPO) 11 supports development that can encourage more people and activity within existing cities, towns and villages:

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

The NPF explicitly endorses a more “dynamic approach” to land use and car parking in urban areas, particularly those that are undergoing change. This position is reflected in NPO 13, as follows:

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

The proposed SHD application is accompanied by a Planning and Design Statement, Statement of Consistency, Traffic & Transport Assessment and Mobility Management Plan which demonstrate that the proposed development is consistent with the approach endorsed by the NPF.

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

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

RSES identifies rural towns and villages as the local drivers for their surrounding areas. It is an objective of the RSES to ensure that development

plans tailor the appropriate planning response to the scale, nature and location of the settlement.

4.3 Guidelines on Sustainable Residential Development in Urban Areas 2009

The Guidelines on Sustainable Residential Development in Urban Areas 2009 (SRDUA) Guidelines set out key planning principles for the local planning policy framework and for the assessment of residential development and indicates that net densities of less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

The Guidelines note that the 12 criteria set out in the companion Best Practice Urban Design Manual (UDM) should be used in both pre-application consultations and in assessing applications. These criteria are:

1. Context: How does the development respond to its surroundings.
2. Connections: How well connected is the new neighbourhood.
3. Inclusivity: How easily can people use and access the development.
4. Variety: How does the development promote a good mix of activities.
5. Efficiency: How does the development make appropriate use of resources, including land?
6. Distinctiveness: How does the proposal create a sense of place?
7. Layout: How does the proposal create people-friendly streets and spaces?
8. Public Realm: How safe, secure and enjoyable are the public areas?
9. Adaptability: How will the buildings cope with change?
10. Privacy and Amenity: How does the scheme provide a decent standard of amenity?
11. Parking: How will parking be secure and attractive?
12. Detail Design: How well thought through is the building and landscape design?

The accompanying Statement of Consistency and Planning and Design Statement provides an assessment of how the proposed development complies with the SRDUA Guidelines and the 12 criteria set out in the UDM.

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

The Design Standards for New Apartments Guidelines were updated in 2018 to take account of recent evidence of projected future housing demand and the prevailing housing market, within the policy context of the National Planning Framework and Rebuilding Ireland. It focuses on locational criteria and planning standards for apartment developments generally.

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

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

Section 1.11 of the Apartment Guidelines stipulates that:

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

Section 1.21 of these Guidelines states that:

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

Section 4.18 which relates to car parking and states that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

In suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.¹ For 'Peripheral and/or Less Accessible Urban Locations' section 4.22 of the Guidelines states that as a benchmark/guideline for apartments one car parking space per unit, together with an element of visitor parking, should generally be required.

Section 4.23 of the Guidelines states that for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off/visitor

¹ Design Standards for New Apartments Guidelines for Planning Authorities (2020), Section 4.21.

parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.

The Cork County Development 2014 and 2017 Ballincollig Carrigaline Municipal District Local Area Plan were both adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the County Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines.

The proposed development complies with design standards as set out in New Apartment Guidelines 2020. The requirement to comply with these Guidelines in relation to car parking is the key justification for contravening the County Development Plan in relation to the standards set out in the Plan.

4.5 Cork County Development Plan 2014

Against this national planning policy backdrop, the proposed development has been designed to create a high-quality, vibrant and attractive neighbourhood on this strategically located site. It is noted that the Cork County Development Plan 2014 was adopted prior to publication of the following:

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

The 2014 Cork County Development Plan (CDP) sets out Cork County Council's policies for the development of Cork County to 2022. The 2014 CDP provides minimum standards in relation to car parking for residential development. Table 1a in Appendix D of the of the plan provides for the following standards for dwellings, apartments and creches:

<i>Residential (Rest of Cork County)</i>	
<i>Apartments</i>	<i>1.25 spaces per apartment</i>
<i>Creches</i>	<i>1 space per 3 staff + 1 space per 10 children</i>

Note 2 which accompanies Table 1a states that "*the parking requirement for residential development is a minimum standard and can be exceeded at the*

discretion of the developer, based on house type, design and layout of the estate."

Note 4 which accompanies Table 1a states that a reduction in the car parking requirement may be acceptable where the planning authority are satisfied that good public transport links are already available and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development.

The proposed development does not meet the minimum car parking standards specified in the CDP for the residential units and creche. Section 5.1 of this Statement provides an assessment of this material contravention of the CDP and demonstrates why the Board should support this SHD application having regard to the criteria specified in Section 37(2)(b)(iii) of the Planning and Development Act 2000.

4.6 Draft Cork City Development Plan 2022

The Draft Cork City Development Plan 2022 is due to come into effect in Q3/Q4 2022 and depending on the decision date on this SHD application, may be the governing (Development Plan) policy for the subject site at the time a decision is to be made. Accordingly, the proposed development has been designed to create a high-quality, vibrant and attractive neighbourhood on this strategically located site having regard to the provisions of the Draft Cork City Development Plan 2022 which sets out the City Council's policies for the development of Cork City to 2028.

Table 11.2 of the 2022 Draft Cork City Development Plan provides standards in relation to density and building height, whereby the "Upper Target" for residential density and building height for the Central Ballincollig area is 100 units per hectare and 5 storeys respectively. The proposed development comprises a density of 115 units per hectare and two of the apartment blocks are up to 6 storeys in height.

Section 5.1 of this Statement provides an assessment of this material contravention of the CDP and demonstrates why the Board should support this SHD application having regard to the criteria specified in Section 37(2)(b)(iii) of the Planning and Development Act 2000.

5. Justification for Material Contravention

This section provides a justification of the areas where it is considered that the development materially contravenes the relevant plans based on the following information:

- Details the objectives of the 2014 Cork County Development Plan and the Draft Cork City Development Plan 2022, which will/may be materially contravened by the proposed development.
- Outlines the relevant proposals for the Ballincollig SHD Development, and
- Provides a justification for the proposed Material Contravention and demonstrates why the Board should support the proposal in the context of the matters specified in Section 37(2)(b)(iii) of the Act.

5.1 Cork County Development Plan 2014 – Car Parking Standards

Details of how the development materially contravenes the 2014 Cork County Development Plan (CDP) in relation to car parking and the justification for same, is as follows

<p>Relevant Objective</p> <p>2014 Cork County Development Table 1a</p>	<p>Table 1a (Appendix D) of the Cork Development Plan Sets out the following minimum car parking standards for Residential – ‘Rest of Cork County’:</p> <p>Apartments: 1.25 spaces per apartment</p> <p>Creche: 1 space per 3 staff + 1 space per 10 children</p> <p>Note 2 which accompanies Table 1a states that <i>“the parking requirement for residential development is a minimum standard and can be exceeded at the discretion of the developer, based on house type, design and layout of the estate.”</i></p> <p>Note 4 which accompanies Table 1a states that a reduction in the car parking requirement may be acceptable where the planning authority are satisfied that good public transport links are already available and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development.</p>
<p>Old Fort Road SHD Proposal</p>	<p>Based on the standards set out in the CDP, the total car parking requirement for the apartments, and creche would 153.8 and 6.6 spaces respectively. The actual car parking provided for each of these elements is as follows:</p> <p>Apartment: 98 parking spaces has been provided</p> <p>Creche: 0 parking spaces has been provided</p>

Material Contravention	The proposed Ballincollig SHD provides for car parking spaces, which is below the standard set out in the 2014 Cork CDP in relation to the apartments and creche.
Justification for proposed Material Contravention	<p>National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling.</p> <p>The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) maximum rather than minimum parking standards should be detailed to reflect proximity to public transport facilities.</p> <p>Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking and states that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines states that for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.</p> <p>The proposed development at Ballincollig is within close proximity (within 200 metres) to a bus stop and is designed to accommodate pedestrian and cycle connectivity. A total of 272 bicycle parking spaces are provided within the development and will help to promote sustainable mobility. It is considered that car parking provision lower than the CDP standards is justified in this instance.</p>

5.2 Draft Cork City Development Plan 2022 – Density and Building Height Standards

Details of how the development materially contravenes the 2022 Draft Cork City Development Plan (CDP) in relation to car parking and the justification for same, is as follows

Relevant Objective Draft 2022 Cork City Development Table 11.2	Table 11.2 of the 2022 Draft Cork City Development Plan provides standards in relation to density and building height, whereby the “Upper Target” for residential density and building height for the Central Ballincollig area is 100 units per hectare and 5 storeys respectively.
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Old Fort Road SHD Proposal	The proposed development comprises a density of 115 units per hectare and two of the apartment blocks are up to 6 storeys in height.
Material Contravention	The proposed Old Fort Road Ballincollig SHD provides for a density (115 dwellings per hectare) and the building height of two of the apartment blocks is 6 storeys, which is above the “Upper Targets” for residential density and building height included in the draft plan.
Justification for proposed Material Contravention	<p>The proposed development is marginally above the “Upper” density and height targets included in the Draft 2022 CDP, however it is justified in accordance with the Development Management Criteria outlined in Section 3 of the 2018 Building Height Guidelines, in that it is:</p> <ul style="list-style-type: none"> • The development is at the scale of the town i.e. the nearest building to the south is eight storeys in height and has a parapet level which is above 50.175m (over 10 metres higher than the highest parapet level of the proposed development i.e. 38.585m); • The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport; • The development successfully integrates into and enhances the character and public realm and will make a positive contribution to the urban neighbourhood and streetscape of the area; • The development positively contributes to the mix of uses and dwelling typologies available in the area; • The form, massing and height of the proposed development is carefully modulated so as to maximise access to natural daylight, ventilation and views and minimises overshadowing and loss of light. <p>The proposed development is also in accordance with the 2009 <i>Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)</i>, including in particular Section 5.6 which states that in order to maximise town centre population growth “<i>there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site</i>” subject to a number of safeguards. The proposed development is compliant with these safeguards in that:</p> <ul style="list-style-type: none"> • The development complies with the public and private open space requirements in the 2020 Apartment Guidelines and the 2014 Cork County Development Plan and the Draft 2022 Cork City Development Plan; • The development will not have an adverse impact on the amenities of adjoining neighbours; • The development complies with the plot ratio outlined the (Table 11.2) of the draft 2022 City Development Plan.

6. Conclusion and Material Contravention Statement

It is submitted that the proposed development is broadly compliant with the provisions of the Cork County Development Plan (CDP) 2014 and the Draft Cork City Development Plan 2022, but is a material contravention of the 2014 CDP in relation to car parking standards and the Draft Cork City Development Plan 2022 in relation to density and building height.

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

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

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

The location of the site within a town centre area identified for growth in the 2014 Cork County Development Plan, the 2017 Ballincollig-Carrigaline Municipal District Local Area Plan and the draft 2022 Cork City Development Plan, further confirms that the proposed development is both of strategic and national importance.

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

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

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

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

It is respectfully submitted that permission should be granted in accordance with sub-sections, (ii), (iii) and (iv) as follows:

(ii) In relation item (ii) above, while the car parking standards in the 2014 Cork County Development Plan are set out as “minimum” standards Note 4 which accompanies Table 1a in Appendix D states that a reduction in the car parking requirement may be acceptable where the planning authority is satisfied that good public transport links are already available and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development. In this instance, good public transport is available to the site/development and a Mobility Management Plan has been prepared as part of the proposed development which demonstrates a high percentage of modal shift in favour of the sustainable modes will be achieved through the development.

(iii) In relation to item (iii) (consistency with the relevant national and regional planning policies and Section 28 Ministerial Guidelines), National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling. The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) that maximum (rather than minimum) parking standards should be detailed to reflect proximity to public transport facilities.

Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking, state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines states that for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.

The proposed development at Ballincollig is within close proximity (within 200 metres) to a bus stop and is designed to accommodate pedestrian and cycle connectivity. A total of 272 bicycle parking spaces are provided within the development and will help to promote sustainable mobility.

The Cork County Development 2014 was both adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the City Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary

from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines.

In relation to height and density, the proposed development is only marginally above the “Upper” density and height targets included in the Draft 2022 CDP, however it is in accordance with the Development Management Criteria outlined in Section 3 of the 2018 Building Height Guidelines, in that it is:

- The development is at the scale of the town i.e. the nearest building to the south is eight storeys in height and has a parapet level which is above 50.175m (over 10 metres higher than the highest parapet level of the proposed development i.e. 38.585m);
- The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport;
- The development successfully integrates into and enhances the character and public realm and will make a positive contribution to the urban neighbourhood and streetscape of the area;
- The development positively contributes to the mix of uses and dwelling typologies available in the area;
- The form, massing and height of the proposed development is carefully modulated so as to maximise access to natural daylight, ventilation and views and minimises overshadowing and loss of light.

The proposed development is also in accordance with the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), including in particular Section 5.6 which states that in order to maximise town centre population growth “*there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site*” subject to a number of safeguards. The proposed development is compliant with these safeguards in that:

- The development complies with the public and private open space requirements in the 2020 Apartment Guidelines and the 2014 Cork County Development Plan and the Draft 2022 Cork City Development Plan;
- The development will not have an adverse impact on the amenities of adjoining neighbours;
- The development complies with the plot ratio outlined in Table 11.2 of the draft 2022 City Development Plan.

- (iv) In relation to item (iv), it is submitted that permission for the proposed development should also be granted having regard to the pattern of development in the area, which we have already outlined is lower than the nearest building to the south which is eight storeys in height and has a parapet level which is above 50.175m (over 10

metres higher than the highest parapet level of the proposed development i.e. 38.585m);

It is considered that car parking provision lower than the 2014 Cork County Development Plan standard, and a building height and density greater than the draft 2022 Cork City Development Plan standard, is justified in this instance and that having regard to the provisions of section 37(2)(b)(i), (ii) (iii) and (iv) of the Planning and Development Act 2000, as amended a grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

- the proposed development is considered to be of strategic or national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended; and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.
- National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling. The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) that maximum (rather than minimum) parking standards should be detailed to reflect proximity to public transport facilities.
- Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines states that for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.
- The building height and density, is in accordance with the Development Management Criteria outlined in Section 3 of the 2018

Building Height Guidelines and the density is in accordance with the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), which state that "*there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site*"

The proposed development is lower than the nearest building to the south which is eight storeys in height and has a parapet level which is above 50.175m (over 10 metres higher than the highest parapet level of the proposed development i.e. 38.585m).