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**Proposed Strategic Housing Development
Park Shopping Centre & 42-45,
Prussia St,
Dublin 7**

Material Contravention Statement

Applicant: Park Shopping Centre Limited

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1. Statutory Context

This Material Contravention Statement has been prepared to accompany a planning application for a mixed-use development consisting of district centre, student accommodation and build-to-rent accommodation submitted under the Strategic Housing Development provisions of the Planning and Development (Housing and Residential Tenancies) Act 2016.

The statement of Material Contravention has been prepared to acknowledge matters which may be considered to be a Material Contravention of the Dublin City Development Plan 2016-2022.

This statement has been prepared in accordance with Section 5(6) of the Planning and Development Housing and Residential Tenancies Act, 2016, which requires that:-

Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

Section 9(6) confirms that An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan, other than in relation to the zoning of land as follows:-

(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.

In this regard, the provisions of Section 37(2) (b) of the Planning and Development Act, 2000 (as amended) apply:-

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

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

2. Summary of Contraventions

The table below summarises the relevant provisions of the Dublin City Development Plan 2016-2022 (DCDP) and how the proposal contravenes these standards. Two contraventions have been identified, which may be considered to be material contraventions of numerical values in the DCDP.

Parameter	Development Plan	Proposal
Unit Area	Section 16.10.7 of the DCDP provides Guidelines for Student	5 no. student accommodation units exceed the maximum floor

	Accommodation and sets the maximum gross floor area of a student unit at 160m ²	area.
Height	Section 16.7.2 of the Development Plan provides a table setting out the maximum building height of commercial developments in the inner city is up to 28m.	The subject proposal has a section of building including parapet which is 28.8m in height, exceeding the limit by 0.8m.

2. Local Planning Policy Context

The Dublin City Development Plan sets parameters for building heights and guidelines for student accommodation developments in Dublin.

Guidelines for Student Accommodation

Section 16.10.7 of the Development Plan sets out Guidelines for student accommodation developments, which includes minimum and maximum areas for units. The Development Plan states the following:-

Student accommodation to generally be provided by grouping study bedrooms in 'house' units, with a minimum of 3 bed spaces with an overall minimum gross floor area of 55 sq.m up to a maximum of 8 bed spaces and a maximum gross floor area of 160 sq.m.

All student accommodation units have a minimum of 3 no. bed spaces and a maximum of 8 no. bed spaces. 5 no. student accommodation units exceed the maximum unit area of 160m².

Unit No.	Unit Area (m ²)
1.22	175
2.22	174
9.28	168
9.38	168
9.48	168

Guidelines for Building Height

Section 16.7.2 of the Development Plan provides a table setting out the maximum building heights permissible for commercial and residential developments in the inner city.

The maximum building height of commercial developments within the inner city is up to 28m. The proposed development includes a section of building with parapet of 28.8m in height.

This Material Contravention Statement is made in respect of non-compliance with the unit area standards for student accommodation and building height parameters of the Dublin City Development Plan.

3. National and Regional Planning Framework

Since the adoption of Dublin City Development Plan 2016-2022 the national and regional planning strategy has changed considerably, with the publication of *Project Ireland 2040 National Planning Framework*, *EMRA Regional Spatial and Economic Strategy* and Section 28 Guidelines, notably the *Urban Development and Building Heights Guidelines 2018*.

3.1 National Planning Framework

The National Planning Framework (NPF) signals a shift in Government policy towards securing more compact and sustainable urban development, to enable people to live nearer to where jobs and services are located. There will be a major new policy emphasis on renewing and developing existing built-up areas rather than continual expansion and sprawl of cities and towns out into the countryside, with a target of 50% of future population growth focused in the five Cities and their suburbs and at least 50% of new housing in Dublin to be delivered within the existing built-up footprint.

National Policy Objective 2a

- A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs¹⁵.

National Policy Objective 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 footprints¹⁸.

3.2 *Eastern Midland Regional Assembly Regional Spatial and Economic Strategy*

The *Eastern Midland Regional Assembly Regional Spatial and Economic Strategy* (EMRA RSES), published in November 2018 supports the implementation of National Policy Objectives and targets contained in *Project Ireland 2040 - National Planning Framework* (NPF) and alignment with the investment priorities of the *National Development Plan 2018-27* (NDP).

The population of Dublin city and suburbs is to grow by more than 200,000 in the next 15 years. It is policy to support the consolidation and re-intensification of infill, brownfield and underutilised lands, including older industrial areas, with 50% of all new homes to be provided in the existing built-up areas of Dublin city and suburbs to achieve a population of 1.4 million by 2031, supported by improved public transport.

The MASP is aligned with a number of Regional Strategic Outcomes in the RSES which include managing the sustainable and compact growth of Dublin, the regeneration of cities and better use of under-used land, integrated transport and land use and the promotion of Dublin as a global city region.

In terms of **Integrated Transport and Land Use** the RSES seeks to *promote best use of Transport Infrastructure, existing and planned, and promote sustainable and active modes of travel to ensure the proper integration of transportation and land use planning.*

Regional Policy Objectives of note include:-

- RPO 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

3.3 Urban Development and Building Heights Guidelines 2018

The *Urban Development and Building Heights Guidelines 2018* were published in December 2018. The Guidelines recognise that *“increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and our planning process must actively address how this objective will be secured”*.

The Guidelines take precedence over blanket height limitations in Development Plans. The guidelines recognise that *“it is Government policy that building heights must be generally increased in appropriate urban locations.”*

The rationale *“for consolidation and densification in meeting our accommodation needs into the future must also be applied in relation to locations that development plans and local area plans would regard as city and town centre areas.”*

Public Transport

The Guidelines note that substantial investment in public transport infrastructure is a key tenet of Project Ireland 2040, particularly in cities and towns through investment in a range of modal solutions, including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks.

In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of developing sustainable mobility corridors and networks (Para. 2.4).

Placemaking

The Guidelines also note that taller buildings can also assist in reinforcing and contributing to a sense of place, such as indicating the main centres of activity, important street junctions, public spaces and transport interchanges. In this manner, increased

building height is a key factor in assisting modern placemaking and improving the overall quality of our urban environments (Para. 2.5).

Development Management

In relation to the assessment of individual planning applications and appeals, *it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility* (Para. 3.1).

3.4 Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities

Since March 2018, the ‘build-to-rent’ (BTR) residential sector has been formally recognised in Government planning guidelines, with specific planning policy requirements now in place.

BTR is defined in the Guidelines as *‘Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord’*

The Guidelines state that SPPRs take precedence over any conflicting policies and objectives of Development Plans, local area plan and strategic development zone planning schemes.

4. Material Contravention Considerations

The following section has regard to the criteria available to ABP in accordance with Section 37(2)(b) of the Planning and Development Act, as amended. Having regard to the national and regional policy context outlined above, it is submitted that the proposed development is in accordance with proper planning and sustainable development and permission should be granted in contravention of the DCDP limits.

4.1 Strategic or National Importance - 37(2)(b)(i)

The proposed development is considered as a Strategic Housing Development under the Planning and Development (Housing) and Residential Tenancies Act 2016 as it is located on zoned land and exceeds 200 no. student accommodation bedspaces. The Board's opinion confirmed the proposed development is strategic in nature under the provisions of this Act.

National guidance, such as the NPF and EMRA RSES, Urban Development and Building Height Guidelines and Sustainable Urban Housing: Design Standards for New Apartments Guidelines seek the creation of compact, sustainable residential developments to be located in appropriate urban locations, close to existing/proposed infrastructure and services. The development is located on zoned land in an existing urban settlement and is adjacent to existing infrastructure and services. It is therefore submitted that the proposed development can be considered to be of strategic importance.

4.2 Section 28 Guidelines – 37(2)(b)(iii)

Building Height

The relevant provisions of the *Urban Development and Building Heights Guidelines 2018* are outlined in Section 3 above. It is clear that the Guidelines call for more compact urban development, particularly in close proximity to public transport.

Applying these planning principles to the subject site, it is submitted that the proposed height marginally in excess of the Development Plan limitations is appropriate.

In terms of public transport, the site is serviced by 5 no. frequent Dublin Bus routes (No. 37, 39, 39a, 46a and 70) on Prussia Street, with numerous routes on the North Circular Road corridor and Luas c.600m across the GDA campus. Prussia Street is also a proposed Bus Connects route, which will increase the public transport facilities in the vicinity of the site. National guidance is clear that increased building height at such locations is required to optimise the effectiveness of the investment in infrastructure.

The *Urban Development and Building Heights Guidelines 2018* also recognise the role of taller buildings in terms of placemaking and improving the overall quality of our urban environments. The provision of an 8-storey building marking the district centre is an appropriate urban design response.

In summary, the subject site will benefit from high quality public transport on its doorstep and is a location that lends itself very well to a taller building. It is submitted that the proposed development, at up to 8 storeys in height is appropriate and in accordance with proper planning and sustainable development.

The units that exceed the floor area limit provide superior quality accommodation.

4.3 Pattern of Development – 37(2)(b)(iv)

The subject site is an underutilised district centre, which is capable of accommodating a development of a much larger scale than what exists on the site.

The proposed development provides a district centre with 11 no. retail/non-retail units, student accommodation located adjacent and with direct access to a third level education campus and a build-to-rent residential development.

Permission was previously granted on the subject site for a new district shopping centre with student accommodation overhead with a building height up to 7-storeys, similar to the subject proposal (Ref. 2038/17).

It is therefore submitted that the proposed development is consistent with the pattern of development and recent permissions granted in the area.

5. Conclusion

Having regard to the strategic nature of the development, which will deliver national policy objectives on housing and complies with Section 28 Guidelines, it is submitted that An Bord Pleanála can grant permission for the proposed development.