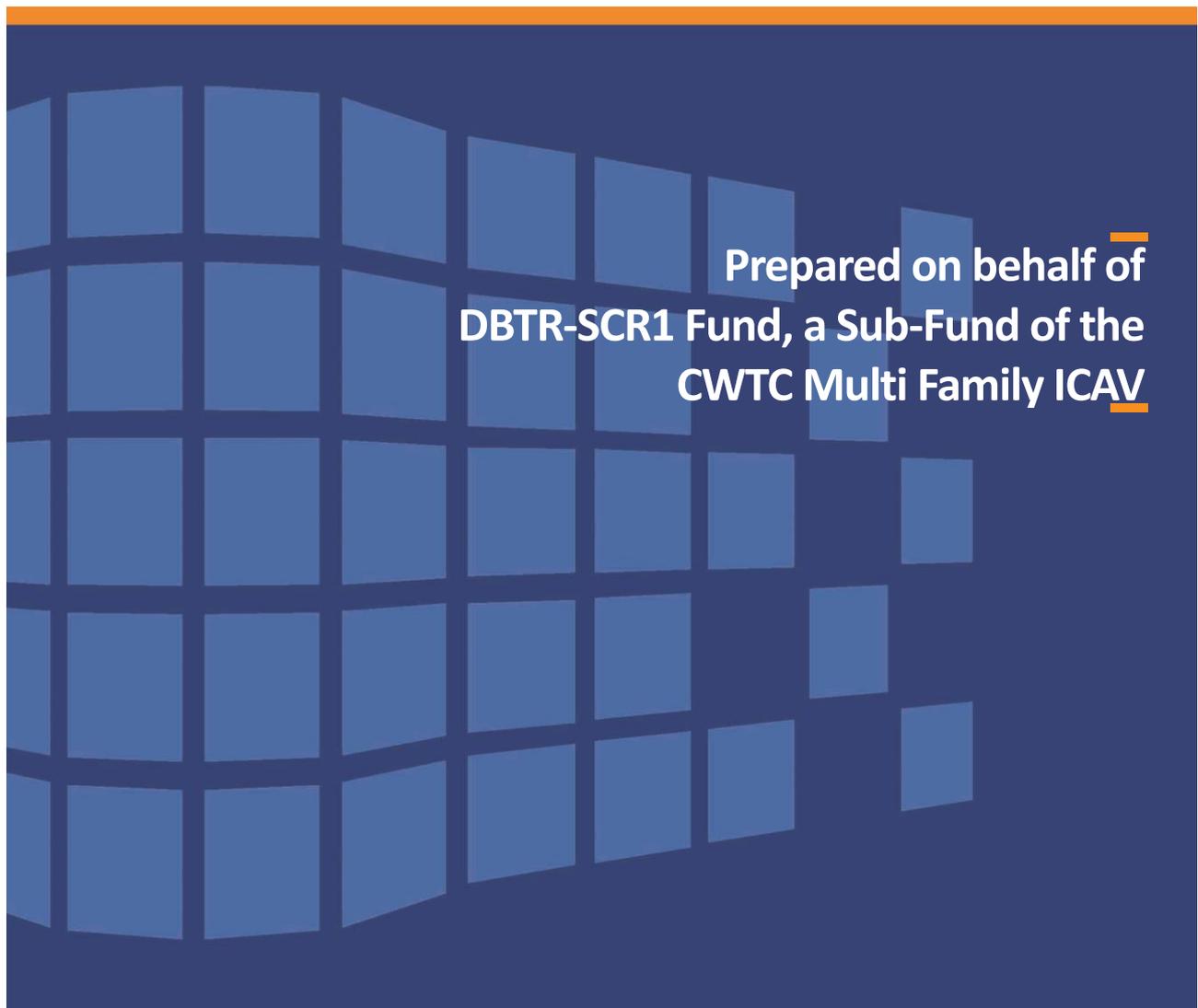


Material Contravention Statement

Proposed Strategic Housing Development on the former Player Wills site and undeveloped land owned by Dublin City Council at South Circular Road, Dublin 8.

December 2020



Document Control Sheet

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1 Introduction

This Material Contravention Statement has been prepared by McCutcheon Halley Planning Consultants on behalf of the Applicant to address whether any aspect of the proposed Strategic Housing Development (SHD) may be considered to materially contravene the Dublin City Development Plan (DCDP) 2016-2022, in accordance with Section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Where an application is deemed by An Bord Pleanála 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”*.

Figure 39, *Building Height in Dublin Context*, of the DCDP identifies St. Theresa’s Garden’s and Environs as ‘Medium Rise (max 50m)’. Section 16.7.2 of the DCDP identifies that *inter alia*;

- Proposals for high buildings should be in accordance with the provisions of the relevant Strategic Development Regeneration Area (SDRA); and,
- The heights stated are maximum heights. Notwithstanding the maximum permissible heights, proposals will be subject to assessment against standards set out elsewhere in the development plan, as will proposals in the high rise category.

Section 15.1.1.15 of the DCDP establishes the overall guiding principles for SDRA 12, St. Theresa’s Gardens and Environs. It highlights that there is potential for one or two midrise buildings (up to 50m) within the site, subject to the criteria set out in the standards section of the DCDP.

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.”

The purpose of this report is to address the possibility that the proposed development could be deemed by An Bord Pleanála to represent a material contravention of the DCDP 2016-2022.

2 Proposed Development

DBTR-SCR1 Fund, a Sub-Fund of the CWTC Multi Family ICAV, intend to apply to An Bord Pleanála for permission for a mixed-use Build to Rent Strategic Housing Development at the former 'Player Wills' site (2.39 hectares) and adjoining lands (0.67 hectares) under the control of Dublin City Council. A public park, public road and works to South Circular Road and to facilitate connections to municipal services at Donore Avenue are proposed on the Dublin City Council land. The former 'Player Wills' site incorporates Eircode's: D08 T6DC, D08 PW25, D08 X7F8 and D08 EK00 and has frontage onto South Circular Road, St. Catherine's Avenue and Donore Avenue, Dublin 8. The Dublin City Council undeveloped land adjoins the former 'Player Wills' site to the west and the former 'Bailey Gibson' site to the east. The total area of the proposed development site is 3.06 hectares.

The development will consist of;

- i. the demolition of all buildings (15,454 sq.m GFA), excluding the original fabric of the former Player Wills Factory, to provide for the development of a mixed use(residential, community, arts and culture, creche, food and beverage and retail) scheme comprising predominantly build to rent apartment dwellings (492 no.) together with a significantly lesser quantity of single occupancy shared accommodation private living areas (240 no.), with an average private living floor area of 24.6 sq.m (double the minimum private living space size required for single occupancy shared accommodation) and a arts/culture/community hub within the repurposed ground floor of the former factory building;
- ii. change of use, refurbishment, modifications and alterations to the former Player Wills Factory building (PW1) to include the removal of 1 no. later addition storey (existing 4th storey) and the later addition rear (northern) extension, retention and modification of 3 no. existing storeys and addition of 2 no. storeys set back on the building's south, east and west elevations with an 8-storey projection (max. height 32.53m) on the north eastern corner, with a cumulative gross floor area of 17,630 sq.m including ancillary uses, comprising;
 - a. at ground floor 852 sq.m of floor space dedicated to community, arts and cultural and exhibition space together with artist and photography studios (Class 1 and Class 10 Use), 503 sq.m of retail floor space (Class 1 Use), 994 sq.m of café/bar/restaurant floor space, 217 sq.m of co-working office floor space (Class 3 Use) and ancillary floor space for welfare facilities, waste management and storage;
 - b. 240 no. single occupancy shared accommodation private living areas, distributed over levels 1-4, including 2 no. rooms of 30 sq.m, 49 no. rooms of 25 sq.m; 14 no. rooms of 23 sq.m, 58 no. rooms of 22.5 sq.m, 8 no. rooms of 20 sq.m, 104 no. rooms of 19 sq.m and 5 no. disabled access (Part M) rooms (3 no. 32 sq.m and 2 no. 26 sq.m); 21 no. kitchen/dining areas, and, 835 sq.m of dedicated shared accommodation services, amenities and facilities distributed across levels 1-4, to accommodate uses including lounge areas, entertainment (games) area, 2 no. external terraces (Level 03 and 04), laundry facilities, welfare facilities and waste storage;
 - c. 47 no. build-to rent apartments distributed across levels 1-7 including 12 no. studio apartments; 23 no. 1 bed apartments, 8 no. 2 bed apartments: and, 4 no. 3-bed apartments;
 - d. 1,588 sq.m of shared (build to rent and shared accommodation) services, amenities and facilities including at ground floor reception/lobby area, parcel room, 2 no. lounges and administration facilities; at Level 01 entertainment area, TV rooms, entertainment (games room), library, meeting room, business centre; at Level 02 gym and storage and at Level 07, a lounge area.
 - e. Provision of communal amenity outdoor space as follows; PW1 - 450 sq.m in the form of roof terraces dedicated to shared accommodation and 285 sq.m roof terrace for the proposed apartments .
 - f. a basement (190 sq.m) underlying the proposed 8-storey projection to the northeast of PW1 to accommodate plant.
- iii. the construction of 445 no. Build to Rent apartment units, with a cumulative gross floor area of 48,455 sq.m including ancillary uses distributed across 3 no. blocks (PW 2, 4 and 5) comprising;

- a. PW2 (45,556 sq.m gross floor area including ancillary uses) - 415 no. apartments in a block ranging in height from 2-19 storeys (max. height 63.05m), incorporating 16 no. studio units; 268 no. 1 bed apartments, 93 no. 2 bed apartments and 38 no. 3-bed apartments. At ground floor, 2 no. retail units (combined 198 sq.m) (Class 1 use), and a café/restaurant (142 sq.m). Tenant services, amenities and facilities (combined 673 sq.m) distributed across ground floor (lobby, mail room, co-working and lounge area), Level 06 (terrace access) and Level 17 (lounge). Provision of communal amenity open space including a courtyard of 1,123 sq.m and roof terraces of 1,535 sq.m
 - b. Double basement to accommodate car parking, cycle parking, waste storage, general storage and plant.
 - c. PW4 (1,395 sq.m gross floor area including ancillary uses) - 9 no. apartments in a part 2-3 storey block (max. height 10.125m) comprising, 2 no. 2-bed duplex apartment units and 7 no. 3-bed triplex apartment units. Provision of communal amenity open space in the form of a courtyard 111 sq.m
 - d. PW5 (1,504 sq.m gross floor area including ancillary uses) - 21 no. apartments in a 4 storey block (max. height 13.30m) comprising 12 no. studio apartments, 1 no. 1-bed apartment, 5 no. 2-bed apartments, and 3 no. 3-bed apartments. Provision of communal amenity space in the form of a courtyard 167sq.m.
- iv. the construction of a childcare facility (block PW4) with a gross floor area of 275 sq.m and associated external play area of 146 sq.m;
 - v. the provision of public open space with 2 no. permanent parks, 'Players Park' (3,960 sq.m) incorporating active and passive uses to the northwest of the former factory building on lands owned by Dublin City Council; 'St. Catherine's Park' (1,350 sq.m) a playground, to the north east of the Player Wills site adjacent to St. Catherine's National School. A temporary public park (1,158 sq.m) to the northeast of the site set aside for a future school extension. The existing courtyard (690 sq.m) in block PW1 (former factory building) to be retained and enhanced and a public plaza (320 sq.m) between proposed blocks PW and PW4.
 - vi. 903 no. long-stay bicycle parking spaces, with 861 no. spaces in the PW2 basement and 42 no. spaces at ground level in secure enclosures within blocks PW4 and PW5. 20 no. spaces reserved for non-residential uses and 110 no. short-stay visitor bicycle spaces provided at ground level.
 - vii. 4 no. dedicated pedestrian access points are proposed to maximise walking and cycling, 2 no. from South Circular Road, 1 no. from St. Catherine's Avenue and 1 no. from Donore Avenue.
 - viii. in the basement of PW2, 148 no. car parking spaces to serve the proposed build to rent apartments including 19 no. dedicated disabled parking spaces and 6 no. motorcycle spaces. 20 no. spaces for a car sharing club ('Go Car' or similar). 10% of parking spaces fitted with electric charging points.
 - ix. in the basement of PW2, use for 81 no. car parking spaces (1,293 sq.m net floor area) including 5 no. dedicated disabled parking spaces, 3 no. motorcycle spaces and 10% of parking spaces fitted with electric charging points to facilitate residential car parking associated with future development on neighbouring lands. The area will not be used for carparking without a separate grant of permission for that future development. In the alternative, use for additional storage (cage/container) for residents of the proposed development.
 - x. 37 no. surface level car parking spaces including 3 no. disabled access and 3 no. creche set down spaces and 10% fitted with electric charging points. 2 no. loading bays and 2 no. taxi set-down areas.
 - xi. development of internal street network including a link road (84m long x 4.8m wide) to the south of the proposed 'Players Park' on land owned by Dublin City Council that will provide connectivity between the former 'Bailey Gibson' site and the 'Player Wills' site.
 - xii. vehicular access will be provided via Donore Avenue with a one-way exit provided onto South Circular Road to the east of block PW1(the former factory building);
 - xiii. replacement and realignment of footpaths to provide for improved pedestrian conditions along sections of Donore Avenue and South Circular Road and realignment of centreline along sections of Donore Avenue with associated changes to road markings;
 - xiv. a contra-flow cycle lane is proposed at the one-way vehicular exit to the east of PW1 (former factory building) to allow 2-way cycle movements via this access point;

- xv. decommissioning of existing 2 no. ESB substations and the construction of 2 no. ESB substations and associated switch rooms, 1 no. single ESB substation in PW 1 (43.5 sq.m) and 1 no. double ESB substation in PW2 (68 sq.m);
- xvi. the construction of a waste and water storage building (combined 133 sq.m, height 4.35m) to the west of building PW1;
- xvii. all ancillary site development works; drainage, rooftop solar photovoltaics (20 no. panels total), landscaping, boundary treatment and lighting.

The number of levels in each proposed building and maximum the height of is set out in the Table below.

Building Ref.	No. of Levels	Max Height
PW1	5-9	32.53m
PW2	2-19	63.05m
PW4	2-3	10.125m
PW5	4	13.3m

TABLE 1 PROPOSED BUILDINGS LEVELS & MAX. HEIGHT

Building PW2 incorporates 2 no. towers, a 19 storey projection (63.05m) on the south west corner and a 16-storey (52.60m) projection on the north-east corner of the building. As is illustrated below, the PW2 projections overlook the proposed public parks 'Players Park' and the proposed playground 'St. Catherine's Park'.

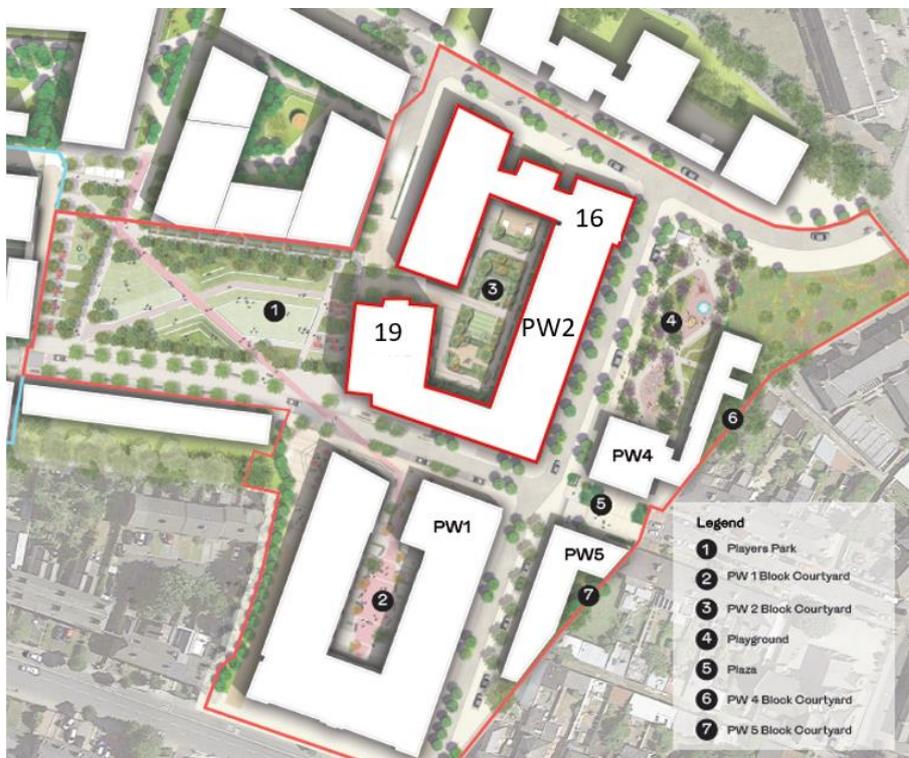


FIGURE 1 PROPOSED SITE LAYOUT



FIGURE 2 PW2 BUILDING CONFIGURATION

3 Section 37(2) of the Planning and Development Act 2000 (as amended)

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

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

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

- (ii) *there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- (iii) *permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- (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.*

3.1 Application of Section 37(2)(b) Considerations to the Proposed Development

3.1.1 Strategic or National Importance

The proposed development is both of strategic and national importance. The significant shortfall in housing output to address current and projected demand is of national importance, with lack of housing having social and economic ramifications.

The proposed development 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 37(2)(b)(i). The proposal is for a residential led, mixed use development, and, the national importance of the proposal is confirmed in the current Government's Action Plan for Housing and Homelessness - Rebuilding Ireland (2016).

The scheme's contribution to the achievement of the National Planning Framework (NPF) National Strategic Outcome No. 1 in respect of delivering compact growth and urban regeneration specifically in this instance involving the regeneration of a disused former industrial site, brownfield infill development, within close proximity of the city centre, adjacent to significant public transport links, further confirms the strategic nature of this development proposal.

3.1.2 Permission should be Granted having regard to 37(2)(b)(iii)

Since the adoption of the Dublin City Development Plan 2016-2022, there has been significant changes in planning policy, flowing from the publication of the NPF in 2018. The following section demonstrates the proposed development's compliance with national and regional planning policy together with section 28 Ministerial Guidelines.

3.1.2.1 Rebuilding Ireland

The proposed development site is a substantial brownfield site capable of large-scale housing delivery that will make 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 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.

3.1.2.2 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 the Applicant for the subject site and surrounding lands, in close collaboration with Dublin City Council, 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 proposed development site is a largely 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 and Dublin City Council within an identified regeneration area. Activating this site with the delivery of 492 no. build to rent apartments and 240 no. shared accommodation private living spaces 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.

3.1.2.3 Eastern and Midlands Regional Spatial and Economic Strategy 2019

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 development 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.

3.1.2.4 Urban Development and Building Height Guidelines for Planning Authorities 2018

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 2.2km 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 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?*

The Player Wills portion of the application area is a strategic brownfield site located in the inner suburbs of Dublin city, within the canal cordon and M50 ring. It is situated c.2.2km 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, including 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.

The application area is 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) was adopted in March 2020. The purpose of the Variation is to incorporate NPF and the RSES into the City Development Plan 2016 – 2022, in accordance with Section 11 (1) (b) (iii) of the Planning and Development Act, 2000, as amended. Notably, the Variation Report identifies that the specific issue of building height will be implemented through the development management process and an updated building height policy will form part of the Development Plan review.

As such, the extant DCDP does not take account of the requirements of Chapter 2 of the Urban Development and Building Height Guidelines 2018. Specifically, it is inconsistent with 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."

The taller projections that form part of the proposed building PW2 exceed the maximum height of 50m identified for this location in the DCDP.

It is noted that Chapter 16 of the DCDP sets out assessment criteria for higher buildings. The proposed development is assessed against these standards in the **Planning Statement** that accompanies this application under separate cover. It concludes that having regard to the stated criteria including relationship to context; effect on the historic environment at a city-wide and local level; relationship to public transport infrastructure; architectural excellence; contribution to public spaces and facilities; effect on the local

environment, including shadow impact and micro-climate effects; contribution to permeability and legibility of the site and wider area and sustainable design, increased height at this location is acceptable and will enhance the qualities of the immediate location and the wider setting.

- *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.*

This section should be read in conjunction with the **Architectural Design Statement**, the **Landscape Design Statement**, the **Landscape and Visual Impact Assessment** (EIAR, Volume II) and **Cultural Heritage: Built Heritage Assessment** (EIAR, Volume II) submitted with this application.

The proposed development site is adjacent to areas (Donore Avenue, St. Catherine's Avenue and South Circular Road(SCR)) zoned Z2, Residential Neighbourhoods (Conservation Areas) with a general objective "to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area." These terraced houses are included on the National Inventory of Architectural Heritage (NIAH), with a rating of 'Local' significance.

Increased building height is concentrated toward the centre of the site and away from the site's boundaries where the proposed building heights taper down, mindful of the existing built environment.

Building PW2 incorporates 2 no. projections, in the north eastern corner of the building at a distance of approx. 94m from the closest dwelling on Donore Avenue and approx. 56m from the nearest dwelling on St. Catherine's Avenue. A proposed public park, 'St. Catherine's Park' and the proposed PW 4 (2-3 storeys) building sits between this projection and the closest residential dwellings.

The proposed tower in the southwest corner of building PW2, overlooks the proposed 'Players Park' to the west and sits behind building PW1. This proposed projection is approx. 50m from the closest dwelling in the SCR Conservation Area.



FIGURE 3 PROPOSED BUILDING PW2 - COMPUTER GENERATED IMAGE

The materiality (facades and landscaping) across the scheme is carefully considered to integrate with and enhance the established character of the surrounding area. A palette of different coloured brickwork is juxtaposed with delicate metalwork detailing. This material palette references the sites industrial past and the materiality of the old warehouse buildings and the Victorian houses of the surrounding Dublin 8 context.

The massing of the 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.

It is proposed to retain the original southern elevation of the former Player Wills factory together with the east and west elevations. The brick façade will be restored and cleaned and windows will be replaced with double glazed steel casement windows.



FIGURE 4 PROPOSED BUILDING PW1 - COMPUTER GENERATED IMAGE

To create a permeable and welcoming public building, the following interventions are proposed to the South Circular Road elevation. The existing front entrance is proposed as an external passageway providing public access to the internal courtyard. At entry points to the proposed public cafe and retail unit the existing brick/stone plinth is removed with the glazing dropped to street level. To provide greater transparency, the ground floor glazing is proposed as new interventions in the form of frameless glazing set into metal window surrounds. This increased transparency adds an appropriate quality to the building in its new function as a public building.

The SCR streetscape will benefit from a programme of improvements that will significantly enhance the public realm at this location. Granite paving flags, 'red carpet' paving demarcating the entrance, seating and street tree planting are all proposed for the public realm. The materials selected are sympathetic to the existing context and the proposed improvements are befitting to the surrounding conservation area.

A **Landscape and Visual Impact Assessment** (see Environmental Impact Assessment Report) together with a suite of **photomontages** with near, distant and key heritage views are included in this application. It concludes that the effects the proposed development will have on visual amenity will predominately comprise of 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 development that has taken place on nearby sites at Cork Street and Dolphin's Barn and is permitted on the adjacent Bailey Gibson site to the west, 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.

An assessment of the proposed development on Built Heritage including Protected Structures is included in Chapter 14 of the EIAR. It concludes that the impact of the proposed development on the architectural heritage

character of the wider setting has been mitigated through design decisions, including the material palette used, the stepping down in height of the blocks at the perimeter of the site, and the siting of taller blocks in the centre of the site. The assessment concludes that the impact on existing built heritage including Protected Structures is not significant.

- *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 development has evolved in response to an overarching objective to create a strong character and sense of place. The proposed design is cognisant of the existing cultural and built environment, and it is both respected and enhanced.

The closest existing developments are residential dwellings to the north of SCR, St. Catherine's Avenue to the east and Donore Avenue to the east and north-east. They typically comprise 2-storey dwellings. Building heights along the eastern site boundary range from 2-4 storeys and are largely consistent with the scale of the existing industrial units that presently occupy the site. Building PW1, the former factory building retains 3 of the existing 4 storeys on its southern, eastern and western elevations. The existing 4th storey is proposed for removal and it will be replaced with a 2-storey set back. The 8-storey projection proposed for PW1 is confined to the north-east corner of the building, away from existing development.

To achieve the required densities for compact growth, height is concentrated in building PW2, toward the centre of the site and away from existing development. The **Daylight, Sunlight and Overshadowing Report** included with this application demonstrates that the increased height has a minor to negligible shading impact on existing development in the vicinity of the site. The vertical sky component analysis concludes that good levels of light will continue to be received in existing buildings surrounding the proposed development site.

It is proposed to deliver a well-connected network of streets and spaces of high quality for all users – to promote urban life, community coherence and a sense of shared ownership. The design gives priority to walking, cycling and public transport – to reduce reliance on the car, and by so doing assists with improving health and wellbeing.

Coherent, legible and attractive streetscapes are proposed providing continuity and enclosure with a variety of frontages to add vibrancy and interest. This proposal integrates a rich diversity of functions and activities, underpinning viability and vitality.

Creating a human scale at street level has been prioritised in the design with active uses proposed at ground floor level. This 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 the proposed key public spaces, 'Players Park' and 'St. Catherine's Park'.

This proposed development is 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.

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 four 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, St. Catherine's Avenue and Donore Avenue.

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 original Player Wills Factory building and the historic context.

Permeability through the Player Wills 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 quality, durable materials are proposed for the external facades and have been selected for their suitability to the local environment, ability to provide variety in terms of colour, texture and tone, and their appropriateness to the building use. For sustainability, materials for the courtyards and public open spaces have been chosen which are substantially maintenance-free in order to ensure that the buildings weather well without extensive maintenance regimes.

- *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 Player Wills 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 site in its current state is impermeable and movement is diverted 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 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 concludes that the proposed development site is located in Flood Zone C and is thus ‘appropriate’ in accordance with the Guidelines.

- *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 proposed development incorporates an internal street network that provide connections to adjoining sites in the wider SDRA 12 area and the existing surrounding street network.

The internal street hierarchy includes;

- i. primary streets,
- ii. a shared surface junction and
- iii. a shared surface/home zone with an east-west alignment, connecting the proposed development site with the permitted former Bailey Gibson development to the west.

Permeability is significantly enhanced allowing for full integration of this enclosed and isolated urban site with the surrounding area. New pedestrian linkages at St. Catherine’s Avenue, Donore Avenue and South Circular Road are intended to prioritise pedestrian activity and will improve legibility and connectivity for both future occupants and the surrounding community.

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, the proposed development on the former Bailey Gibson Site and Donore Avenue to the east. 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 development comprising 492 no. BTR apartments, and 240 no. shared accommodation private living spaces will contribute significantly to the provision of a greater mix of dwelling typologies and tenure in the locality. Further details on the contribution that the proposed tenure will have to the existing housing tenure is contained in the **Unit Mix Justification Report** appended to the Planning Statement.

A wide range of non-residential floor space is incorporated into the proposed development. The mix of uses is informed by a **Social Infrastructure Audit** prepared at the early stages of the design development to inform on the appropriate uses having regard to existing commercial, retail and social infrastructure available locally and that permitted on the nearby Bailey Gibson site.

852 sq.m of floor space is dedicated to community, arts and cultural and exhibition space including artist and photography studios, 701 sq.m of retail floor space, and 1,136 sq.m of food and beverage floor space, 217 sq.m of co-working office space and a 275 sq.m creche.

The scheme also includes a significant quantum of tenant amenities and facilities including co-working space, a meeting room and business centre, lounges, TV room, games rooms, a gym, a library, kitchen/dining areas and laundry facilities.

This is a residential led scheme and emphasis has been placed on the provision of a substantial quantity of community, arts and culture, retail, food and beverage and tenant amenities and facilities. The mix of uses to meet the variety of needs is wide ranging and the substantial quantum of non-residential uses will contribute to a vibrant mixed-use urban quarter.

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 eastern boundaries are predominantly two to four stories in height to protect neighbouring residential amenity.

Taller projections are situated in the centre of the site to optimise use of urban land and provide panoramic views over the proposed public parks and towards the south of the city. Lower building heights in perimeter blocks, particularly along the southern and eastern 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'. 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.

Please refer to the **Daylight, Sunlight and Overshadowing Study** and submitted under separate cover for further details regarding this matter. Key conclusions from the report are;

The Shadow analysis shows different shadows being cast from the existing, 2017 Development Framework and proposed schemes at particular periods throughout the year. Overall, the proposed development would cast minimal additional shading on neighbouring buildings. This is further quantified by the daylight analysis of existing buildings.

The Vertical Sky Component for 96% of the points tested have a value greater than 27% or not less than 0.8 times their former value (that of the Existing Situation), exceeding the BRE recommendations. This increases to 99% when compared against the Development Framework plan. The majority of the values just outside the recommendations are still achieving high values between 24% and 26% and therefore good levels of light would still be received within the spaces beyond.

On the 21st of March, all of the communal amenity areas would receive at least 2 hours of sunlight over 50% of the individual areas on the reference date of the 21st March, exceeding the BRE recommendations.

The results also highlight that the proposed 'Players Park and 'St. Catherine's Park' public amenity spaces are exceeding the BRE recommendations and will be quality spaces in terms of sunlight received.

Based on the results of the rooms tested across the Player Wills site, 92% of the spaces tested within the proposed scheme have an Average Daylight Factors (ADF) above the recommended values, exceeding the BRE guidelines. This total would be expected to increase beyond 92% if all of the upper and outer paces across the development were included in the results.

Overall the results demonstrate that the proposed development performs well when compared against the BRE recommendations in the BRE "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice".

4. Specific Assessments

In accordance with the Guidelines, specific assessments accompany this application and those relevant to this Material Contravention Statement are;

- Masterplan & Appropriate Assessment Screening Report
- Architectural Design Statement prepared by HJL Architects & KPF
- Housing Quality Audit prepared by HJL Architects & KPF
- Landscape Design Statement prepared by NMP Landscape Architecture
- Civil Engineering Infrastructure Report for Planning (inc. 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 Demand Report prepared by MH Planning
- 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
- Photomontages prepared by Modelworks
- Appropriate Assessment Screening Report 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.”

3.1.2.5 Design Standards for New Apartments Guidelines 2018

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 build to rent (including apartments and shared accommodation) 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 proposed development 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 development site is within walking distance (i.e. up to 15 minutes or 1,000-1,500m) of significant employment locations. The **Traffic and Transport Assessment** prepared by Systra and submitted under separate cover identifies that there are 8,304 employment opportunities within a 15-minute walk time if the proposed development site.

These significant employment locations include the Coombe Maternity Hospital situated north-west of the subject site, St James’ Hospital and Griffith College. The city centre is a 25-30 minute walk time.

The site is located within a 5-minute walk of a numerous high frequency Dublin Bus & Go- Ahead services along Dolphin’s Barn Street/Cork Street, a dedicated Quality Bus Corridor, and the South Circular Road. It is also a 12-minute walk to the Fatima Red line Luas stop.

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 proposed development satisfies the locational criteria for higher density residential development. In seeking to achieve higher densities, the height strategy for the proposed development 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. The suite of supporting information and studies that accompany this application demonstrate that the proposed design meets relevant performance based criteria and the **Housing Quality Audit** establishes that standards relating to unit design are met and exceeded.

3.1.3 Permission should be Granted having regard to 37(2)(b)(iv)

This section sets out why the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the Dublin City Development Plan 2016-2022. This section should be read in conjunction with the **Architectural Design Statement**, the **Landscape & Visual Impact Assessment** (see Volume II EIAR) and the **Photomontages**.

The publication of the NPF, RSES and Urban Development and Building Heights Guidelines for Planning Authorities (2018) support stronger promotion of sustainable development at this site. The proposed development is for higher density development that is appropriate in the context of the site's characteristics and having regard to the pattern of residential and apartment development on nearby sites at Cork Street and Dolphin's Barn and local, regional and national planning policy.

The proposed development site is in Dublin 8, an area of the City that is undergoing significant transformation. In recent years, the pattern of development (constructed, under construction and permitted) is one of mixed use development, including apartments, student accommodation and hotels in buildings of increased height relative to the traditional existing building stock in the area.

In September 2020, An Bord Pleanála granted permission (Ref. PL29S.307221) for the demolition of all existing structures at the former Bailey Gibson Site, 326-328 South Circular Road, Dublin 8, and the construction of 416 no. residential units (4 no. houses and 412 apartments) and associated site works. This site is to the immediate west of the proposed development site. The permitted development includes 2 no. buildings that exceed 50m; building BG1 ranges from 5-11 storeys and has a maximum height of 57.25m and BG2 ranges from 2-16 storeys (max. height 72.435m).

The Board in making their decision concluded that the former Bailey Gibson site is an appropriate location for buildings of increased height and scale.

The Board considered that the proposed materials and architectural detailing will contribute to the creation of a positive addition to the streetscape, which will appear in the setting of the architecturally sensitive areas and protected structures located around the site. The Board was satisfied that the height and massing of the development will enhance the character of the area.

The Bailey Gibson decision confirms that increased height is acceptable in this area of Dublin 8 and the Grant of Permission establishes the planning precedence for this.

The proposed development takes a similar approach to height as applied in the permitted Bailey Gibson development. The design incorporates stepped building heights that transition in scale to neighbouring lower rise buildings.

The articulation of the towers in PW2 has been developed as a slender expression, whilst responding to the fundamental demands of building efficiency and the responsible use of resources. By breaking down the mass of each tower into separate elements, an expression of a grouping of taller elements is created, each of which is more slender than the target 3:1 ratio of the Dublin City Development Plan. When compared to the neighbouring approved Bailey Gibson development, the towers of PW2 exceed the slenderness ratio for the permitted block BG2, the tallest of the buildings within the Bailey Gibson site.

The Landscape and Visual Impact Assessment concludes in relation to the cumulative residual effects of the proposed development;

"The cumulative effects of the proposed development are two-fold.

Firstly, the proposed development will take place as part of a wider Masterplan Area, and the cumulative effects of this wider development upon landscape and visual impacts are illustrated and discussed in the appraisal above. The wider Masterplan area development will adopt a similar approach to layout, scale and

architectural design with a coordinated network of streets and open spaces. This will make the proposed development part of a much more extensive and cohesive urban landscape than might be evident when seen on its own. While the landscape and visual effects of the proposed development might appear neutral or even slightly negative on its own, the inclusion of further development on adjacent land within the Masterplan area significantly enhances the scope and delivery of good placemaking, which will have a significant positive effect on landscape and visual impacts.

Secondly, the proposed development along with the wider Masterplan Area will take place in an already changing urban environment, where land along Dolphin's Barn Street and Cork Street in particular have already undergone transformation to contemporary architecture and taller buildings. The proposed development will therefore be consistent with this change and positively reinforce the emerging urban character, having a slightly or moderately positive impact upon landscape character and visual amenity."

This area of Dublin 8 has and is witnessing significant change. The scale of recently constructed buildings, those under construction and permitted not yet commenced developments incorporate taller buildings following the introduction of the Building Height Guidelines in 2018 that followed the adoption of the Dublin City Development Plan. As such, it is submitted that the proposed development satisfies section 37(2)(b)(iv) and accordingly, permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

4 Conclusion

The delivery of much needed housing as proposed is of national importance and the strategic nature of the proposed development is confirmed having regard to the planning legislation, Strategic Housing Development, under which this application will be processed. This proposal therefore meets the requirements of Section 37(2)(b)(i) of the Planning and Development Act 2000, as amended.

Having established the above, it is necessary for the proposed development to meet one of the following 3 no. criteria for the Board to grant permission where the proposed development materially contravenes the development plan;

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

This Material Contravention Statement establishes that the proposed development is consistent with (ii) and (iii) above and accordingly should the Board determine that the proposed development materially contravenes the building height strategy of the Dublin City Development Plan 2016-2022, the Board can grant permission.

This report together with the supporting information included with the application demonstrates that the proposed development is consistent with the development management principles set out in section 3.1 and 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018).

It is a Specific Planning Policy Requirement (SPPR) 3(a) of the Urban Development and Building Heights Guidelines for Planning Authorities that where an applicant for planning permission sets out how a development proposal complies with the criteria in section 3.1 and 3.2; and, where An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, they shall apply Strategic

Planning Policy Requirement 3 under Section 28 (1C) of the Planning and Development Act 2000 (as amended).

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, in accordance with and Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and by reference to sub-section (ii) and (iii) of Section 37(2)(b) of the 2000 Act (as amended) for the reasons set out above.