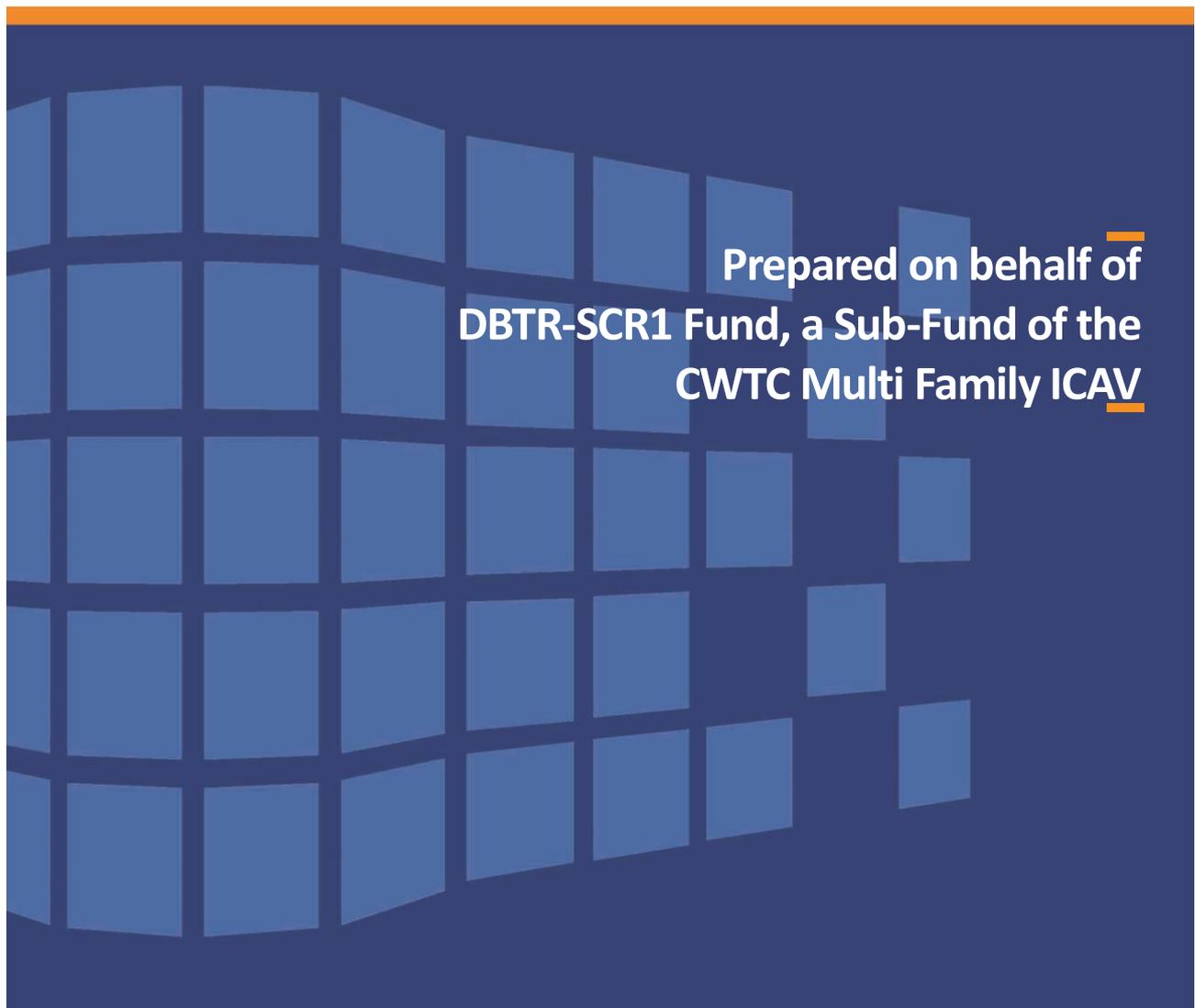


# Material Contravention Statement

Proposed Strategic Housing Development at the Former Bailey Gibson Site,  
326-328 South Circular Road, Dublin 8

May 2020



## Document Control Sheet

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# 1 Introduction

To comply with Section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Applicant has considered whether any aspect of the proposed Strategic Housing Development materially contravenes the Dublin City Development Plan 2016-2022. Where an application is deemed to materially contravene the relevant development plan, Section 8(1)(a)(iv)(II) requires a statement *“indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000”*.

In respect of the current SHD proposal for the Bailey Gibson site, the proposed height of the development exceeds the height limitations for SDRA 12 specified in the City Development Plan. Section 16.7.2 identifies St Teresa’s Gardens as a location where building heights up to 50m are permitted. Within the proposed development, there are two taller buildings, one is eleven storeys (57.250m) and the other sixteen storeys (72.435m) which exceed the maximum standards.

The two taller elements which exceed the maximum height limit of 50m are to be located in the central and north-eastern part of the site where they will have the least effect on neighbouring residential development and the surrounding streetscape, particularly in terms of visual impacts, overshadowing and loss of privacy. The incorporation of these taller buildings is a critical element of the design rationale to create a sense of place in this transitional location.

The purpose of this report is to address this matter within the relevant legislative context. Section 3 provides a justification for the material contravention of the City Development Plan in relation to the height of the proposed development. It provides a rationale for the height strategy proposed at the site and establishes the compliance of the proposed taller buildings with relevant assessment criteria contained in national, regional and local planning policies.

## 2 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 SHD 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,*

The development of Bailey Gibson is being progressed through the Strategic Housing Development planning process which, in itself, confirms the strategic importance of the current application, in accordance with Section 372(b)(i). The proposal is for a residential led development and the national importance of the proposal is confirmed in the Government’s plan *Rebuilding Ireland* designed to accelerate housing supply to address the housing shortage.

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

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

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

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

## 3 Justification for Height of Proposed Bailey Gibson Development

### 3.1 Introduction

In respect of the proposed height of the development which exceeds the 50m height limitations in the City Development Plan, Section 37(2)(b)(iii) of the Act of 2000 is relevant. As this statement demonstrates the proposed Bailey Gibson redevelopment is consistent with the relevant national planning policies, regional spatial and economic strategy and section 28 guidelines, including:

- Rebuilding Ireland (2016)
- National Planning Framework (2018)
- Eastern and Midland Regional Spatial and Economic Strategy (2019)
- Guidelines for Urban Development and Building Height (2018)
- Design Standards for New Apartments Guidelines (2018)

In addition, this report details the compliance of the proposal in relation to the relevant assessment criteria for taller buildings contained within Dublin City Development Plan 2016-2022.

Following in **Table 1** is a breakdown of the proposed building heights within the Bailey Gibson redevelopment by block.

Block	Storeys	Max Building Height to parapet
BG1	5 to 11 storeys	57.250m*
BG2	2 to 16 storeys	72.435m*
BG3	3 to 5 storeys	38.725m
BG 4	3 to 4 storeys	34.800m
BG5	3 storeys	31.810m

\*Exceeds DCDP Building Height Limit of 50m

TABLE 1 BUILDING HEIGHT BY BLOCK

The proposed development consists of 5 no. residential blocks (BG1, BG2, BG3, BG4 and BG5) that range in height from two to sixteen storeys. Blocks BG3, BG4 and BG5 range in height from three to five storeys and are well within the height limitations set out in the City Development Plan. Block BG1 is predominantly five to six storeys, however it includes a taller element of eleven storeys which has a height of 57.250 metres to the parapet. Block BG2 ranges from two to sixteen storeys with a maximum height of 72.425m above ground level. The height of blocks has been staggered with careful regard for surrounding development, to protect against adverse impacts on neighbouring low rise dwellings and respect the established residential character of the site.

### 3.2 Site Location

The subject land is a brownfield site located between South Circular Road and Cork Street, Dublin 8, approximately 2.3km south-west of Dublin city centre and within the canal cordons. It forms part of a wider Masterplan area that encompasses Strategic Development and Regeneration Area 12 – St Teresa’s Gardens, see Figure 1.

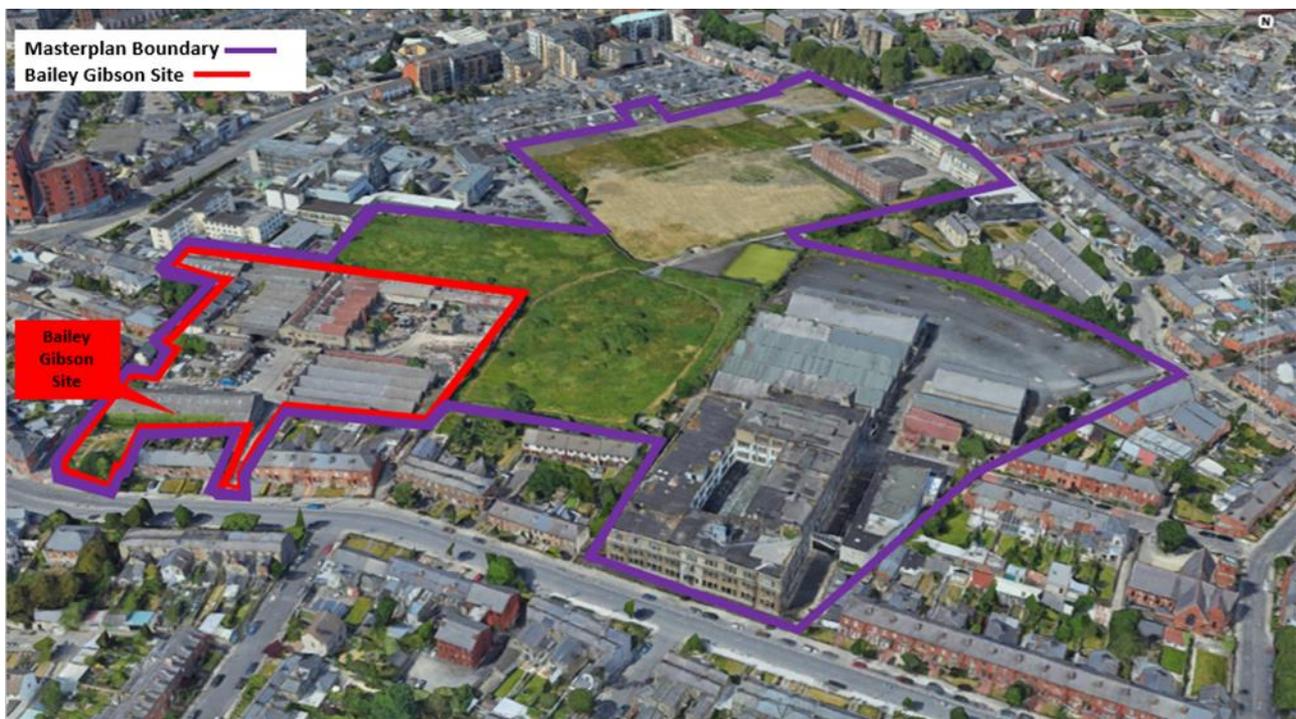


FIGURE 1 SUBJECT SITE AND MASTERPLAN BOUNDARY

The subject site is located within an established suburban area and is predominantly surrounded by low density residential development. It benefits from access to wide range of commercial, medical, recreational, community and educational uses in close proximity, as detailed in the accompanying **Social Infrastructure Audit** submitted under separate cover.

The location is close to major employment centres both in the city centre and surrounding suburbs and along transport corridors including the LUAS red line and South Clondalkin Quality Bus Corridor (QBC) which extends along Cork Street and Dolphin's Barn Street.

Fatima LUAS stop is c.800m north-west of the site (walk time less than 10 minutes), while South Clondalkin QBC connecting the site with the city centre and south-western suburbs of Dublin extends along Cork Street and Dolphin's Barn Street and is situated c.200m to the west (2-4 minute walk).

The locality is well served by Dublin Bus, with the nearest bus stops being c.100m from the site on the northern side of South Circular Road and c.96m away on the southern side of South Circular Road. These bus stops provide the subject site with connections to the city centre, Ashington in north Dublin, Drimnagh to the south-west and Greenogue Business Park to the west.

Additional high frequency bus services are also available along the nearby QBC at Dolphin's Barn Street/Cork Street, where the nearest bus stops are located c.250m and c.290m away on the eastern and western sides of the QBC respectively. These bus stops are served by routes 17 and 17D (Rialto to Blackrock station), 27 (Jobstown to Clare Hall), 56A (Tallaght to Ringsend Road), 77A and 77X (Citywest to Ringsend Road) and 151 (Foxborough to Docklands), connecting the subject site with Dublin city centre and the greater metropolitan area.

This high level of connectivity provides future residents easy access to employment centres located at Cork Street, the Coombe Women's Hospital, St. James's Hospital, Technological University of Dublin Grangegorman campus, Trinity College Dublin, Dublin city centre and the Dublin Docklands.

### 3.3 Rebuilding Ireland

The Bailey Gibson site is a substantial brownfield site capable of large-scale housing delivery that will provide a significant contribution to the available stock of private rented accommodation in accordance with the objectives of Rebuilding Ireland – Action Plan for Housing and Homelessness (2016). In particular, it is consistent with the actions proposed under *Pillar 3 – Build More Homes* and *Pillar 4 – Improve the Rental Sector*. As part of the Government's commitment to improve the rental sector under Pillar 4 of the Action Plan, it identifies the following key objective:

*“Addressing the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.”*

To realise this objective, it contains a series of key actions aimed at providing greater certainty for landlords, increasing supply and investment in the market, improving standards of rental accommodation and management, and strengthening services to empower tenants and landlords. One of the key actions is to *“encourage build to rent”* and the plan seeks to actively expand the build to rent sector.

Thus, the proposed BTR development has arisen following Government initiatives to provide for large scale, high quality rental accommodation that is owned and operated by institutional entities and so meet the needs of the growing rental market.

### 3.4 National Planning Framework

The National Planning Framework (NPF) 2018 aims to deliver on the Government's commitment in Rebuilding Ireland to increase the supply of much needed housing that will benefit the growing resident population, and enhance the economic competitiveness of Dublin City as a destination to attract FDI. The NPF projects that a

minimum of 550,000 new homes will be needed over the period to 2040, at least 50% of which are targeted for provision in Ireland's five cities.

It advocates densification and greater building height as measures to grow our cities and towns in a more sustainable manner and achieve the objectives of consolidation and compact growth. To ensure the continued performance of Dublin which is critical to Ireland's competitiveness, Section 3.2 of the National Planning Framework (NPF) states:

*"At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development."*

The NPF specifically identifies the importance of infill and brownfield development in urban areas as particularly challenging and necessitating a more flexible approach to realising these higher level planning objectives. Section 4.5 of the NPF states:

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

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

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

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

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

The preparation of a Masterplan by Dublin City Council in close collaboration with the Applicant is therefore consistent with this approach endorsed by the NPF to ensure that regeneration at this urban brownfield site can be undertaken with a focus on design-led and performance based outcomes.

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

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

The subject land is a brownfield site located within the inner suburbs of Dublin city. It forms part of a wider, under-utilised landbank in the ownership of the Applicant within an identified regeneration area. Activating this site with the delivery of 416 no. BTR units will therefore deliver much needed housing and realise effective density and consolidation in a highly connected urban location within the canal and M50 ring, consistent with the national policy objectives of the NPF.

### 3.5 Regional Spatial and Economic Strategy

Aligned with the objective of the NPF to achieve more compact growth in our cities and towns, the Eastern and Midland Regional Spatial and Economic Strategy (RSES) 2019 recognises the importance of urban brownfield and regeneration sites in contributing to sustainable patterns of growth and revitalisation of existing settlements.

The strategy contains guiding principles for local authorities specifically to deal with the complexities of urban infill and brownfield sites, with the aim of achieving compact growth. To this end, RPO 3.3 states:

*“Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for new Apartment’s Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities’.”*

The proposed Bailey Gibson redevelopment has been designed to achieve the strategic objectives of regeneration and increased density, in line with the relevant section 28 guidelines indicated in RPO 3.3, as detailed in this report.

### 3.6 Urban Development and Building Height Guidelines

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

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

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

The strategic nature of the subject site as a central urban location only 2.3km from Dublin city centre has underpinned both the design and height strategy for the proposed development. The design approach has also evolved to respond to the distinct qualities of this former industrial site which benefits from high levels of accessibility to public transport, consistent with SPPR 1.

Section 2.11 of the Guidelines states that *“Locations with the potential for comprehensive urban development or redevelopment (e.g. brownfield former industrial districts, dockland locations, low density urban shopping centres etc) should be identified where, for example, a cluster of higher buildings can be accommodated as a new neighbourhood or urban district or precinct.”*

In accordance with the Guidelines, a comprehensive Masterplan has been prepared by Dublin City Council, in conjunction with the Applicant to provide an integrated framework for SDRA 12, that includes the subject site and deals with movement, public realm, design and other issues that are best addressed at a neighbourhood level rather than at an individual site scale.

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

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

- *Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

Bailey Gibson is a strategic brownfield site located in the inner suburbs of Dublin city, within the canal cordon and M50 ring. It is situated c.2.3km south-west of Dublin city centre, and forms part of a wider site that is designated for regeneration. The location is close to major employment centres, particularly the Coombe Women’s Hospital and St James’ Hospital, as well as the city centre, Dublin Docklands, TUD Grangegorman campus and Trinity College Dublin. It is also situated in close proximity to high capacity, high frequency public transport corridors including the LUAS red line and Cork Street QBC.

It is an under-utilised urban site that is capable of delivering high density residential development and consolidation, consistent with the National Strategic Objectives of the NPF to achieve a targeted pattern of growth, specifically;

NPO 3a - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements; and

NPO 3b - 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.

- *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

The Dublin City Development Plan 2016-2022 was adopted prior to publication of the NPF (2018) and the Urban Development and Building Height Guidelines (2018). A variation (No. 7) has been drafted which seeks to align the City Development Plan with the NPF and RSES, principally focussing on updating the core strategy and incorporating changes to climate change objectives. A full review is scheduled to take place in late 2020, to address the longer term objectives of the NPF and RSES and to meet the Specific Planning Policy Requirements (SPPRs) of the Guidelines, in particular SPPR 1 and SPPR 2.

The proposed Bailey Gibson development exceeds the 50m height limits stipulated for SDRA 12 – St Teresa’s Gardens, with the inclusion of 2 no. taller buildings of eleven storeys (57.250m) and sixteen storeys (72.435m). Notwithstanding, it is our professional planning opinion, the development as proposed, is in line with the Dublin City Development Plan 2016-2022 assessment criteria for taller buildings as outlined in Section 3.8 of this report.

- *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

The Dublin City Development Plan 2016-2022 pre-dates these Guidelines and the objectives and policies contained within the NPF. The key national targets for structuring overall national growth, promoting regional parity, building accessible centres of scale and securing compact and sustainable

growth were not available at the time of adopting the Development Plan. It is a matter for the Planning Authority to critically evaluate the existing written statement and development objectives for consistency of approach and to undertake the necessary variations or amendments, if necessary, to ensure that it is aligned with national and regional policies.

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

1. *At the scale of the relevant city / town*

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

The site is well served by high capacity and high frequency public transport services (LUAS, Cork Street QBC and Dublin Bus) in close proximity to the city centre and major sources of employment.

- *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.*

South Circular Road is principally zoned Z2 'To protect and/or improve the amenities of residential conservation areas' and its two storey Victorian / Edwardian terraces having a distinctive character. Thus, the design of buildings and palette of materials have been carefully selected to integrate with and enhance the established character of the surrounding area. In addition, the site contains remnants of its industrial heritage, with the nearby Player Wills factory on South Circular Road being a distinctive building in the streetscape. These remnants of the site's industrial past provided a starting point for selecting hard landscape materials and details for the new development.

The proposed development concentrates the taller buildings to the centre and north of the application area, incorporating a tapered approach by positioning buildings of three storeys at the southern and western boundaries where the site immediately adjoins existing low rise housing.

The massing of the taller buildings has been modelled to avoid an overbearing presence on adjoining streets and neighbourhoods and to protect the integrity of existing views and vistas, whilst ensuring a positive addition to the Dublin skyline.

A **Landscape and Visual Impact Assessment** prepared by Kennett Consulting accompanies this application under separate cover. It concludes that the effects the proposed development on visual amenity will comprise a range of neutral and positive impacts upon views from neighbouring areas. While the construction of the proposed development is likely to result in a significant change to the visual environment from some nearby viewpoints, having regard to the planning history of the site, the pattern of residential and apartment development that has taken place on nearby sites at Cork Street and Dolphin's Barn and local, regional and national planning policy for the densification of the urban areas, these changes are considered to be consistent with emerging trends for development in the area.

- *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.*

The proposed Bailey Gibson redevelopment has been designed to achieve the desired higher density appropriate for this urban site, while preserving residential amenity and integrating tastefully with the established character of the area. Taller blocks located centrally within the site have been situated with consideration for their impact upon adjoining developments and the skyline composition, ensuring that the proposal will contribute positively to the creation of a new and dynamic urban landscape.

Creating a reduced human scale at street level has been prioritised in the design with podium level or shoulder height expressed at the base of the BG1 and BG2 towers. This tower and podium form has been utilised to create comfortably scaled streetscapes which are mixed with the increased scale of the towers. These taller elements within the site have been positioned to terminate key vistas and flank public spaces.

The **Architectural Design Statement** prepared by HJL Architects and the **Landscape Design Statement** prepared by NMP Landscape Architects that accompany this application set out the proposed scheme's contribution to place making in detail.

## 2. *At the scale of district / neighbourhood / street*

- *The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.*

Two to three storey perimeter blocks have been positioned where the site adjoins existing two storey residential development, ensuring these smaller scaled blocks will complement the established character, particularly in the vicinity of South Circular Road and Rehoboth Place.

While the proposed development is responsive in terms of scale and form to neighbouring development, it has also been designed to create a distinctly contemporary character defined by the form, scale and detailing of its buildings, streets and open spaces. The proposal seeks to build upon and enhance the existing materiality in the area while creating a unique character for this new neighbourhood. Materiality throughout the scheme will influence the future developments within the SDRA 12 Masterplan lands and give this new neighbourhood its own distinct quality.

Dublin 8 is renowned for its brick buildings and so the proposal will utilise two styles of brick from the area, the red brick of South Circular Road and the Dolphin's Barn-style brick. Red brick is dominant in the area and allows the proposal to integrate into the surrounding neighbourhood while the Dolphin's barn style brick compliments the nearby Player Wills Factory building and the historic context.

Permeability through the Bailey Gibson site will be achieved by creating a high quality network of streets, framed by a dynamic cluster of buildings. This height strategy reflects restraint in the vicinity of existing residential development on neighbouring sites while making a bolder statement as taller buildings provide a central focal point. The streets are enriched by active building frontages which will be complemented by attractive public realm and landscaping.

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

A range of building heights has been utilised to create a dynamic built environment with rich character, variety and form, where taller buildings will provide a focus for open spaces and vistas within the development and beyond. Staggering of building heights and articulation in the building façades has been incorporated into the design to avoid monolithic, long walls and this approach will be enhanced by distinct building forms and a varied selection of materials/finishes.

Lower buildings that line the network of internal streets and interface with neighbouring residential areas will create a reduced sense of scale and be further broken down by façade recesses and the pattern / layout of window openings, simultaneously creating a slender vertical emphasis.

A human scale is reinforced at street level through active frontages and double-height where retail / community uses are located. This reduced scale is reinforced through height transitions to existing streets and neighbouring dwellings and through comprehensive high-quality detailing to the streetscape which will be enhanced by an attractive public realm that incorporates street trees and shrub planting, generous pavements, cycle parking and seating.

A sympathetic palette of materials has been selected incorporating traditional brick and render with complementary modern materials. Material detailing includes extensive use of red, grey and buff coloured brickwork throughout, echoing the character of neighbouring areas, while also incorporating the clean lines and fine detailing of glazed balustrades and bronze-coloured aluminium panels/detailing.

- *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).*

In conjunction with the Masterplan for the wider SDRA lands, the proposed redevelopment of the Bailey Gibson site will deliver substantial improvements to the urban landscape of this former industrial site. The additional height proposed has been carefully considered in the development strategy to ensure buildings relate to their surrounding context while enabling delivery of a high density residential scheme and creation of a new urban neighbourhood.

The subject site is presently closed off to the public, diverting movement around it along the surrounding network of streets including Cork Street, South Circular Road and Donore Avenue. Thus, the proposed development will ensure that the site is successfully assimilated into the surrounding locality by opening up the Masterplan lands through a network of connected streets, public open spaces and creating a much more integrated and connected urban environment. The street hierarchy is reflected in the design of street widths, landscaping and materials. These elements underpin good urban design and will make a significant positive contribution to the landscape character of the subject land and how it is experienced by both future residents and the surrounding community.

A **Site Flood Risk Assessment** has been prepared by BMCE, contained within the Civil Engineering Infrastructure Report. The flood risk assessment has been carried out in accordance with the OPW publication *The Planning System and Flood Risk Management Guidelines for Planning Authorities*. It determines that *“there is no risk of flooding affecting the site from fluvial sources, so it is possible to develop the site within Flood Zone C. Any flood events do not cause flooding of the proposed development, and the development does not affect the flood storage volume or increase flood risk elsewhere and concludes that the proposed development is acceptable being located in Flood Zone C.”*

- *The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.*

The proposal will create a new public realm focussed on a central node, significantly enhancing permeability and allowing for full integration of this former enclosed and isolated urban site with the surrounding area. New pedestrian linkages at Rehoboth Place and South Circular Road are intended to prioritise pedestrian activity and will improve legibility and connectivity for both future occupants and

the surrounding community. These connections will be extended into the wider SDRA 12 lands, as subsequent phases of the Masterplan are constructed.

The delivery of the proposed development within the wider Masterplan area, will ensure accessibility to a wide network of public open spaces connected by improved vehicular and pedestrian links throughout the SDRA lands, particularly between South Circular Road in the south and Donore Avenue to the north. In addition to their public recreational value, these accessible green spaces will incorporate high quality landscaping that provide an attractive setting for the proposed buildings. Thus, the proposed green spaces will have a major positive impact upon landscape character within the site and for some of the neighbouring streets and residential areas.

- *The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.*

The proposal has the capacity to make a substantial contribution to the provision of new housing stock in an accessible urban location, well served by public transport and social infrastructure. The proposed Bailey Gibson development comprising 416 no. BTR units, including 412 no. apartments and 4 no. townhouses will contribute significantly to the provision of a greater mix of dwelling typologies and tenure in the locality.

Inclusion of additional commercial units for retail uses, crèche and other tenant amenities comprising recreational and supporting functions will further enhance the mix of uses within the development site.

Thus, redevelopment of the Bailey Gibson site will deliver a mix of uses to meet the needs of the surrounding community and realise local and national planning objectives.

### 3. At the scale of the site / building

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

The Masterplan outlines the design approach which has focused on creating a site-specific design response to this strategically located urban brownfield site. Buildings are modulated and separated to allow daylight penetration into communal open spaces and ground level public realm and streets. Perimeter blocks that adjoin neighbouring residential properties along the southern and western boundaries are predominantly three stories in height to protect neighbouring residential amenity.

Taller blocks ranging from five to sixteen storeys are situated in the centre and north-east of the site to optimise use of urban land and provide panoramic views over the proposed public park (Dublin City Council lands) and towards the south of the city. Lower building heights in perimeter blocks, particularly along the southern and western site boundaries adjacent to established low rise housing will mitigate against adverse impacts associated with loss of access to natural light and overshadowing.

The accompanying **Daylight, Sunlight and Overshadowing Report** prepared by IES, the **Architectural Design Statement** and **Landscape Design Statement** demonstrate how the proposed development has been carefully designed to respond to its existing environment by optimising access to natural daylight and minimise overshadowing and loss of light. These matters have also driven the design of the scheme to ensure that the proposed units, public realm and open spaces within the site will provide a high level of amenity for future residents.

- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning*

for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

The accompanying **Daylight, Sunlight and Overshadowing Report**, submitted under separate cover demonstrates the compliance of the proposal with regard to BRE standards. The daylight assessment indicates that 96% of the 101 'worst case' rooms tested in the proposed scheme are projected to have an Average Daylight Factors (ADF) above the recommended Average Daylight Factors (ADF) from the BRE guidelines. This number across the scheme would be expected to increase further if all of the upper rooms were included in the results.

The shadow analysis shows that overall, there is minimal overshadowing from the proposed Bailey Gibson development due to the considered architecture along the west side (along Rehoboth Place/Avenue) where the potential for overshadowing to existing buildings is greatest. This would be categorised as a minor adverse impact under the BRE Guidelines.

The assessment submitted with this application demonstrates that on the 21st of March, all of the proposed amenity areas would receive at least 2 hours of sunlight and all areas exceed the BRE recommendations with individual amenity spaces ranging from 53% to 100%.

- *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.*

The accompanying **Daylight, Sunlight and Overshadowing Report**, prepared by IES demonstrates the proposal complies with BRE standards.

#### 4. Specific Assessments

In accordance with the Guidelines, specific assessments accompany this application as follows:

- Masterplan & Appropriate Assessment Screening (Dublin City Council)
- Architectural Design Statement prepared by HJL Architects
- Housing Quality Assessment prepared by HJL Architects
- Landscape Design Statement prepared by NMP Landscape Architecture
- Civil Engineering Infrastructure Report prepared by Barret Mahony Consulting Engineers
- Site Flood Risk Assessment prepared by Barret Mahony Consulting Engineers
- Statement of Consistency with National, Regional and Section 28 Ministerial Guidelines prepared by MH Planning
- Planning Statement and Statement of Consistency with Dublin City Development Plan 2016-2022 prepared by MH Planning
- Social Infrastructure Audit prepared by MH Planning
- Childcare Assessment prepared by MH Planning
- Energy and Sustainability Report prepared by O'Connor Sutton Cronin Consulting Engineers
- Public Lighting Report prepared by O'Connor Sutton Cronin Consulting Engineers
- Traffic and Transport Assessment prepared by SYSTRA
- Mobility Management Plan prepared by SYSTRA
- Daylight, Sunlight and Overshadowing Report prepared by IES
- Pedestrian Comfort Report (micro-climatic assessment) prepared by IES
- Landscape and Visual Impact Assessment prepared by Kennett Consulting

- Photomontages prepared by Modelworks
- Appropriate Assessment Screening prepared by Brady Shipman Martin
- Environmental Impact Assessment Report, prepared by a multi-disciplinary team led by McCutcheon Halley Planning Consultants

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

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

“It is a specific planning policy requirement that where;

- (A) 1. *an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
2. *the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

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

### **3.7 Design Standards for New Apartments Guidelines**

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.”

The Bailey Gibson site benefits from a high level of accessibility and connectivity. It is within a central and accessible location, as defined in Paragraph 2.4 of the Guidelines. These are identified as suitable for higher density development that may wholly comprise apartments, including:

- 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 proposed Bailey Gibson redevelopment is within walking distance (i.e. up to 15 minutes or 1,000-1,500m) of significant employment locations including the Coombe Women’s Hospital and St James’ Hospital.

It is within 800m of high capacity urban public transport at Fatima LUAS stop. Additionally, the site is within easy walking distance (200m) of high frequency urban bus services on Cork Street / Dolphin's Barn Street (South Clondalkin QBC).

Thus, the site's proximity to centres of employment and its accessibility to high capacity and high frequency public transport services, make this a suitable location for higher density residential development. The capacity of this site to deliver a large scale residential scheme will also help build critical mass and so maximise efficiencies and return on the significant public financial investment in public transport infrastructure.

To encourage higher residential densities and increased supply of apartments in appropriate urban locations, Paragraph 2.23 of the Guidelines endorse a policy shift away from rigid planning standards *"in favour of performance based standards to ensure well-designed high quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location."*

The Bailey Gibson site satisfies the locational criteria for higher density residential development that may wholly comprise apartments. In seeking to achieve higher densities, the height strategy for the Bailey Gibson site has been carefully developed to capitalise on the accessibility of the site to nearby employment centres and public transport corridors, whilst integrating sensitively with the predominantly low rise character of the surrounding residential development.

### **3.8 Dublin City Development Plan 2016-2022**

Against this national planning policy backdrop, the proposed development has been designed to create a high-quality, vibrant and attractive urban neighbourhood on this strategically located brownfield site. It is noted that the Dublin City Development Plan 2016-2022 was adopted prior to publication of the:

- National Planning Framework (2018);
- Eastern and Midland Regional Spatial and Economic Strategy (2019);
- Urban Development and Building Heights Guidelines (2018); and
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2018).

Notwithstanding, it is considered that the proposed development is consistent with the relevant assessment criteria for taller buildings contained in the City Development Plan. In this regard, the height strategy proposed is the result of a rigorous evaluation of the site context having regard to the performance-based criteria contained in the relevant national and local planning policies (see below). Supporting documentation including the Architectural Design Statement that accompanies this submission further demonstrate the compliance of the proposal with these assessment criteria.

Whilst pre-dating the 2018 national policy guidance, the Development Framework for St Teresa's Gardens (2017) addresses the intent of RPO 3.3 of the Eastern and Midland RSES by setting out clear objectives for the development, integration and regeneration of these lands. These Framework objectives and relevant national policies have therefore informed the preparation of the Masterplan which has been undertaken as a collaborative process with Dublin City Council. The Masterplan will ensure the aims of regeneration and place-making are realised, with taller buildings contributing to the physical revitalisation of this site.

The design approach within the scheme has been underpinned by a master-planning exercise, undertaken in collaboration with Dublin City Council, to ensure that the regeneration objectives for this site and SDRA 12 lands are realised. The enclosed Masterplan provides further details of the site context and an analysis demonstrating how the design has evolved to respond to the Development Framework for St Teresa's Gardens.

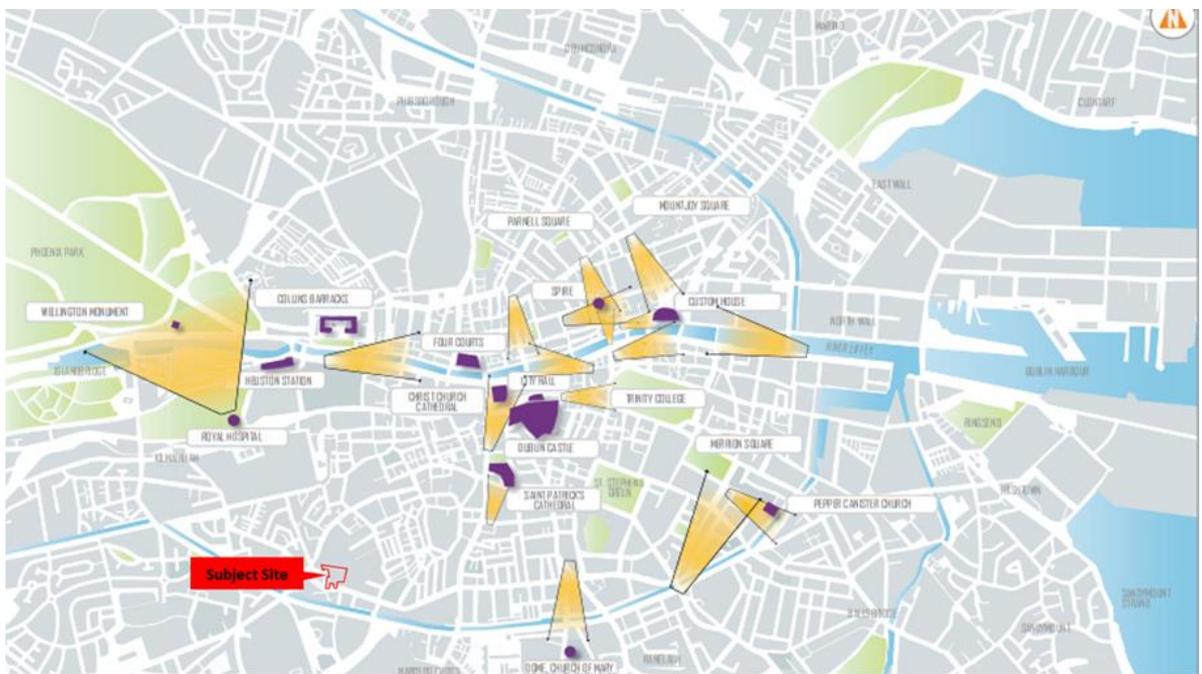
The development management principles in the Urban Development and Building Height Guidelines (2018) overlap with Section 16.7.2 of the City Development Plan which specify a performance-based approach to the

consideration and assessment of taller buildings (50m+) in appropriate urban locations. These criteria are addressed below:

- *Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas*

The height strategy is considered appropriate having regard to the site context, being in a strategic urban location close to the city centre and within close proximity to public transport corridors. Most of the taller buildings are to be located centrally and in the north-east quadrant of the site. The residential blocks are predominantly three to six storeys, staggered with lower buildings along the western and southern boundaries of the site where they adjoin neighbouring low-rise residential dwellings.

The tallest building situated at the south-west corner of Block BG2 is sixteen storeys in height and has been located centrally so as not to have an overbearing presence along the streetscape and to create a modulated approach to building height throughout the development, creating a peak in the stepped rooflines.



**FIGURE 2 DCDP 2016-2022, KEY VIEWS AND PROSPECTS (FIG. 5.4)**

As shown in **Figure 2** above, development at the subject site will not compromise the integrity of key vistas and landmarks, being located sufficiently distant from the City’s identified significant views and prospects.

The enclosed **Landscape and Visual Impact Assessment**, taken together with a comprehensive set of **Photomontages** prepared by Modelworks, provides a more detailed assessment of this matter and demonstrates that the proposed development will not adversely impact on important views, landmarks, prospects and vistas.

- *Effect on the historic environment at a city-wide and local level*

As can be seen from the accompanying Masterplan, the **Architects Design Statement** and **Landscape and Visual Impact Assessment**, together with the photomontages, the proposed development will not have any adverse impact on historic views and vistas of the city. In its evaluation of the visual impacts associated with the proposed development, the LVIA concludes:

*“The appraisal of effects on visual amenity demonstrate that the proposed development will have a range of neutral and positive impact upon views from neighbouring areas.*

*Views of the proposed Bailey Gibson development from Donore Avenue will have a moderately positive visual impact in the context of the proposed public open space delivered as part of the wider Masterplan Area. From nearby residential streets that are orientated towards the site, the proposed development will have slight visual impacts that are neutral or positive.*

*Views from South Circular Road encompass glimpses of the proposed development behind intervening houses, with a slight and neutral visual impact. In close proximity to the site where new houses are seen to extend to South Circular Road, visual impacts are generally slight and positive.*

*From Cork Street and the northern residential environs, the Bailey Gibson development makes a minor and sometimes short-term contribution to views, where visual impacts are slight and neutral.*

*From the Grand Canal and southern residential environs, the Bailey Gibson development gives rise to slight to moderate effects on the views, resulting in slight visual impacts that are neutral or positive.”*

- *Relationship to transport infrastructure, particularly public transport provision*

The accompanying **Traffic and Transport Assessment** prepared by Systra concludes that the site benefits from a high level of accessibility to public transport services, including high capacity LUAS services, high frequency bus services and planned future infrastructural improvements under the proposed BusConnects programme. This high level of accessibility and connectivity warrants a reduced level of car parking provision at the site which will further promote active modes of travel and this is supported by a **Mobility Management Plan**, submitted under separate cover.

- *Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for*

The tallest building within the proposed development (Block BG2) complies with the 3:1 slenderness ratio and the accompanying **Architects Design Statement** outlines the rationale for the architectural approach.

- *Contribution to public spaces and facilities, including the mix of uses*

The proposal will contribute to the creation of a vibrant, high-density residential development on this strategically located urban regeneration site. The proposed development has been designed to optimise the site’s permeability and to create an attractive public realm for both resident and visitors.

The inclusion of generously proportioned local streets with shared surfaces, designed to reduce vehicular speed and prioritise pedestrian and cyclist movements, is an integral part of the design. The principal areas of public realm include the central node which runs in an east-west direction between BG1 and BG4, and a section adjacent in a north-south alignment between BG1 / BG4 and BG3 which are focussed around the location of the proposed crèche and retail uses to promote activity and social integration within the site.

As outlined in the accompanying **Architects Design Statement** and Masterplan document, the subject site will provide a sustainable residential development with supporting neighbourhood level retailing and a crèche facility and will benefit from additional commercial / retail, community and recreational development in the adjoining lands as part of the delivery of the Masterplan vision. The enhanced permeability and public realm will also benefit the local community and create an integrated, lively new neighbourhood.

- *Effect on the local environment, including micro-climate and general amenity considerations*

Please refer to the suite of accompanying assessments which includes a **Daylight, Sunlight and Overshadowing Report** and **Pedestrian Comfort Report**, submitted under separate cover in support of this proposal. These reports conclude that the impacts of the development on the local environment and associated with sunlight, overshadowing and micro-climate are all within acceptable limits.

- *Contribution to permeability and legibility of the site and wider area*

The Bailey Gibson redevelopment has been carefully designed to be fully integrated with the South Circular Road and Rehoboth Place, as well as the wider SDRA lands. The proposal includes partial realignment and widening of Rehoboth Place to provide a new carriageway width of 5 metres and minimum footpath widths of 2 metres on both sides of the street. These upgrades will facilitate improved vehicular and pedestrian access in / out of the site, as well as for existing residents of Rehoboth Place, and significantly enhance the existing public realm.

Pedestrian and cyclist movement through the site will be prioritised through the provision of shared street spaces and dedicated links that will enhance permeability of this isolated, former industrial site, achieving a key objective in the Development Framework for St Teresa's Gardens and Environs.

The internal road network and layout of buildings in a perimeter block system will also significantly improve the site's legibility. The increased activity coupled with supporting retail uses and child-care facility will enhance opportunities for passive surveillance and security throughout the area benefitting future occupants and the existing community.

- *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*

As referred to in Section 3.6 above, this application is accompanied by a comprehensive suite of reports / assessments to enable a detailed assessment of the proposed development, which individually and collectively address each of these issues.

- *Adoption of best practice guidance related to the sustainable design and construction of tall buildings*

The accompanying **Energy and Sustainability Report** prepared by OCSC and submitted under separate cover in support of this application addresses compliance with a range of Building Regulatory, Sustainability and Energy Efficiency standards that are integral to the design and ongoing operation and management of the scheme. There are five main criteria that the reports outline and demonstrate compliance with:

- Building Energy Rating
- Energy Performance Coefficient (EPC)
- Carbon Performance Coefficient (CPC)
- Renewable contribution
- Maximum elemental U-Values

- *Evaluation of providing a similar level of density in an alternative urban form*

Alternative Masterplan Framework solutions were investigated during evolution of the accompanying Masterplan document. A range of land use and design options were evaluated with the aim of creating a new mixed-use urban quarter that achieves the regeneration objectives for SDRA 12. The proposed development in its current form aims to provide a high quality urban development that responds to the locational context and secures the delivery of the connecting public open space on Dublin City Council lands. The current proposal for the Bailey Gibson site, primarily a high-density residential development, was determined to be the preferred scenario for the following reasons:

- The non-residential / mixed-uses are not too dispersed throughout the SDRA lands – it was ultimately concluded that these should be concentrated on the Player Wills lands where there is scope for greater accessibility by the wider community;
- The viability and integrity of Cork Street as a community hub will not be undermined;
- Enhanced permeability/connectivity through the Bailey Gibson site, in cognisance of its limited frontage to the existing road network, especially along the South Circular Road;
- The creation of a ground level streetscape which will provide new connections to the adjoining lands and enhance legibility;
- A coherent and efficient arrangement of blocks which will deliver sustainable residential density in an efficient manner that corresponds with national planning objectives.

The Bailey Gibson site forms part of a larger landbank in the ownership of the Applicant that has enabled a coordinated, integrated approach to the planning of development in this location and will aid in securing the wider regeneration objectives for this site. This Masterplan process was managed and coordinated by Dublin City Council in close conjunction with the Applicant and is intended to progress development of the Applicant's landholdings and also ensure that the public interest is served through redevelopment of the connecting Council lands for a public park and playing pitches.

This report is accompanied by a range of supporting documentation which demonstrates that the proposed development which incorporates two buildings in excess of 50 metres is consistent with the higher level objectives to:

- Achieve densification;
- Deliver much needed housing;
- Create a sense of place;
- Ensure regeneration of a strategic urban brownfield site;
- Promote a modal shift; and
- Protect and enhance the surrounding land uses and environment.

## 4 Conclusion

This application clearly demonstrates that the proposal for the Bailey Gibson lands is a well-considered design within an urban brownfield site, that is cognisant of surrounding land uses, that maximises the site's natural attributes and ensures a high-level of environmental protection. The suite of supporting reports demonstrates that the proposed high-density residential development, with taller buildings comprising eleven and sixteen storeys, will not give rise to significant effects and if permitted would represent a high-quality, sustainable development that would;

- ✓ consolidate the existing built-up footprint;
- ✓ achieve densification;
- ✓ protect the amenity of adjoining land uses and maximise access to natural daylight and sunlight within the proposed units and in communal amenity areas;
- ✓ successfully integrate into and enhance the character and the public realm of the area;
- ✓ make a positive contribution to place making incorporating new streets and public spaces, with a variety of scale and form that responds to the scale of existing and future master-planned developments;
- ✓ make a positive contribution to the improvement of legibility through the site and into the wider Masterplan lands;
- ✓ embrace best practice in energy efficiency standards and environmental sustainability throughout the scheme; and
- ✓ promote a modal shift that prioritises active modes of travel and public transport use.

The proposed development is consistent with the policies in relation to height under the National Planning Framework and particularly, the Urban Development and Building Heights Guidelines. As set out in Section 37(2)(b) of the Planning and Development Act 2000 (as amended), An Bord Pleanála may materially contravene a development plan where national planning policy objectives take precedence.

It is our view that the justification provided in this statement for the proposed height of the development which materially contravenes the height restrictions imposed under the Dublin City Development Plan 2016-2022, satisfies Section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016, demonstrating “*why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000*”.

In particular, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the City Development Plan, by reference to sub-section (iii) of Section 37(2)(b) of the 2000 Act, as amended, for the reasons set out above.