



**HUGHES**  
**PLANNING**  
& DEVELOPMENT CONSULTANTS

# STATEMENT OF MATERIAL CONTRAVENTION

**Royal Oak SHD**

**Site at the former Royal Oak Public House,  
Finglas Road & Old Finglas Road,  
Glasnevin,  
Dublin 11**

APRIL 2022

SUBMITTED ON BEHALF OF:  
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## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this Statement of Material Contravention on behalf of our clients, Three Castle Investments Ltd., to accompany a planning application to An Bord Pleanála for a proposed Strategic Housing Development at Site at the Former Royal Oak Public House, Finglas Road & Old Finglas Road, Glasnevin, Dublin 11

The subject application involves a site comprising a total area of approximately 0.3845 hectares and comprises an irregularly shaped body of land tapering towards the north and fronting Old Finglas Road along its northern boundary and fronting Finglas Road along its western boundary.

The site was formerly occupied by the Royal Oak public house and car park which has since been demolished. The site is bound to the north by the Old Finglas Road and Glasnevin Oaks, to the south by public open space associated with the Tolka River and to the east by a row of two-storey dwellings along Violet Hill Drive.

The proposed development, as designed by Tyler Owens Architects, involves the removal of the existing carpark and hard-standing areas on site and the construction of a residential development featuring 103 no. 'Build-to-Rent' apartments with ancillary resident facilities, a part six, part seven, part eight & part nine storey over basement level plant room.

The 103 no. apartment units will be comprised of 10 no. studio units, 33 no. one-bedroom units, and 60 no. two-bedroom units, all of which have direct access to private amenity space, in the form of a balcony or terrace, and shared access to 450.9sq.m of internal resident's amenities, 1,061sq.m of external communal amenity space and 365sq.m of public open space

This Statement of Material Contravention has been prepared to set out the justification for the proposed building height and the quantum of car parking. While the Applicant does not consider the proposed building height nor the quantum of car parking to be a material contravention of the Dublin City Development Plan 2016-2022, it is a matter for An Bord Pleanála to determine if the proposed development in fact materially contravenes the Dublin City Development Plan 2016-2022 and if minded to do so, grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended). Therefore, the Applicant has taken a conservative approach to compliance with the above requirement regarding the statutory newspaper notice and the provision of a justification for the proposed building height in the context of the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

It is respectfully requested, therefore, that An Bord Pleanála has regard to the following justification for a potential material contravention of the Dublin City Development Plan 2016-2022 (as it relates to building height and quantum of car parking), having regard to the fact that the proposed development is by definition 'of strategic importance', the pattern of development approved in the area and having regard to the compliance of the proposed development with national planning policy and section 28 Guidelines as outlined herein.

These include the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, which fully support and reinforce the need for urban infill residential development at appropriate heights and densities on sites in close proximity to public transport and within existing urban areas whilst also encouraging a reduction in the number of car parking spaces provided within highly accessible locations.

## 2.0 Legislative Context

Pursuant to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (2016 Act), 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), the Board can determine that permission should, nonetheless, be granted, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000 as amended (the Act). Section 9(6)(c) of the 2016 Act stating that:

*‘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.’*

Section 37(2)(b) of the Act states that where a proposed development materially contravenes the development plan, the Board may grant permission 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.*

It is respectfully requested that An Bord Pleanála, should they determine the proposal materially contravenes the Dublin City Development Plan 2016-2022, have regard to the justification for the proposed building height provided in the subsequent sections. It is considered that the policies and objectives stated in the Section 28 Government Guidelines, including the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, provide justification for the proposed building height.

These policies, among others, are discussed in the below justification section. Further to this, the proposal can also be justified having regard to the strategic importance of Strategic Housing Developments and the permissions recently granted in the area.

### 3.0 Potential Material Contravention

#### 3.1 Building Height

Section 16.7 of the Dublin City Development Plan 2016–2022 outline the building height strategy for the City. The subject site is located in the ‘Outer City’ category and the development plan states that a height of up to 16 metres is permitted in these areas for both residential and commercial development, as outlined in the below table:

Category	Area	Height (m)
Low-rise (relates to the prevailing local height and context)	Inner City	Up to 28m (commercial)
		Up to 24m (residential)
	Rail hubs (see 3)	Up to 24m (commercial and residential)
	Outer City	Up to 16m (Commercial and residential)

Figure 1.0 Table presenting height standards for various locations within jurisdiction of Dublin City Council.

The proposed development varies in height, rising from 6-9 storeys (over basement) and reaches a maximum height of 31.23 metres (from street level to the top of the parapet) which exceeds the Development Plan’s restriction of 16 metres.

### 3.2 Car Parking

The Dublin City Development Plan 2016-2022 requires any new development to provide car parking spaces depending on the specific location of the development. The subject site is located in 'Parking Area 3' of Map J (Strategic Transport and Parking Areas) of the Dublin City Development Plan 2016-2022. A maximum no. of car parking spaces of 1.5 per dwelling, as set out in Table 16.1 of the development plan, is outlined for residential developments located in Parking Area 3. Car parking standards are maximum in nature and may be reduced in specific locations where it is demonstrated that other modes of transport are sufficient for the needs of residents. The proposal, which comprises 103 no. BTR residential units, provides for 48 no. car parking spaces in total.

## 4.0 Justification for Potential Material Contraventions

### 4.1 Building Height

The proposed height of the development is in excess of the development plan standards. The proposal comprises a part six, part seven, part eight, part nine storey over basement apartment block. The apartment block reaches a maximum height of 31.23 metres (from street level to the top of the parapet). The development's highest built form element is located to the south of the site as to avoid any undue impact on the surrounding properties. The design of the development and the variety in height proposed along each boundary has addressed the context of the existing development adjoining the site. It is considered that the proposed transition in height along each boundary is in keeping with the surrounding context of immediately abutting lots. In this regard it is considered that the increase in height in part of the site is considered acceptable and an appropriate response to the surrounding developments in the area.

The site is located in an area that is characterised by residential development, including apartment buildings extending as high as seven-storeys. An apartment scheme, which includes blocks of five and six storeys, is located on the former Premier Dairies site, further to the north along the Finglas Road while a large scheme, again mainly consisting of residential apartment buildings, is to the northwest on the junction of Tolka Valley Road and the Old Finglas Road. Additionally, to the west and cross the Finglas Road is a six-storey apartment complex at 'Tolka Vale', further north along Finglas Road is the Prospect Hill Residential Development, which provides for building heights of up to 7-storeys, with frontage along the adjacent Finglas Road to the east.



Figure 2.0 Aerial view, showing subject site outlined in red and apartment buildings of 6 and 7-storeys in close proximity at the Tolka Vale and Prospect Hill residential schemes.





Figure 3.0 Aerial view from south, showing subject site outlined in red.

The site is situated in close proximity to 2 no. Dublin Bus Stops on the Finglas Road which are served by bus service No's 40, 40B, 40D and 140. Together these bus services provide routes from Charlestown Shopping Centre to Liffey Valley Shopping Centre, serving Finglas Village, Tolka Valley, Dorset Street Lower, O'Connell Street, Inchicore, Ballyfermot Road and Neilstown Road. Finglas Road provides this bus service with the routes going in both directions on either side of the road. Access to the Broombridge Train Station, which forms part of the western commuter services, and the Broombridge Luas terminus is also available within approximately 1.5km of the subject site via Finglas Road and the Tolka Valley Park.

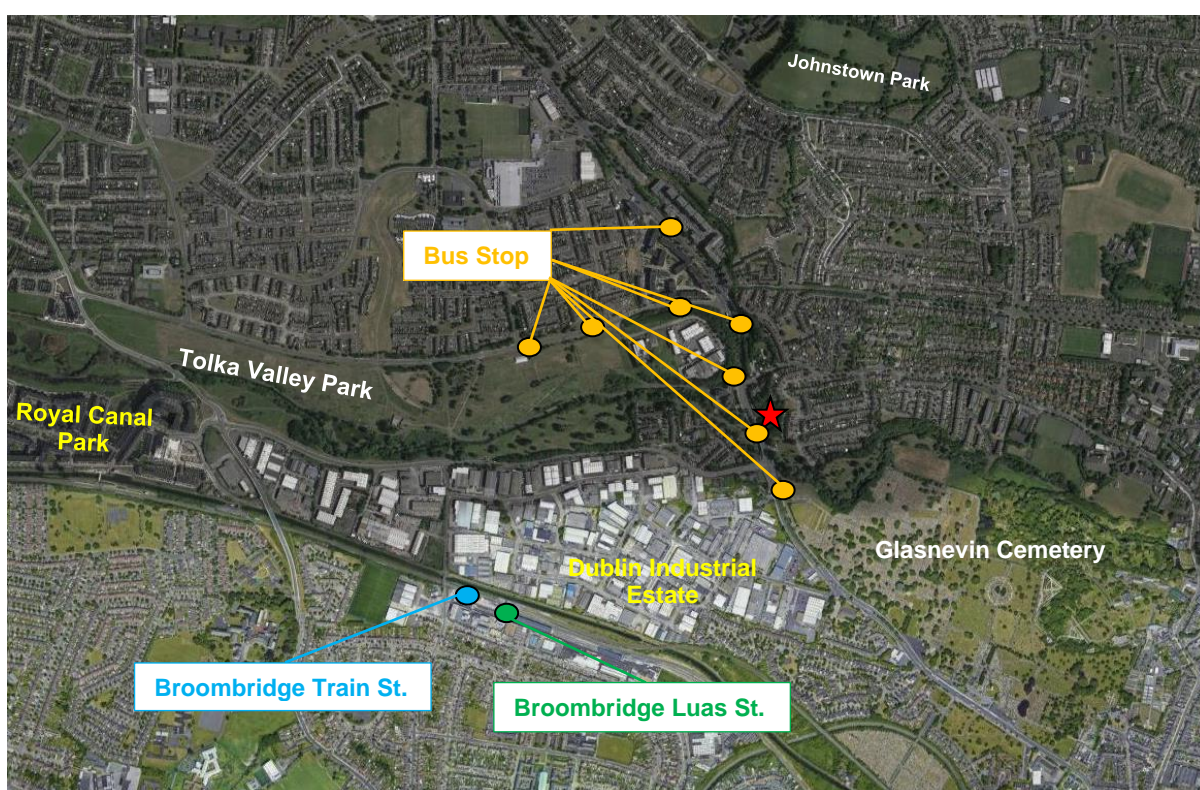


Figure 4.0 Aerial image showing the location of the subject site (red star) in proximity to surrounding public transport services and amenities.

The Dublin City Development Plan 2016-2022 acknowledges the potential and need for taller buildings in the City in the following policy:

**SC16:** *To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).*

The following assessment criteria for higher building are outlined in Section 16.7.2 of the Development Plan:

*All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:*

- *Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas*
- *Effect on the historic environment at a city-wide and local level*
- *Relationship to transport infrastructure, particularly public transport provision*
- *Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for*
- *Contribution to public spaces and facilities, including the mix of uses*
- *Effect on the local environment, including micro-climate and general amenity considerations*
- *Contribution to permeability and legibility of the site and wider area*
- *Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies*
- *Adoption of best practice guidance related to the sustainable design and construction of tall buildings*
- *Evaluation of providing a similar level of density in an alternative urban form*

The Dublin City Development Plan 2016-2022 was adopted prior to the publication of:

- National Planning Framework 2040;
- Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, 2018; and
- Urban Development and Building Heights - Guidelines for Planning Authorities, 2018.

Following the recent adoption of the Eastern and Midlands Spatial and Economic Strategy, it is expected that the Development Plan will be reviewed to meet the Specific Planning Policy Requirements of the subsequently issued Guidelines.

## 4.2 Car Parking

Section 16.38 of the Dublin City Development Plan 2016-2022 discusses the car parking requirements arising for new developments. The car parking strategy for Dublin City divides the administrative area into 3 no. distinct areas which contain differing car parking requirements. Map Set J accompanying the development plan illustrates the 3 no. parking zones. The subject site is located in 'Parking Area 3' of Map J (Strategic Transport and Parking Areas) of the Dublin City Development Plan 2016-2022.

A maximum no. of car parking spaces of 1.5 per dwelling, as set out in Table 16.1 of the development plan, is outlined for residential developments located in Parking Area 3. Car parking standards are maximum in nature and may be reduced in specific locations where it is demonstrated that other modes of transport are sufficient for the needs of residents. The development plan notes the following in relation to parking zones:

- *Parking Zone 1 is generally within an inner city location where transport corridors intersect, or that has significant interchange potential.*
- *Parking Zone 2 occurs alongside transport corridors and*
- *The remainder of the city falls under Parking Zone 3.*

Parking Zone 3, within which the subject site is located, encompasses lands located within the areas outside of the inner city or alongside transport corridors. The development plan states that *'parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety'*. Table 16.1 of the Plan sets out the maximum car parking standards for various land uses within the City and prescribes a parking standard of 1.5 no. spaces per dwelling for developments proposed in 'Parking Zone 3'.

The proposed development, comprising 103 no. residential apartments, would result in a maximum parking provision of 154.5 no. car parking spaces. The proposal provides for 48 no. vehicular parking spaces (including 3 no. mobility parking spaces and 5 no. electric charging spaces) to serve the development which is below the maximum requirements. It is prudent to note that the car parking standards as set out in the Dublin City Development Plan 2016-2022 are maximum standards and, accordingly, a deviation from this would not be considered to contravene the development plan,

The inclusion of the 48 no. spaces for the 103-unit scheme is equivalent to a provision rate of 0.47 spaces per apartment. The Development Plan outlines how parking provision below the maximum standards may be permitted provided such provision does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.

The proposed level of car parking is supported by the Transportation Assessment Report prepared by NRB Consulting Engineers submitted with the application. This report concludes that:

*'This report demonstrates that the proposed Development will have an absolutely negligible impact upon the established local traffic conditions and can easily be accommodated on the road network without any capacity concerns arising.'*

It is also noted that the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018* (as revised 2020) refer to a reduction in car parking standards. The guidelines address car parking and include an objective to *'Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.'*

Section 4.18, 'Car Parking', of the Apartment Guidelines acknowledges 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. Section 4.19 the guidelines note that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be wholly eliminated or substantially reduced.

Specifically, Section 4.19 of the Apartment Guidelines 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.'*

Specific Planning Policy Requirement 8 of the Apartment Guidelines states the following in relation to car parking provision:

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

The Dublin City Development Plan 2016-2022 prescribes car parking standards which are 'maximum requirements. The development plan also allows for a deviation from the maximum car parking standards for new development proposals in certain instances,

Due to the above, it is considered that the proposed scheme does not materially contravene the Development Plan with regard to the quantum of car parking spaces provided. However, should the Board consider that a material contravention occurs, it is submitted that the rationale for the reduction in car parking spaces has been provided throughout this report, to enable the Board to grant permission for the development in accordance with Section 37(2)(b) of the Act.

## **5.0 Justification for Potential Material Contraventions pursuant to Section 37(2)(b) of the 2000 Act.**

A justification for the potential material contravention of the Dublin City Development Plan 2016-2022 is set out below, under the relevant parts of Section 37(2)(b) of the 2000 Act.

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

The proposed development comprises of inter alia the provision of a residential development featuring 103 no. build-to-rent apartments on a site of c. 3,845sq.m. 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. On this basis it is submitted that the proposed development is, of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland.

### **5.2 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**

The following section shall demonstrate how the proposed building height is justified in the context of recent National Planning Policy and Section 28 Government Guidelines.

#### **5.2.1 Project Ireland: National Planning Framework 2040**

The National Planning Framework 2040 (NPF) seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl, increase the sustainability of public transport networks and meet the housing needs of our growing population. The NPF seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built-up areas over the lifetime of the framework.

The following objectives and guidance regarding brownfield development in the NPF are of particular relevance:

<b>National Policy Obj. 3a</b>	<i>Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.</i>
<b>National Policy Obj. 3b</b>	<i>Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.</i>
<b>National Policy Obj. 13</b>	<i>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.</i>
<b>National Policy Obj. 35</b>	<i>Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights</i>



To enable brownfield development, planning policies and standards need to be flexible, focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas.

The proposed building height is considered appropriate given the brownfield nature of the subject site and the location of this under-utilised site, in close proximity to Dublin City Centre and multiple public transport services. Glasnevin currently benefits from access to a number of high-frequency bus routes within 140 metres of the proposed development site. The bus stop directly opposite the subject site provides high-frequency services to IKEA, Charlestown and Tyrrelstown. It is considered that the location of the subject site in Glasnevin, along with the availability of efficient bus services in proximity to the site, promotes sustainable forms of transport, including cycling and walking. The public transport and road and cycle networks would support the proposed high-density development for the subject site.

The proposed development is therefore in accordance with the objectives of the NPF in this regard. Restricting development building heights at such a location, well served by public transport, under the Dublin City Development Plan 2016–2022 is a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

## **5.2.2 Urban Development and Building Heights - Guidelines for Planning Authorities, 2018**

The Urban Development and Building Height Guidelines, 2018, are intended to set out national planning policy guidelines on building heights and development intensity in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040. Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.

The Height Guidelines emphasise the policies of the National Planning Framework to greatly increase levels of residential development in urban centres and to increase building heights and overall density, and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level. The Height Guidelines, 2018, state that the:

*'Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.'*

The Guidelines also note that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured. Chapter 3 of the Height Guidelines, 2018 expressly seeks increased building heights in urban locations:

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

Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. The Height Guidelines state that *'the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights'*.

The Height Guidelines note Local Authorities have set generic height limits within their functional areas and state the following:

*Such limits have resulted from local-level concerns, like maintaining the character of an existing built-up area, for example. However, such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes.*

The Guidelines state that it is appropriate to support heights of at least six storeys at street level with scope for greater height subject to design parameters. This is contrary to the height limitations provided in the Dublin City Development Plan 2016–2022. It is further stated that in some cases Development Plans have set out overly restrictive maximum heights limits which leads to development being displaced to less suitable locations resulting in a lost opportunity for key urban areas. Section 2.8 of the Guidelines identifies examples of locations with potential for comprehensive development which could accommodate a cluster of tall buildings with brownfield former industrial districts being cited as an example. The subject lands comprise a brownfill site within Dublin which previously occupied a public house. The former public house has been demolished and now the lands represent a serious underutilisation of zoned and serviced land within a city centre environment. The sites proximity to public transportation and the village of Glasnevin present an opportunity to regenerate the local area.

Chapter 2 of the Guidelines sets out the following Specific Planning Policy Requirement:

***Specific Planning Policy Requirement 1***

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

We would contend that the height limits set out in the Dublin City Development Plan 2016–2022 are contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans.

Chapter 3 of the Guidelines sets out the following Specific Planning Policy Requirement:

***Specific Planning Policy Requirement 3***

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

- (A) *1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*  
*2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*
- (B) *In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme*

- (C) *In respect of planning schemes approved after the coming into force of these guideline these are not required to be reviewed.*

We have demonstrated how the proposed development satisfies the specified criteria set out in Specific Planning Policy Requirement 3 of the Height Guidelines as follows:

Development Management Criteria		
	Assessment Criteria	Comment
At the scale of the relevant city/town	<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>Glasnevin currently benefits from access to a number of high-frequency bus routes within 140 metres of the proposed development site. The bus stop directly opposite the subject site provides high-frequency services to IKEA, Charlestown and Tyrrelstown. It is considered that the location of the subject site in Glasnevin, along with the availability of efficient bus services in proximity to the site, promotes sustainable forms of transport, including cycling and walking. The public transport and road and cycle networks would support the proposed high-density development for the subject site.</li> </ul>
	<i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect</i>	<ul style="list-style-type: none"> <li>It has been detailed in the Architectural Design Statement, prepared by Tyler Owens Architects, and the Statement of Consistency, prepared by Hughes Planning and Development Consultants, how the development will be assimilated into its surrounding context. We note that the subject site is not located within an architecturally sensitive area and is not surrounded by any unique locational characteristics. It is considered that the architectural composition of the proposed buildings which gradually extend from part six, part seven, part eight, part nine storey over basement afford visual interest in this area.</li> <li>The proposed development will improve the public realm in the in the immediately surrounding area, with active frontages being provided to Finglas Road and an area of amenity provided at the corner junction with Old Finglas roads. This is an improvement from the existing car parking-use of the subject lands.</li> </ul>
	<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>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
	<i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</i>	<ul style="list-style-type: none"> <li>The high quality design of the proposed development has regard to clear guidance provided in national planning policy which seeks the densification of brownfield sites in close proximity to significant employment locations and public transport such as the subject site.</li> <li>The proposed development has been designed having regard to any sensitive abutments/adjacent residential amenity of the site. The development provides for landscaping areas, generous setback of the block from boundaries and a variation in heights throughout the apartment block.</li> <li>The high quality materials utilised in the scheme ensures that the development will make a positive contribution to the streetscape.</li> </ul>
	<i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of</i>	<ul style="list-style-type: none"> <li>We note that this high quality scheme provides adequate relief, the proposal varies in height from part six, part seven, part</li> </ul>

At the scale of district/ neighbourhood/ street	slab blocks with materials / building fabric well considered.	eight, part nine storey over basement. A comprehensive Architectural Design Statement has been prepared by Tyler Owens Architects and is submitted with this planning application which demonstrates the rationale for the design approach and how conscious efforts have been made to provide architecturally interesting forms and spaces.
	<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>	<ul style="list-style-type: none"> <li>• We note that the scheme will provide active surveillance of the communal open spaces throughout the development with the resident support facilities providing additional animated daytime uses. Furthermore, we submit that the scale of the development is appropriate to its location as set out within the accompanying Statement of Consistency and Planning Report, prepared by Hughes Planning and Development Consultants.</li> <li>• The proposed development activates both Finglas Road and Old Finglas Road.</li> <li>• We note that a Flood Risk Assessment has been carried out by Curtins which has due regard to the Flood Risk Management Guidelines.</li> </ul>
	<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>	<ul style="list-style-type: none"> <li>• The high quality design of the scheme will ensure the development will be a legible and attractive addition to the area designated for regeneration.</li> <li>• Pedestrian/cycle access is provided off Finglas Road, which is a designated cycle lane. The public realm at the corner junction between Finglas Road and Old Finglas Road also integrates the scheme into the surrounds, providing further connection. The frontage onto Finglas Road will be of high quality material.</li> </ul>
	<i>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</i>	<ul style="list-style-type: none"> <li>• As set out at Section 1.0 of this report, the proposed application seeks permission for a strategic housing development comprising a mixed-use development featuring 103 no. 'build-to-rent' apartments, in variety of sizes and layouts, and ancillary resident facilities. The mix of apartments proposed on the subject site will ensure the creation of a sustainable community with ease of access to services and facilities in the surrounding area and Dublin City more broadly.</li> <li>• Considerable effort has been made to activate the streets the development abuts. Whilst a very minor area of the site adjoins the Old Finglas Road, the Applicant has provided an amenity area to positively contribute to this area.</li> </ul>
At the scale of the site/building	<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>	<ul style="list-style-type: none"> <li>• The proposed scheme has been designed having regard to access to natural daylight, ventilation and views and minimising overshadowing and loss of light with generous setbacks adopted from the eastern and western boundaries and between blocks, stepping down of buildings adjacent to sensitive interfaces, including windows and open space areas, and provision of generously proportioned open space areas with a variety of orientations within the proposed scheme.</li> <li>• Design changes informed by daylight/sunlight analysis, including amendments to windows and balconies, reductions in height and massing and an increase in separation distances, have been adopted as the project has evolved to enhance the level of sunlight, daylight and ventilation received and minimise overshadowing and loss of light. The evolution of the design of the scheme and changes made are discussed in Section 3.0 of the Statement of Consistency and Planning Report, prepared by Hughes Planning and Development Consultants, as well as in the Design Statement, prepared by Tyler Owens Architects. The varying scenarios assessed from a BRE requirements perspective are discussed in the Daylight and Sunlight Report, prepared by H3D.</li> </ul>
	<i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research</i>	<ul style="list-style-type: none"> <li>• We refer to the Daylight and Sunlight Report, prepared by H3D, submitted with this application, which assesses all apartments within the scheme and demonstrates a high quality living environment internally and externally for future residents when assessed against the quantitative standards. This study confirms that more than 100% of the habitable rooms in the</li> </ul>



	<p><i>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>proposed block have achieved the daylight factor target. Given the infill nature and scale of development in a city centre location and located in close proximity to neighbour properties, the Design team has taken extensive care to ensure that the development does not negatively impact surrounding properties in terms of receipt of daylight and sunlight. The amenity overshadowing study of the communal spaces shows that a total of 78.4% of the communal amenity space at the first floor will receive at least 2 hours of direct sunlight on the 21st of March and 87.7% of the communal amenity space at the seventh floor will receive at least 2 hours of direct sunlight on the 21st of March both thus passing the BRE guideline level for overshadowing.</p> <ul style="list-style-type: none"> <li>• In the context of the surrounding properties, this study assesses the VSK for properties along Violet Hill. The overshadowing caused by the proposed development is in keeping with a development of this size and the VSC analysis indicates that the rear windows of the neighbouring properties on Violet Hill Dr all achieve the recommended levels of VSC.</li> </ul>
	<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 might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</i></p>	<ul style="list-style-type: none"> <li>• As per the above, the Daylight &amp; Sunlight Report prepared by H3D concludes that no material impacts will occur on neighbouring properties. The Daylight &amp; Sunlight Report has been prepared on the basis of the Building Research Establishment's Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (the BRE Guidelines).</li> <li>• The Daylight and Sunlight Report also confirms that more than 100% of the habitable rooms in the proposed block have achieved the daylight factor target. Given the infill nature and scale of development in a city centre location and located in close proximity to neighbour properties, the Design team has taken extensive care to ensure that the development does not negatively impact surrounding properties in terms of receipt of daylight and sunlight.</li> <li>• In the context of the surrounding properties, this study assesses the VSK for properties along Violet Hill. The overshadowing caused by the proposed development is in keeping with a development of this size and the VSC analysis indicates that the rear windows of the neighbouring properties on Violet Hill Dr all achieve the recommended levels of VSC.</li> <li>• The amenity overshadowing study of the communal spaces shows that a total of 78.4% of the communal amenity space at the first floor will receive at least 2 hours of direct sunlight on the 21st of March and 87.7% of the communal amenity space at the seventh floor will receive at least 2 hours of direct sunlight on the 21st of March both thus passing the BRE guideline level for overshadowing.</li> <li>• Whilst a 100% rate of communal amenity space has not been achieved it is considered that any shortfalls are considered appropriate in this instance given the infill nature and scale of development in a city centre location, located in close proximity to neighbour properties.</li> </ul>
Specific Assessments	<p><i>Specific impact assessment of the micro-climatic effects such as downdraft. 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>• The application is accompanied by a Wind Microclimate Modelling, prepared by B-Fluid. This report includes the following conclusions: <ul style="list-style-type: none"> <li>○ <b>No Conclusions in draft report at time of writing</b></li> <li>○</li> <li>○</li> <li>○</li> <li>○</li> <li>○</li> </ul> </li> </ul>

<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>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<i>An assessment that the proposal maintains safe air navigation.</i>	<ul style="list-style-type: none"> <li>• This is not applicable as the subject site is not proximate to any airports and the building is not of such a height that it would impact on helicopter flight paths associated with the hospitals in the surrounding area.</li> </ul>
<i>An urban design statement including, as appropriate, impact on the historic built environment.</i>	<ul style="list-style-type: none"> <li>• An Architectural Design Statement prepared by Tyler Owens Architects has been submitted with the application. The site is underutilised as it currently comprises a car park with hardstanding.</li> </ul>
<i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i>	<ul style="list-style-type: none"> <li>• An Appropriate Assessment Screening Report, prepared by Meehan Ecology, is submitted with the planning application. Additionally, AN EIAR Screening Report has been oreard by AWN Consulting.</li> </ul>

The building heights set out in the Dublin City Development Plan 2016–2022 are considered to be conservative and an inefficient use of zoned land and is considered to be contrary to the objectives of the Urban Development and Building Height Guidelines, 2018.

### 5.2.3 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018

The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, build upon the provisions of the NPF by moving away from blanket restrictions on height in certain locations in favour of an evidence-based approach on performance criteria. The Guidelines were subsequently revised in 2020. The Apartment Guidelines provide clear guidance with regard to the types of location which are considered suitable for higher density residential development such as 'Central and/or Accessible Urban Locations and 'Intermediate Urban Locations' It is considered that the subject site falls into the category of 'Accessible Urban Locations' as set out below.

The Apartment Guidelines state that Central and/or Accessible Urban Locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, and are classified as follows:

- 'Sites within walking distance (i.e. up to 15 minutes or 1,000- 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800- 1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services'.

The subject site therefore constitutes a 'central and / or accessible urban location', as defined within the 2018 Apartments Guidelines (as revised), as it satisfies the above 3 no. criteria, the subject site's proximity to Dublin City Centre and public transport services having been discussed previously in Section 5.2.1. The building height limitations specified in the Dublin City Development Plan 2016-2022 conflict with the provisions set out in the Apartment Guidelines which promotes increased densities at well served urban sites.

Section 5.14 of the Guidelines sets out the following Specific Planning Policy Requirement:

### **Specific Planning Policy Requirement 8**

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

The application site is located in an easily accessible location, served by a very good public transportation network. The reduction of car parking is considered to be appropriate at this location.

#### **5.2.4 Housing for All - A new Housing Plan for Ireland**

The 'Housing for All - A new Housing Plan for Ireland' was published in September 2021 as part of the Irish Government's 'Our Shared Future' programme which, in turn, sets out the Government's mission to tackle the housing crisis. The objective of the plan is to ensure that everybody has:

*'access to sustainable, good quality housing to purchase or rent at an affordable price, built to high standard, and located close to essential services, offering high quality of life.'*

The plan seeks to increase new housing supply to an average of at least 33,000 new units per year with specific pathways outlined to achieve the four overarching objectives of the plan which are:

- *Supporting Homeownership and Increasing Affordability;*
- *Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion;*
- *Increasing New Housing Supply; and*
- *Addressing Vacancy and Efficient Use of Existing Stock.*

We submit that the proposal is consistent with the above policy as it provides an appropriate quantum of residential accommodation on a zoned and serviced suburban site. The provision of residential units on site, in the manner proposed under this application, supports homeownership and affordability, results in increased social housing provision and provides for the efficient use of zoned and serviced land.

The increased building height of 31.23 metres, whilst exceeding the 16 metre limitation specified in the Development Plan, will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Housing for All - A new Housing Plan for Ireland

#### **5.3 Part (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**

We would contend that 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. The pattern of development and permissions granted in the area of the subject site are key considerations in the rationale for the current Strategic Housing Development proposal. The pattern of development in the surrounding area are of relevance to the current development proposal. A number of developments, including strategic housing developments, have been approved in the immediately surrounding area and wider Dublin City Area which involve building heights of 12 to 14 storeys which exceed those outlined in the Dublin City Development Plan 2016-2022. These include the following:

**No. 54 Glasnevin Hill and "Ardmore" with lands adjacent thereto, No. 38 Glasnevin Hill, No. 52 Glasnevin Hill, lands to the rear of Nos. 48, 50 and 52 Glasnevin Hill, and Nos. 40 and 42 Glasnevin Village, Dublin 9**

#### **ABP. Ref. 308905**

Planning permission granted by An Bord Pleanála on 13<sup>th</sup> April 2021 for a Strategic Housing Development comprising the demolition of existing vacant motor vehicle showroom and no. 38 Glasnevin Hill, construction of 101 no. apartments and associated site works.

The following commentary contained within the Inspector's report is considered relevant to the assessment of the subject planning application:

*'The proposal of 101 apartment units provides for a density of 225 units per hectare. In addition, the development includes retail/ commercial units in the form of medical suites. The development therefore provides for a high intensity of use on this site. The site is located in an established urban area, where public transport is available and where community/ social/ recreational infrastructure is within walking distance.'*

*'Whilst the greater Glasnevin area may be dominated by two-storey houses, this section of Glasnevin Hill is certainly characterised by higher buildings. These buildings are located on a higher point of Glasnevin Hill and the proposed development will not dominate.'*

*'The Planning Authority were generally satisfied that the proposed heights were acceptable in this location and note that 'The proposed development comes into view incrementally as one travels northwards'. The overall design is considered to be acceptable.'*

Based on the above commentary, it is considered that the site, subject to this planning application at the Former Royal Oak Public House, is a suitable site to accommodate a development of increased height and density, in accordance with the recent grant of permission at the adjoining site.

The following figures illustrate the development approved under ABP Ref. 308905.



Figure 5.0 Photomontage imagery of development approved under ABP Ref. 308905, viewed from Glasnevin Hill.





Figure 6.0 Contiguous elevation approved under ABP Ref. 308905.

In terms of car parking, the identified scheme at Glasnevin Hill proposed 45 no. spaces to serve the 101 no. apartments. This equates to 0.45 spaces per unit. This is similar to the proposed ratio of car parking to apartment under the subject development. The Board Inspector noted that following in their report:

*'The development is therefore promoting itself as a sustainable urban scheme and the need for car parking is therefore reduced. Residents of the scheme will be well aware that car parking is limited and that alternative forms of transport will be required. The nature and location of the development is therefore acceptable in terms of reduced car parking provision.'*

It is contended that the subject proposal provides a sufficient quantum of car parking spaces to serve the proposal.

#### **Dublin City University, DCU Glasnevin Campus, Collins Avenue Extension, Dublin 9**

**ABP Ref. 305405** Planning permission granted by An Bord Pleanála on 18<sup>th</sup> December 2019 for a Strategic Housing Development comprising the 'demolition of existing Larkfield building, construction of 213 no. on campus student accommodation units (1240 no. bed spaces) and associated site works.

The approved scheme consisted of 5 to 10 storeys apartment blocks, varying in height from 17 metres to 32 metres which was considered acceptable by the Inspector.



Figure 7.0 Photomontage of development approved under ABP Ref. 306405.

#### **Merville Place SHD - Part of Former Premier Dairies Site, Finglas Road, Dublin 11 (c. 765 metres north-west of the subject site)**

**ABP Ref. 310722-21** Planning permission granted by An Bord Pleanála on 18<sup>th</sup> October 2021 for a Strategic Housing Development Application comprising the provision of 191 no. apartments accommodated in 3 no. buildings ranging in height from 5 to 6 storeys, a childcare facility and all associated site development works.

The scheme proposed 99 no. car parking spaces to serve the proposed 191 no. apartments, resulting in a ratio of 0.51 car parking spaces per unit.



Figure 8.0 CGI view of the development as proposed under ABP Ref. 310722-21, as viewed from Finglas Road



Figure 9.0 CGI view of the development as proposed under ABP Ref. 310722-21

**Site to the north of Poppintree Industrial Estate, bounded by St. Margaret's Road to the north, and Balbutcher Lane to the south east, Dublin 11**

**ABP Ref. 305538-20** Planning permission granted by An Bord Pleanála on 27<sup>th</sup> January 2020 for a Strategic Housing Development at the above site. In summary the development as proposed related to the following: construction of a mixed-use development comprising a 300sq.m coffee shop on the ground floor of Block 03 fronting onto Hampton Wood Drive and St. Margaret's Road. The provision of 129 no. apartments in 4-9 storey blocks; a single level basement providing 89 no. car parking spaces and 96 no. resident bicycle parking spaces; and all associated works necessary to facilitate the proposed development.





Figure 10.0 CGI view of the development as proposed under ABP Ref. 305538-20.



Figure 11.0 Western elevation of the development as proposed under ABP Ref. No. 3005538-20.

Upon review of the above application documentation, we note the following commentary as included within the Board's Inspector's report relating to the proposed height of the scheme:

*'I tend to disagree with the p.a.'s concerns in respect of the height of the proposal, particularly of Block at 6 to 9 storeys in height. This building is located at the entrance to the development and the overall Hampton Woods Development. It creates a strong edge and marker along Saint Margaret's Road. It is well designed and will give identify to the area.'*

In their decision to grant permission, the Board concluded that: *'the proposed development would constitute an acceptable residential density in this zoned 'Intermediate Urban Location', which would, subject to condition, not seriously injure the visual amenity of the area, would, subject to condition, be acceptable in terms of urban design, height and quantum of development and would, subject to condition, be acceptable in terms of pedestrian and traffic safety.'*

As above noted, the development as approved under ABP Ref. 305538-20, extends to a building height of 9-storeys at its tallest point, which is comparable to the proposal to which this planning report pertains.

## 6.0 Conclusion

It is considered that the proposed building height of 31.23 metres is justified in this instance. The proposed scheme comprises a part six, part seven, part eight, part nine storey over basement apartment block which exceeds the 16-metre height limit prescribed by the Dublin City Development Plan 2016-2022. The proposal also provides 48 no. car parking spaces which may be considered a Material Contravention as it falls short of the maximum car parking standards.

For the reasons outlined above, it is submitted that the proposed development is consistent with the proper planning and sustainable development of the area, and is consistent with all relevant national and regional planning policies and guidelines.

It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the Dublin City Development Plan 2016-2022 that an appropriate justification is set out within this statement demonstrating that the proposed building height and quantum of car parking is appropriate having regard to the policies and objectives set out within the Section 28 Guidelines, as well as the strategic nature of the development and the pattern of development approved in the immediately surrounding area.

Yours sincerely,



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Kevin Hughes  
MIPI MRTPI  
Director for HPDC