

**Statement of Material Contravention with  
the Dun Laoghaire Rathdown County Development Plan  
2016-2022**

*In respect of*

**Proposed Build to Rent Strategic  
Housing Development**

*on lands at*

**St. Michael's Hospital Car Park,  
Crofton Road, Dun Laoghaire**

*Prepared for*

**Fitzwilliam DL Ltd.**

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## 1.0 INTRODUCTION

- 1.1. This statement outlines the justification for the proposed Build to Rent residential development and publicly accessible café on lands at St. Michael's Hospital, Crofton Road, Dun Laoghaire, County Dublin.
- 1.2. It should be noted that the proposed development may be considered to materially contravene the Dun Laoghaire-Rathdown County Development Plan 2016-2022 in respect of:
  - *Building Height*, as the apartment blocks in the proposed development range in height from 5 no. to 13 no. storeys,
  - *Car Parking Provision*, with 3 no. car parking spaces proposed,
  - *Unit Mix*, with 79% 1-bed apartments and 21% 2-bed apartments proposed,
  - *Private Open Space*, with some units falling below requirements at Table 8.2.5.
- 1.3. This statement provides a justification for the material contravention of the Dun Laoghaire Rathdown County Development Plan Appendix 9 and Appendix 12 (Dun Laoghaire Urban Framework Plan) in relation to building height strategy, Table 8.2.4 of Section 8 in relation to car parking provision, Section 8.2.3.3 (iii) in relation to Mix of Units and Section 8.2.8.4 (iv) in relation to Private Open Space.
- 1.4. It is ultimately a matter for An Bord Pleanála as to whether the proposed development constitutes a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 and, if minded to do so, whether it is appropriate to grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).

### Legislative Context

- 1.5. Section 9 of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended ('the 2016 Act'), 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, is 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 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 part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of 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'.*

- 1.6. Section 37(2)(b) of the Planning and Development Act 2000, as amended, ('the 2000 Act') states:

*'2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(b) 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'.*

- 1.7. In the event that the Board were to grant permission, the Board's "reasons and considerations" would have to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Development Plan. It is apparent from section 10(1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

*"(3) A decision of the Board to grant a permission under section 9(4) shall state-*

*....*

*(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be."*

- 1.8. Having regard to the analysis set out below of the compliance with the proposed development with national planning policy and section 28 guidelines, and having considered the strategic nature of the site and the proposed development, 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 County Development Plan, by reference to sub-paragraphs (i) and (iii) of Section 37(2)(b) for the reasons set out below.

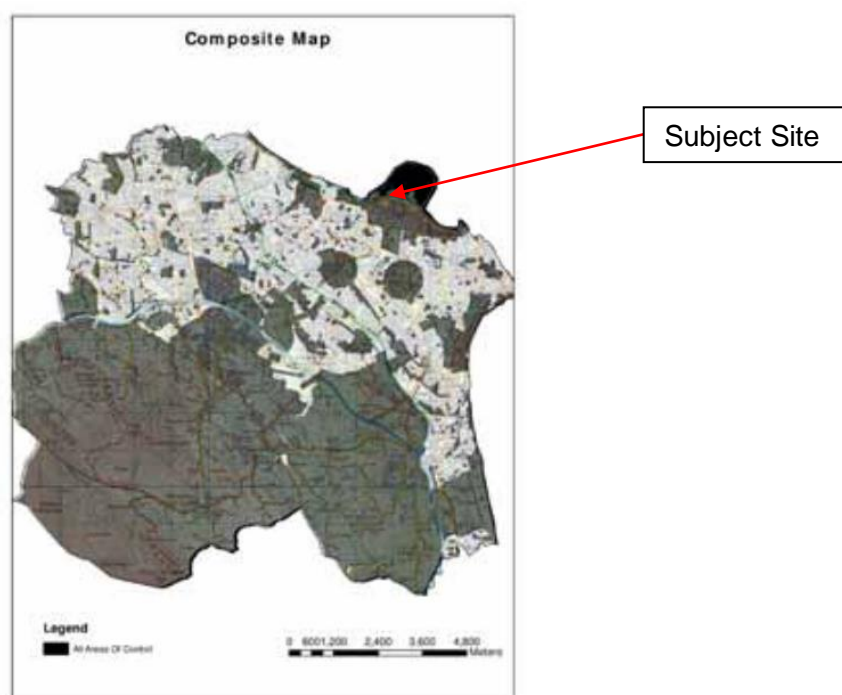
## 2.0 JUSTIFICATION OF MATERIAL CONTRAVENTION

### Identification of Material Contravention Aspects

#### Building Height

- 2.1 Policy UD6 of the Dun Laoghaire Rathdown County Development Plan states that it is the Council's objective to adhere to the recommendations and guidance set out within the Building Height Strategy for the County. This is provided at Appendix 9 of the County Development Plan which notes that c. 75% of the county is subject to some form of building height quality and control.
- 2.2 Section 4 of the appendix notes that tall buildings *'can realistically only be accommodated in a number of key centres in the County – specifically Sandyford, Cherrywood, Dundrum, Dun Laoghaire and UCD Belfield'*. Dun Laoghaire is considered to be *'self-selecting'* for taller buildings due to its *'Major Town Centre'* status and is therefore capable of accommodating buildings of increased height.
- 2.3 The appendix identifies *'Local Areas Plans, Framework Plans or SDZs'* as the *'appropriate vehicle for identifying the specific sites... that have potential for accommodating building height'*. In respect of the subject site at a central location in Dun Laoghaire town centre, the Dun Laoghaire Urban Framework Plan (Appendix 12 of the CDP) is identified by the Planning Authority as this *'vehicle'* (in the absence of the Dun Laoghaire Local Area Plan which has not yet been prepared).
- 2.4 The Appendix notes that in relation to Dun Laoghaire, *"traditional building height within the area are typically 2-4 storeys, with some post-war developments of about 4-5 storey. More recent schemes extend up to a maximum of 7 storeys. Generally, only the spires of St. Michael's Church and Mariner's Church and the tower of the County Hall rise above this urban skyline"*.
- 2.5 The Dun Laoghaire Urban Framework Plan notes the presence of spires of St Michael's Church and Mariner's Church spires in combination with the dlr Lexicon as *'landmark buildings'* which *'rise above the overall urban skyline'*. The Plan states an objective *'that this hierarchical relationship between established landmark buildings and new infill development be preserved and maintained'*. New infill development should be *'contextual'* and seek to *'re-establish streetscapes'* as well as being *'appropriately scaled'*. It notes that when considering proposals, the Council will *'have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas and the East and West Piers of the Harbour'*.
- 2.6 Section 4.8 of Appendix 9 sets out a series of *'modifiers'* which should be complied with to allow increased building heights within any proposed development at certain locations. The appendix states that the section *'specifically focuses on all of those residual suburban areas not already included within the boundaries of the cumulative control area identified in Section 4.7'*. It is noted that subject site is located within Dun Laoghaire town major centre and therefore is under control of the content Dun Laoghaire Urban Framework Plan. In this respect, the modifiers set out at Section 4.8 are not applicable to the subject site.
- 2.7 It is important to note that the Building Height Strategy (Appendix 9) and the Dun Laoghaire Urban Framework Plan (Appendix 12) **do not provide upper height limits or restrictions on building heights of proposed development in Dun Laoghaire town centre**. The Urban Framework does not specify height limits on the subject site.

- 2.8 It is noted that in their Opinion issued at Pre-Application Consultation stage, Dun Laoghaire Rathdown County Council state that proposed development *'would not accord with the Dun Laoghaire Urban Framework Plan'* as *'the proposed building height would appear to rise above the tower of the County Hall, the spires of St Michael's and Mariners' Church, the tower of the County Hall and the 'prow' of the new dlr Lexicon'*.
- 2.9 In respect of the Building Height Strategy, the planning authority notes that it *'is not satisfied that the principle of a 12 storey building at this location in acceptable and in accordance with the Dun Laoghaire Rathdown County Development Plan 2016-2022 Building Height Strategy'* owing to *'the prominent location of the site, the relationship of the proposed building with important focal points and visual impact that the development will have on the existing skyline when viewed from the surrounding areas and the East and West Piers of the Harbour and Dublin Bay'*.
- 2.10 The Planning Authority notes that the site is located within the Coastal Fringe area. However, the Downward Modifiers apply only to suburban areas as confirmed at Section 4 of the Building Height Strategy (Appendix 9) and is not therefore considered relevant, or applicable, in the context of the subject site, which is located within the Dun Laoghaire Local Area Plan / Urban Framework Plan area and subject to control in this regard. The indicative location of the site in the context of these areas of cumulative control is shown below, as it appears at Section 4.7 of Appendix 9.



**Figure 1: Areas of Control Cumulative Composite Map**

- 2.11 Notwithstanding this, the Downward Modifier is noted below for the information of the Board:

Coastal Fringe

*Most of the County's outstanding architectural heritage is located along the coast. In particular, the high quality building stock in Booterstown, Blackrock, Monkstown, Dún Laoghaire, Dalkey and Killiney has created a unique waterfront of high architectural*

*and historical value. Views from the Irish Sea and East Pier capture the remarkable coastline with its historic seafront developments. In order to retain and protect this outstanding coastline and its distinct skyline, this Building Height Strategy sets a 500m 'Coastal Fringe Zone' following the coastline. Where development is proposed within this zone which would exceed the height of its immediate surroundings, an urban design study and impact assessment study may be required to demonstrate that the scheme will not harm and will protect the particular character of the coastline including, where appropriate, views from the sea/pier"*

- 2.12 The Strategy goes on to acknowledge that upward and downward modifiers may on occasions *'overlap and could be contradictory, for instance: when in close proximity to both a DART station yet within the Coastal Fringe'*.
- 2.13 Furthermore, the proposed development is noted to be in compliant with corresponding 'Upward Modifiers' in the context of the Building Height Strategy. These are as follows:
- a) *The development would create urban design benefits, for example:*
- *It would enclose main public or green spaces to their benefit;*
  - *It would enclose a main street or mark a major cross-roads and/or transport interchange to the benefit of the legibility, appearance or character of the area;*
  - *It would beneficially frame an important view.*
- 2.14 The proposals will introduce significant urban design benefits at the location and contribute positively to the streetscape at the Seafront Quarter by providing an area of public open space at the northern perimeter and providing a sense of place by the introduction of a passive landscaped area which benefits from excellent aspects towards the harbour and Dublin Bay.
- 2.15 The site is located approximately 120 metres west of the Dun Laoghaire DART station and bus terminus and when observed from afar, is considered to contribute to the identification of this public transport interchange and the Seafront Quarter at Dun Laoghaire.
- 2.16 As discussed in greater detail within the ARC Consulting Landscape & Visual Impact Assessment and the RAU Design Appraisal, the proposals are considered to provide a visual balance to the Dun Laoghaire skyline in the context of existing buildings of greater height in the vicinity. In this regard, the proposals are considered to beneficially frame important views, such as from the east and west piers of Dun Laoghaire Harbour. The higher element of the development is proposed to bookend the western end of the Seafront Quarter, marking the curve in Crofton Road and reflecting the similar function of the Lexicon building at the eastern perimeter of the Quarter.
- b) *The development would provide major planning gain, such as:*
- *Significant improvements to the public realm;*
  - *The provision or significant enhancement of a public transport interchange;*
  - *The provision of new or improved transport infrastructure.*
- 2.17 The proposals are considered to introduce improvements to the public realm at Crofton Road. This development will replace a surface car park which provides little interaction or animation with the streetscape. A generous quantum of public open space extending to 681 sqm is included at the northern perimeter of the site and the landscaped

pedestrian route linking to St. Michael's Hospital to the south. This provision also enhances permeability and connections at the location and encourages walking. The proposals therefore provide a positive interface with the public realm at Crofton Road, introducing active frontage in the form of a café and outdoor seating area, passive recreation and planting at an attractive location which encourages public use and provides a welcoming entrance to the development.

c) *The development would have civic, social or cultural importance, for example:*

- *It would provide new facilities or enhance existing facilities in such fields as culture, education, leisure or health;*
- *It would provide or enhance public space or social facilities especially in areas where such facilities are deficient;*
- *It would enable important cultural, historic or archaeological sites, landscape and natural features or trees to be retained and enhanced.*

2.18 As noted above, the proposals include an area of internal amenity and an external terrace/viewing deck at 13<sup>th</sup> storey level at Building 01. It is proposed that this community facility would be opened to the public at various occasions throughout the year via events such as the Dun Laoghaire Summer of Heritage, Culture Night or Open House events subject to agreement. This will add to the value of the development in a community context and ensure that the proposals are accessible to members of the public through specific events, as to be agreed with DLRCC.

d) *The built environment or topography would permit higher development without damaging the appearance or character of the area, for example:*

- *In an area where the location or scale of existing buildings would allow the recommended height to be exceeded with little or no demonstrable impact on its surroundings;*
- *In a dip or hollow, behind a rise, or near a large tree screen, where the impact of a higher building would have little or no additional impact on its surroundings.*

2.19 The built environment existing to the east and south of the subject lands provides a basis for the heights proposed at the lower aspects of Building 01, as well as within Building 02. The proposed 8 and 9 no. storey elements of the proposed scheme are informed by the heights at Harbour View, St Michael's hospital and the Sisters of Mercy building, each of which are in close proximity to the subject lands. The scale and height of the proposed development falls moving west, in order to successfully integrate with the nature of the protected structures at Charlemont Terrace and Avenue, in order to preserve levels of amenity at each, as well as respecting the historic setting and character of these. The rising topography of the site moving south, in combination with the nature and scale of adjacent urban development also enables the proposals to be screened to a large extent from the surrounding town centre area.

2.20 It is considered that the higher element of Building 01 will introduce a landmark building which provides a gateway entrance to Dun Laoghaire town centre and helps to define the Seafrost Quarter. It will reflect and relate successfully with the existing higher buildings in Dun Laoghaire town centre and introduce a balance to the town's skyline and setting when viewed from Dublin Bay and the west pier. In this respect, the development is considered to contribute positively to the nature and character of the area and would allow the recommended height to be exceeded with little demonstrable impact on its surroundings.

e) *A development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility, whilst retaining and enhancing high quality residential environments. (Areas with exceptional public transport accessibility are defined as areas within a 500m walkband on either side of the Luas corridor, a 500m walkband around the DART stations, a 500m walkband on either side of the N11 and 100m walkband on either side of a QBC). Densities should be higher adjacent to these corridors and nodes and grade down towards neighbouring areas so that they are lower in close proximity to residential areas.*

- 2.21 The subject site is located opposite Dun Laoghaire DART station and the town's bus terminus and is therefore considered to constitute a location which benefits from exceptional public transport. The cycle lane between Blackrock and Sandycove has also been implemented on the N31. The location also benefits from a wide range of town centre facilities and amenities located within Dun Laoghaire town centre. The provision of a publicly accessible café will also add to the range of provision in the area, benefitting both residents and the local population. In this regard, it is considered to be suitable for higher density development as proposed.
- 2.22 In accordance with the Dun Laoghaire Rathdown CDP and the Urban Development & Building Height Guidelines, an Architectural Design Appraisal prepared by Reddy Architecture & Urbanism has been prepared and accompanies this submission. This sets out in detail the design development of the proposals as well as providing an urban design rationale for the scheme. This is complemented by a Landscape & Visual Impact Assessment prepared by ARC Consulting, an Architectural Heritage Impact Assessment prepared by Rob Goodbody Historic Building Consultant and a Daylight & Sunlight Analysis prepared by Hollis.
- 2.23 It is important to note that the Height Strategy at Appendix 9 and the Dun Laoghaire Urban Framework Plan at Appendix 12 of the CDP **do not provide upper height limits or restrictions on building heights** of proposed development in Dun Laoghaire town centre. Additionally, the Urban Framework **does not specify height limits for the subject site**. Therefore, the Board may not consider the proposal to constitute a material contravention in this regard.
- 2.24 This statement has been included in the instance that the Board do consider the proposals to constitute a material contravention in terms of height, taking cognisance of the views of DLRCC as set out in their Opinion. This notes that having regard to the *'the prominent location of the site, the relationship of the proposed building with important focal points and visual impact that the development will have on the existing skyline when viewed from the surrounding areas and the East and West Piers of the Harbour and Dublin Bay'* the Planning Authority is not satisfied that the *'principle of a 12 storey building is acceptable and in accordance with the Dun Laoghaire Rathdown County Development Plan 2016-2022'*.
- 2.25 The accompanying Statement of Consistency set outs a justification for the proposed building heights at the site in respect of its central location, its Major Town Centre zoning, topography, improvements to the public realm and its appropriate integration with the character of the area as a taller building.

#### Car Parking

- 2.26 In relation to car parking provision, the requirements are set out at Table 8.2.4 of Section 8 of the County Development Plan. This requires 1 space per 1-bed apartment



and 1.5 spaces per 2-bed unit. In addition, 1 space per 15 sqm gross floor area of a café is required. In total, 139 car parking spaces are required in accordance with maximum development plan standards. The proposed development includes 3 no. car parking spaces, one of which is an accessible space. Agreement in principle had been reached with Yuko Car Club for the operation of the remaining 2 no. spaces available to share for all residents. In this respect, the proposed development may be considered a material contravention of the Development Plan in respect of car parking provision.

### Mix of Units

- 2.27 In respect of 'Mix of Units', Section 8.2.3.3 (iii) of the Dun Laoghaire CDP requires that *'larger schemes over 30 units should generally comprise no more than 20% 1-bed units...'*. The proposed development comprises 80 no. 1-bed and 22 no. 2-bed units and may be considered to be a material contravention of the development plan in this regard.

### Private Open Space

- 2.28 In respect to Private Open Space, Section 8.2.8.4 (iv) refers to Table 8.2.5 which notes a requirement of 6 sqm and 8 sqm of private open for 1 and 2 no. bed apartments respectively. A number of units proposed fall below these standards, with some units without a balcony or terrace as a design response to the character of Charlemont Terrace. The proposed development may be considered to be a material contravention of the development plan in this regard.
- 2.29 A justification for the potential material contraventions in respect of height, car parking, mix of units and private open space is set out below, under the relevant parts of section 37(2)(b) of the 2000 Act.

### **Paragraph (i) – Proposed Development is of Strategic or National Importance**

- 2.30 The proposed development comprises 102 no. build to rent apartments and a publicly accessible café. The proposals also include substantial quantum of communal open space provided through a combination of roof terraces and a central courtyard, with an area of landscaped public open space at the northern perimeter of the site. Internal amenity space in the form of a co-working/study space, games room and lounge/kitchen area and gym are provided, with ancillary car and bicycle parking. A 13<sup>th</sup> storey roof terrace and area of internal amenity is provided at Building 01 to optimise the panoramic views from this level. This will be open to public use on a number of occasions through the year for community use.
- 2.31 The development site is identified in the Dun Laoghaire Urban Framework Plan as *"one of the largest remaining potential redevelopment areas within the Town Centre"*. The 0.42ha site is strategic in nature owing to its context in Dun Laoghaire town centre, as well as its proximity to Dun Laoghaire DART and railway station and the bus terminus, which is approximately 120 metres east. The site also represents the only gap site in the Seafront Quarter and is considered a strategic element of the seafront at Dun Laoghaire and the wider settlement.
- 2.32 The proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. Strategic housing development also comes within the definition of Strategic

Infrastructure Development. On this basis also, it is submitted that the proposed development is, by definition, strategic in nature and of strategic importance.

- 2.33 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:

***“An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”***

- 2.34 The Rebuilding Ireland Action Plan, and consequently the 2016 Act, recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis.

- 2.35 In relation to the arrangements that have since been put in place for Strategic Housing Developments, the Rebuilding Ireland Action Plan states:

***“Such arrangements would draw on procedures already in place in respect of strategic infrastructure development projects under the Planning and Development (Strategic Infrastructure) Act 2006 and should speed up the planning decision-making process in respect of such developments, while also providing greater certainty for developers in terms of timeframes within which such developments can be determined in the planning system.”***

- 2.36 Due to the strategic importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.

- 2.37 Having regard to this legislative and policy context, it is considered that the proposed Strategic Housing Development on lands at St. Michael's Hospital Car Park, Crofton Road, Dun Laoghaire is, by definition, of strategic importance for the purposes of section 37(2)(b)(i) of the 2000 Act.

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

- 2.38 The following section shall demonstrate how the proposed height and quantum of development is justified in the context of recent National Planning Policy and Ministerial Guidelines under section 28 of the 2000 Act, which seek to increase residential densities on zoned services lands adjacent to public transport corridors, minimise car parking provision at central locations and provide flexibility in relation to dwelling mix and private amenity space for Build to Rent developments.

- 2.39 These include:

- Project Ireland: National Planning Framework 2040;

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020;
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2008.

### **National Planning Framework (NPF) 2040**

- 2.40 The National Planning Framework is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 2.41 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 2.42 National investment planning, the sectoral investment and policy frameworks of departments, agencies and the local government process will be guided by these strategic outcomes in relation to the practical implementation of Ireland 2040. The NPF sets out the importance of development within existing urban areas by *"making better use of under-utilised land including 'infill' and 'brownfield' and publicly owned sites together with higher housing and job densities, better services by existing facilities and public transport"*.
- 2.43 The compliance of the proposed development with the NPF is detailed below in relation each objective.
- 2.44 **National Policy Objective 3a** of the NPF states that it is a national policy objective to *"deliver at least 40% of all new homes nationally within the built up envelope of existing urban settlements"*.
- 2.45 The proposed development is a strategically located underutilised site in the centre of an existing urban settlement directly adjacent to the DART and railway station, bus terminus and cycle lane. The proposed development is therefore compliant with this objective of the NPF.
- 2.46 **Objective 4** is to *"ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being"*.
- 2.47 The proposed development will provide high quality build to rent residential apartments and Part V units at a highly accessible and well-designed urban environment in accordance with the Apartment Guidelines 2020. The proposals will replace a surface car park with a modern apartment development which provides a high level of amenities to residents and the wider public through the provision of a café with associated public open space, fronting Crofton Road, and a bookable working space.
- 2.48 The proposals significantly enhance the site's interface with Crofton Road and contribute positively to the public realm at this location through the provision of 681 sqm of landscaped public open space and seating area extending from the café. This provides a welcoming entrance to the site and will attract users of the pedestrian route along the eastern perimeter of the site linking to St. Michael's Hospital to the south.

- This enhances permeability through the site and improves the setting and urban fabric at this town centre location.
- 2.49 Residents will benefit from a range of private and communal amenity spaces through the provision of balconies and roof terraces, as well as a rooftop amenity space and internal central courtyard. This is complemented by a range of residential facilities and amenities, whilst also benefitting from the wide variety of services located within Dun Laoghaire town centre.
- 2.50 The proposed materials and finishes will also be of a high quality standard in order to create a unique quality urban place which will integrate appropriately with the existing streetscape. The proposed development will also provide for café and co-working area at ground floor level at Building 01, adding to the active frontage at this location and improving the experience for passing pedestrians.
- 2.51 It is considered that the proposed development provides for the creation of an attractive, high quality, sustainable mixed-use development within existing built up urban area on an underutilised brownfield site which is identified for redevelopment by the Dun Laoghaire Rathdown County Development Plan. The provision of the new sustainable development is therefore designed in such a manner as to fulfil this objective of the NPF.
- 2.52 **Objective 11** of the National Planning Framework states that *“there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth”*.
- 2.53 The proposed development will provide for high quality residential development in an existing urban area in close proximity to existing high capacity public transport facilities and cycle infrastructure recently implemented at the N31. The proposals will introduce a new residential population to the town centre which is well-placed to absorb such a development having regard to the wide variety of services and facilities nearby.
- 2.54 The proposals will create employment in the form of an on-site management team and the café unit which will be independently operated. The proposed uses are fully compliant with the site's Major Town Centre zoning and are appropriate in this context.
- 2.55 The NPF continues to state that:
- “Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes.*
- This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and struggle to take account of evolved layers of complexity in existing built-up areas.*
- In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”*.

- 2.56 The proposed development is located approximately 120 metres from the Dun Laoghaire railway station and bus terminus, which is easily accessible for pedestrians, providing high capacity public transport links for residents. The proposed car parking provision has been informed by the site's excellent location in respect of local public transport connections and central, accessible location, which also provides existing share/go-car stations.
- 2.57 It is considered that while the proposals may have some impacts upon the residential amenity at neighbouring properties, such as Harbour View to the east, the current form, scale and massing of the submitted development represents the optimal solution for the site in the context of the alternative design solutions. A daylight and sunlight assessment has been undertaken including an alternative 'mirror image' baseline which projects the Harbour View apartments onto the subject site, as well as the notional massing of the development indicated for the site in the Dun Laoghaire Urban Framework Plan, with the proposals demonstrated to be the superior alternative in terms of the BRE Guidelines. This is detailed further within the accompanying Daylight/Sunlight Report prepared by Hollis. It is also noted that the BRE Guidelines were prepared to provide standards typically for edge of town, greenfield sites and not for urban infill sites such as the application site.
- 2.58 Furthermore, the design of the existing Harbour View apartments with recessed balconies and reliance on a continuation of the absence of development on the subject site in relation to light access is an unreasonable baseline for an urban environment. The benefits of the proposed high quality development in sustainability terms and in an urban design context ought to be taken into account when considering potential impacts in terms of residential amenity.
- 2.59 The development of the application site which consists of brownfield, infill lands will optimise the resource and the opportunity to provide a high quality, well designed development which will integrate appropriately with its surroundings. The proposals introduce an element of height at a strategically located site at the western edge of the Dun Laoghaire Seafront Quarter which marks the entrance to the area and will counter-balance the role of the Lexicon library building at the eastern end of the Seafront Quarter at Queen's Road.
- 2.60 The existing site is underutilised and presents a key opportunity site in the context of the NPF for redevelopment of a residential scheme. Building 01 of the proposed development consists of 5, 6, 8 and 13 no. storey elements. Building 02 extends to 8 storeys with a 9<sup>th</sup> storey setback level. The proposed density and height of the development is considered appropriate for the location of the site having regard to the availability of public transport facilities. The proposed development will therefore promote the objectives of the NPF in this regard.
- 2.61 **Objective 13** of the National Planning Framework also states that:
- 2.62 *"In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieve targeted growth and that protect the environment"*.
- 2.63 As noted above, the height and car parking provision at the location are considered appropriate given the site's central location within Dun Laoghaire town centre and proximity to high capacity public transport links. The proposals constitute a high quality designed scheme which will introduce a new residential population at a central and

accessible location which will enhance the residential environment and aesthetics of the streetscape. The proposed development has been assessed in accordance with the performance criteria under section 3.2 of the Building Height Guidelines (2018), which are addressed below.

- 2.64 **Objective 27:** *Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.*
- 2.65 The proposals seek to minimise reliance on private car use and encourage sustainable modes of transport. A total of 3 no. car parking spaces (including 1 no. disabled access space) are provided, with 2 spaces intended for operation by Yuko Car Club for car sharing purposes. This will assist residents with journeys which are best suited to be undertaken by car, providing flexibility of use for all. Furthermore, 176 no. bicycle parking spaces are provided, with 8 no. publicly accessible spaces adjacent to the café unit at Crofton Road. This seeks to encourage sustainable modes of travel and will promote the use of the recently implemented cycle infrastructure at the N31 a short distance along Crofton Road to the west. The use of sustainable forms of travel are detailed within the accompanying Travel Plan prepared by Muir Associates.
- 2.66 In addition to this, the proposals have been developed to enhance permeability at the location, including a landscaped pedestrian route along the eastern perimeter of the site linking to St. Michael's Hospital to the south. The layout, landscaping and interface of the development at the northern perimeter with Crofton Road will provide a welcoming entrance to the site and promote usage of the linkages through the site to St. Michael's Hospital.
- 2.67 In this respect, the proposals are considered to promote this objective of the NPF.
- 2.68 **Objective 32:** *To target the delivery of 550,000 additional households to 2040.*
- 2.69 The proposals consist of 102 no. apartment units at an urban infill site which will assist in achieving the target delivery of 550,000 additional households to 2040 and is directed to achieving the objective of the NPF in this respect.
- 2.70 In accordance with National Policy **Objective 33**, new homes will be provided at a sustainable location, with access to existing services and facilities, at a town centre location with excellent accessibility to high capacity public transport connections.
- 2.71 The NPF also states that that *“to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”*. **Objective 35** states that it is an objective 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”*.
- 2.72 The proposed development for a residential development scheme on this underutilised brownfield site represents an excellent opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives.
- 2.73 The NPF provides for a strong emphasis on increased building heights in appropriate locations within existing urban centres and along public transport corridors. The

proposed development ranging in height from 5 no. storeys to 13 no. storeys is therefore considered appropriate in this location and fulfils the aims of the NPF.

### **Urban Development and Building Height Guidelines 2018**

- 2.74 The Urban Development and Building Height Guidelines (2018) ('the Building Height Guidelines') set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework, Project Ireland 2040 and the draft Regional Spatial and Economic Strategy.
- 2.75 The Building Height Guidelines in effect seek denser development at public transport nodes. These state that it is Government policy to promote increased building height in locations with good public transport services.
- 2.76 The Building Height Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the opportunities for increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 2.77 Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the building height guidelines and to comply with any applicable specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.
- 2.78 Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 provides as follows:
- “(3)(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.*
- (b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.*
- (c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”*
- 2.79 SPPRs (as stated in the Building Heights Guidelines) take precedence over any conflicting, policies and objectives of development plans and local areas plans. Where such conflicts arise, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead.
- 2.80 The Building Height Guidelines also state that the implementation of the National Planning Framework requires increased density, scale and height of development in town and city cores with an appropriate mix of uses, and increased flexibility in terms of development standards and reduced car parking provision having regard to location and proximity to public transport links.

2.81 In relation to redevelopment and enhancement of the city core, the Building Height Guidelines state that *“to meet the needs of a growing population without growing out urban areas outwards requires more focus in planning policy and implementation term on reusing previously developed “brownfield” land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements”* (section 2.2).

2.82 The Building Height Guidelines also place significant emphasis on promoting development within the existing urban footprint, utilising the existing sustainable mobility corridors and 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 our developing sustainable mobility corridors and networks”* (section 2.4).

2.83 Section 3.1 of the Urban Development and Building Heights Guidelines 2018 refers to the development management principles to be applied:

*“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. Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:*

*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?*

*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?*

*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?”*

2.84 The proposed development is located at a town centre site as reflected by the site's 'Major Town Centre' (MTC) zoning in the County Development Plan. The Dun Laoghaire DART and bus terminus are located approximately 120 metres east, with the recently implemented cycle lane on the N31 a short distance to the west. Established pedestrian connections provide for links to a wide variety of amenities found nearby. These provide an optimum environment for a higher density development which will benefit from existing jobs, community and social infrastructure in accordance with the objectives of the Building Height Guidelines. Increased density can be implemented through increased building heights, with flexibility in these elements required to secure compact urban growth.



- 2.85 The proposed development therefore represents an opportunity to provide for increased building heights and densities at this location which represents an excellent opportunity for compact growth at a highly accessible central site. This is consistent with the objectives of the extant County Development Plan.
- 2.86 The Building Heights Strategy included as Appendix 9 to the Dun Laoghaire-Rathdown County Development Plan 2016-2022 highlights that buildings within a 500m walk-band to DART stations should optimise their strategic locations. As already stated, the proposed development which is within close proximity (120m) to Dun Laoghaire DART station and bus terminus. The Dun Laoghaire Urban Framework Plan identifies the site as one of the remaining development opportunities in the town which marks the entrance to the Seafront Quarter at its western end.
- 2.87 The proposed heights range from 5 and 6 no. storeys at the western part of Building 01 fronting Crofton Road, with a higher 13 no. storey element at the eastern edge of the building and an 8 no. storey element extended from the rear. Building 02 to the south extends to 8 no. storeys with a setback 9<sup>th</sup> storey level away from the western perimeter of the site.
- 2.88 The prevalent heights of the buildings have been informed by the surrounding urban development pattern, with an 8 no. storey apartment development at the adjacent Harbour View informing building heights. St. Michael's Hospital to the south ranges in heights and is predominately 5 no. storeys. Building 01 falls in height to 5 no. storeys moving west towards the 3 no. storey Charlemont Terrace, with a c. 1.9m difference in height at this location. Building 02 is significantly setback from the site perimeter at this location to provide adequate separation distances to the adjacent residential properties at Charlemont Avenue. The proposed blocks have been designed to align with the established building lines to the west of the site.
- 2.89 SPPR3 of the Urban Development and Building Heights Guidelines 2018 requires applicants for planning permission to set out how the proposal complies with the "criteria above". This refers to the Development Management criteria at Section 3.2 of the Guidelines, which are discussed in turn below.
- 2.90 If the Board is satisfied that the criteria under section 3.2 have been met, it "may approve such a development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise". The paragraph introducing SPPR 3 and SPPR 3 itself are set out below for ease of reference and each of the criteria (denoted by italics) are considered in turn:

*"Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28 (1C) of the Planning and Development Act 2000 (as amended)."*

**SPPR 3**

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

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

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

- (B) *In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme*
- (C) *In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.*

*The criteria for assessment of developments 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.*

- 2.91 The subject lands are highly accessible, located opposite Dun Laoghaire DART station and bus terminus which benefit by high frequency services providing links across the city. The site is also in close proximity to the N31, which provides connections to Dublin city centre via the N11. The site is therefore considered to benefit from excellent accessibility in respect of public transport.
- 2.92 The DLRCC cycle route along the seafront (N31) is also located in close proximity to the site across the railway line to the north and has recently been implemented by the Planning Authority as a direct response to increased frequency of cyclists in the area arising from the Covid-19 pandemic and restrictions. The proposed development will be mutually beneficial for the use of the implemented cycle infrastructure. Future residents of the proposed development will have a high quality sustainable connection directly accessible from the site.

*Development proposals incorporating increased building height... 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.*

- 2.93 The scale of the proposed development is considered to integrate successfully into and enhance the character and public realm of the area, replacing an underutilised

surface car park and adding positively to the appearance and composition of the streetscape. The design, scale and layout has had regard to its topography, cultural context, setting of key landmarks and key views. This is considered further within the accompanying RAU Design Appraisal.

- 2.94 The proposal appropriately responds to the site's Major Town Centre land use zoning objective which permits residential, community facility and café development. The development proposes a plot ratio of 2.1 and a site coverage of 24% with a density of 309 units per hectare. These characteristics are appropriate in the context of the development plan. The County Development Plan is informed by section 28 guidelines relative to higher residential density which promote such developments in central areas in close proximity to public transport connections.
- 2.95 The proposals comprise a residential development within a streetscape currently characterised by similar uses which benefit from and seek to optimise the seafront location. The proposals are considered as a landmark building marking the entrance to the Seafront Quarter and 'turning the corner' to this area, corresponding with the role of the Lexicon library at the eastern edge of the area. The development will consolidate the urban nature of the location and contribute to the vitality and range of publicly accessible facilities available at the town centre location. This is achieved by the provision on a café at ground floor level with views of the harbour and seafront, in compliance with the objectives of the Development Plan for the area.
- 2.96 The proposals will add positively to the public realm at Crofton Road by the implementation of a ground floor café and associated outdoor seating area within an area of high-quality landscaped public open space. This provides continuity to the series of green spaces along Crofton Road and enhances biodiversity. The publicly café will attract usage by town centre visitors and those using the public transport whilst also providing a welcoming entrance to the development and encouraging use of the landscaped pedestrian right of way connecting to St. Michael's Hospital to the south. This combination of hard and soft landscaping including public seating areas which benefit from attractive views to Dun Laoghaire Harbour and Dublin Bay is detailed further in the accompanying Landscape Report and Drawings prepared by Dermot Foley Landscape Architects. Therefore, the development is considered to integrate successfully into and enhance the character of the area.
- 2.97 The proposal introduces an element of increased height at the eastern part of Building 01, which is sensitively positioned away from the protected structures at Charlemont Terrace. The 13 no. storey element of the northern block is considered to provide a landmark feature which defines the gateway entrance to the Dun Laoghaire Seafront Quarter and adds positively to the balance of heights of existing buildings within the town centre.
- 2.98 The ARC LVIA notes that *'there are occasions where new development may seek to integrate by providing a visual counterpoint to other features in its surroundings, a contrast'*. The introduction of height at Building 1 seeks to create *'a new character, where the existing and the new merge to create a new integrated and enhanced character'*. This has been proposed in response to the location which is considered to have *'a high potential to absorb multiple new developments'* given its proximity to existing scale large elements of the built environment such as Dun Laoghaire Harbour and the taller features of the skyline.

- 2.99 The RAU Design Appraisal notes that *'the strategic introduction of height to a portion of Building One at this specific location on the site can allow the building to act as a gateway to the west end of the Seafront Quarter'*.
- 2.100 The RAU Design Appraisal notes that a:  
*'... new taller building element at the western end of the Seafront Quarter works with the Lexicon at the southern end of the Seafront Quarter to provide bookends at either ends of the Town Centre Seafront Quarter skyline, and a balance to the composition of the Dun Laoghaire waterfront.'*
- 2.101 In respect of the proposed building height, RAU notes that:  
*'Increased building height can be seen as a key factor in assisting modern placemaking and improving the overall quality of our urban environments as noted in the guidelines for Urban Development and Building Heights.'*
- 2.102 The higher element of Building 01 has been designed in such a way as to mitigate any impact upon the protected structures to the west of the site at Charlemont Terrace and Charlemont Avenue, being located adjacent to the site's eastern perimeter and the neighbouring 8 no. storey Harbour View apartments. This provides for a graduation in height, moving east along Crofton Road, in order to respect the setting and character of the heritage features and cultural context of the area whilst drawing parallels in material finishes and elevational treatments.
- 2.103 The potential impact of the proposals upon the adjacent protected structures are assessed within the Architectural Heritage Impact Assessment ("AHIA") prepared by Rob Goodbody, Historic Building Consultant which is also enclosed. The Report document concludes that the proposed development *'would provide the necessary transitions between the heights, building lines, styles and factors and... would not have an adverse impact on the historic environment, including the protected structures in the vicinity'*.
- 2.104 In considering View 13 of the Landscape and Visual Impact Assessment (LVIA), the AHIA states that *'the proposed building would not be as prominent as the two church spires and when seen from the ends of the piers it would barely break the skyline above the Dublin Mountains, in contrast with the very definite points created by the two church spires and even the tower of the Royal Marine Hotel, seen midway between the two church spires'*.
- 2.105 The accompanying contiguous elevations and sections provided by RAU illustrate the proposed building height in comparison with the existing urban environment in Dun Laoghaire and its suitability in this regard.
- 2.106 The proposed 13 no. storey element equates to +49.225m Above Ordnance Datum (c. 40.2 m above ground level). This compares to heights of +81.742m at St. Michael's church, +44.918m at County Hall, +52.902m at the Marine Hotel, +59.913m at the Maritime Museum (Mariner's Church) and +37.90m at the Lexicon, moving east through the Seafront Quarter. Therefore, the proposed element of height is considered to be well related to and will provide balance to the existing built elements of the urban landscape, adding positively to the existing hierarchy of taller buildings within Dun Laoghaire.

- 2.107 The 13 no. storey element of Building 01 marks the western edge of the Seafront Quarter and contributes to a high quality urban streetscape which will enhance the visual appearance of Crofton Road and the town centre seafront area facing the harbour. Building 01 seeks to retain the established building line at Charlemont Terrace before stepping out at the base of the 13 no. storey element at the eastern edge of the building. This is a distinguishing feature which defines the curve in Crofton Road and provides a counterbalance to the role of the Lexicon building as a similar marker at the eastern end of the Seafront Quarter on Queen's Road. In this regard, the proposal is considered to take cognisance of and provides a direct urban design response to the existing development pattern and location of cultural buildings in Dun Laoghaire.
- 2.108 The potential impacts of the higher eastern element of Building 01 when observed from key views at the East and West Pier of Dun Laoghaire have been carefully considered and assessed within the information submitted as part of this application. The perceived impacts on these views, as well as a significant number of others, have been assessed within the accompanying Landscape & Visual Impact Assessment prepared by ARC Consulting, with the proposals appearing well-related to the existing skyline (which includes several other buildings of similar height) and streetscape at Crofton Road. The LVIA also considers the scale of the surrounding townscape and the presence of Dun Laoghaire Harbour which in itself is a large scale environmental feature, providing context for the setting to absorb a development of the proposed scale and height.
- 2.109 The ARC LVIA notes that *'given the very diverse visual character of surrounding development, including development recently constructed, and given the potential for further large scaled development in the immediate area, the likely visual effects in the immediate area on Queen's Road, Crofton Road and Charlemont Avenue, are assessed as consistent with existing and emerging trends and 'moderate' in extent'*.
- 2.110 The LVIA also notes that *'The proposed development is located in an area of existing very diverse development and an area of emerging development as envisaged by the Dún Laoghaire Urban Framework Plan'*.
- 2.111 In respect of the impact on the *'views from the sea/pier'*, pages 12 and 13 of the Arc document assesses these and note that *'... the likely visual effects as perceived from the East Pier are assessed as ranging from 'slight' to 'moderate''*.
- 2.112 In respect of views from the Old Piers (known as Trader's Wharf and Coal Quay) , *'the likely visual effects as perceived from the locations of Views 18 [Trader's Wharf] and 19 [Coal Quay] are assessed as 'slight' to 'moderate''*.
- 2.113 In respect of views from the West Pier and outer breakwater of Dun Laoghaire Marina, *'the likely visual effects as perceived from the locations of Views 20 and 21 are assessed as 'slight' to 'moderate''*.
- 2.114 The positioning of the lower elements of Building 01 at 6 and 5 no. storeys ensures that the height of the development is stepped down as it moves west in order to integrate visually with the adjacent lower rise buildings at Charlemont Terrace and Avenue. The height of Building 01 at its westernmost point is +24.775m AOD (21.7m AGL), with Charlemont Terrace rising to +22.911m AOD (19.8m AGL). The western elevation at Building 01 has been reduced through design development, in comparison with the proposals submitted at PAC Request stage, in order to better relate to the adjacent protected structures.

- 2.115 This approach is also adopted at Building 02, which falls in height from +36.100m AOD (setback 9 no. storeys) to +33.100m AOD (8 no. storeys) at the western perimeter. The massing of Building 02 has been reduced through design development in comparison with the proposals submitted at PAC Request stage by the omission of the western section of the building which previously extended over the vehicular right of way at the western perimeter of the site. This is in addition to the setting back of the 8<sup>th</sup> storey. This design approach has resulted in an increased separation distance between the neighbouring buildings at Charlemont Avenue, serving to preserve and enhance the residential amenity at these properties, as well as the private amenity space to the rear of Charlemont Terrace and Charlemont Avenue and is considered to contribute positively to the layout of the proposals.
- 2.116 The proposed heights of the lower elements of Building 01 and Building 02 have been informed by the similar heights at the 8 no. storey Harbour View apartments to the east and the Sisters of Mercy building to the south east, as well as St Michael's Hospital on George's Street. In this respect, the proposals are considered to be entirely appropriate in the context of the site's urban surroundings, with a robust urban design rationale existing for the 13 no. storey element of Building 01.
- 2.117 The visual impact of the proposals are discussed in greater detail in the accompanying Landscape & Visual Impact Assessment by ARC Consulting and the Conservation Impact Assessment Report prepared by Rob Goodbody, Historic Building Consultant, to which the Board is referred. The urban design rationale for the proposals is also described in detail within the accompanying Design Appraisal by RAU.
- 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*
- 2.118 The proposed development site extends to approximately 0.42 ha and is therefore not considered as a 'larger urban redevelopment site'. Notwithstanding this, the proposals are considered to make a positive contribution to place-making through a high quality development which integrates with the existing development pattern and enhances the public realm along Crofton Road, as detailed within the accompanying RAU Design Appraisal, Landscape Design Rationale prepared by Dermot Foley Landscape Architects and Landscape & Visual Impact Assessment prepared by ARC.
- 2.119 The proposals also promote pedestrian permeability to the south through the provision of a landscaped pedestrian walkway along the eastern perimeter of the site which connects to hospital grounds. This promotes public movement through the site and facilitates a potential link to the town centre via Eblana Avenue, subject to landowner agreement. As already mentioned also under the previous criterion, the proposed ground floor café and associated outdoor seating area within an area of high-quality landscaped public open space makes a significant contribution to the public realm and addresses the separate requirement for new public spaces under the present criterion. A shared vehicular and cycle route is also provided along the western perimeter providing a link to St. Michael's Hospital.
- 2.120 The development creates visual interest at the site through a high quality design which reflects the surrounding pattern of development. The northern elevation at Building 01 has been carefully considered to provide for an appropriate relationship with the terrace to the west and Harbour Square to the east, continuing building lines with Charlemont

Terrace before stepping out to align with the frontage at Harbour View, providing a logical transition in this regard.

- 2.121 The proposals introduce a higher built element into the existing urban landscape at Crofton Road. The 13 no. storey element of Building 01 provides a definitive edge to the western perimeter of the sea front quarter at Dun Laoghaire. The scale and massing of this higher element of Building 01 has been carefully considered in terms of width and depth in order to appear in balance within the existing context of higher buildings in the town centre.
- 2.122 The upper floors of the eastern element of Building 01 have been designed to appear slender in scale and have a reduced floor space beyond 8<sup>th</sup> storey level in order to facilitate this. The framed structural fenestration at 13<sup>th</sup> storey level provides a light finish to the top of the building, consolidated by the glazed internal amenity space at this location.
- 2.123 The scale and massing of the remaining elements of the scheme are informed by the prevailing heights located to the east at Harbour View apartments and to the south and east at St Michael's Hospital and Sisters of Mercy respectively. Building height decreases moving west in order to integrate visually with the adjoining low rise residential and commercial uses to the west. Massing and heights of both buildings have been reduced through design development following the PAC Stage of the proposals, with the western portion that previously formed part of Building 02 being removed in its entirety to provide a balance to the development and mitigate any potential impact upon the amenity of neighbouring properties.
- 2.124 The changes in elevation and floor levels across the development and the external roof terraces created as a result provide variety and add to the visual appeal of the development, contributing to its high quality architectural design approach which enhances the appearance of the location.
- 2.125 The proposed site coverage, plot ratio and density of the development are considered appropriate in respect of the site's urban location and accessibility to high capacity public transport, in line with national policy objectives and provide for sustainable development of the site.
- 2.126 In this respect, the proposals are considered to be of an appropriate scale, height and massing to complement the existing urban form whilst successfully introducing a high quality element of architecture to the site, making optimal use of the brownfield lands.

*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*

- 2.127 The proposed development will significantly enhance the existing Dun Laoghaire Seafront Quarter facing the harbour by virtue of its superior use to that currently existing at the site and sensitive and carefully considered design. It will provide for a high quality contemporary building at an appropriate location and make a significant positive contribution to the existing urban neighbourhood and streetscape at this location. The proposed development will significantly enhance the existing Dun Laoghaire 'seafront' area facing the harbour. The objective of the proposed design is to actively integrate with and optimise the location and its excellent vistas across Dun

Laoghaire Harbour and Dublin Bay, responding appropriately to the surrounding natural environment.

- 2.128 It is considered that the proposal introduces a high quality development at an underutilised site of brownfield, infill lands within an urban setting. The proposed development responds appropriately to the massing and scale of the surrounding urban pattern and scale, with higher built elements situated to the eastern side of the site, falling in height moving west towards the adjoining lower rise commercial and residential development at Charlemont Avenue and Terrace.
- 2.129 In respect of the streetscape in close proximity to the site, the accompanying ARC Landscape & Visual Impact Assessment notes that *'given the very diverse visual character of surrounding development, including development recently constructed, and given the potential for further large scaled development in the immediate area, the likely visual effects in the immediate area on Queen's Road, Crofton Road and Charlemont Avenue, is assessed as consistent with existing and emerging trends and 'moderate' in extent'*.
- 2.130 It is also noted that *'The proposed development is located in an area of existing very diverse development and an area of emerging development as envisaged by the Dún Laoghaire Urban Framework Plan'*.
- 2.131 As noted above, the overall height of both buildings has been lowered from the PAC submission in order to better relate to neighbouring development. The western element of Building 02 has also been omitted which significantly reduces the massing of the building and its proximity to neighbouring properties.
- 2.132 The proposals constitute the sustainable development of the brownfield lands and will enhance the appearance of the site, providing integration with the established frontage at Crofton Road and enhancing the urban realm at this location through the introduction of high quality landscaping and commercial uses which are accessible to the public. This will add positively to the quality and aesthetical appearance of the Seafront Quarter and therefore represents a high quality design alternative to the current use of the site.
- The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered.*
- 2.133 The proposal introduces 2 no. residential apartment buildings constructed with high quality materials which relate well to the site's seafront location and the style and palette of neighbouring properties. The extensive use of glazing throughout the scheme provides continuity with the architectural design of the Harbour View apartments to the east, with the palette of white and light grey brick making a visual connection to the appearance of Charlemont Terrace to the west. The introduction of brown aluminium window frames, light brown reconstituted stone, expressed lintels and black metal balcony railings introduce a modern element to the streetscape whilst relating to the maritime character of the seafront.
- 2.134 The layout and siting of the development has been sensitively chosen to align and provide continuity with the established building line at Crofton Road, with Building 02 relating to the orientation of the buildings to the west at Charlemont Avenue. Elevations have been carefully designed and introduced varied aspects, through recessed styles and elements stepped out from the dominant building line. This provides variety and visual interest to the buildings. This is complemented by a high



quality hard and soft landscaping scheme which further enhances the visual appeal of the proposals, as well as attracting public use, passive recreational and activity adjacent to an active ground floor use at the northern elevation of Building 01.

2.135 Page 22 of the RAU Design Appraisal notes that *'the primary building façade onto Crofton Road is modelled to provide a series of steps in plan and elevation to respond to the transition of building frontages at street level and steps in building height whilst also providing a taller punctuation point at the end of the Seafront Quarter'*.

2.136 The proposal design avoids long, uninterrupted walls of building owing to the site's relatively narrow frontage to Crofton Road and the variety in scale and height of block proposed buildings. Material and fabrics proposed in finishing are well considered and are considered to integrate appropriate with the existing surrounding development. This is detailed further at pages 52 to 56 of the RAU Design Appraisal.

*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).*

2.137 The proposed development will significantly enhance the existing Dun Laoghaire 'seafront' area facing the harbour. It will provide for a high quality contemporary building at an appropriate location and make a significant contribution to the existing Seafront Quarter and the town centre. The Dun Laoghaire Urban Framework Plan notes the site as a key development within the Seafront Quarter and the objective of the proposed design is to actively integrate with and optimise the location and its excellent vistas across Dun Laoghaire Harbour and Dublin Bay.

2.138 As noted above, the proposal introduces a development which is compatible with its land use zoning and adjacent residential development. The scheme introduces public areas of landscaping adjacent to the commercial elements of the development at Crofton Road. A landscaped pedestrian pathway along the eastern perimeter facilitates an agreed connection to St Michael's hospital, with an open boundary at this location. These high quality spaces encourage activity and enhance the public realm on Crofton Road and connect the series of green spaces to the west, adding positive aesthetics to a key thoroughfare connecting to Dun Laoghaire town centre.

2.139 The additional height proposed makes optimal use of an underutilised area of infill brownfield land which benefits from aspects facing north across Dublin Bay. The layout of the two residential blocks contributes to the creation of a central courtyard which exists as communal open space for residents. This contributes to a sense of place and benefits from passive surveillance from the residential buildings. The building also includes landscaped roof terraces and an amenity space at 13<sup>th</sup> storey level which will provide a unique element to the development, enhancing the quality of life and residential amenity at the location.

2.140 It is also intended that this rooftop space and viewing terrace will also be open to public use on a number of occasions throughout the year in conjunction with the Heritage Council and Dun Laoghaire-Rathdown County Council. This will permit public use of the building, adding positively to the integration of the development into the community and providing attractive aspects to local residents and visitors.

- 2.141 A Site Specific Flood Risk Assessment has been undertaken by Muir Associates in preparation for this application. The SSFRA has been prepared in accordance with the 'Planning System and Flood Risk Management Guidelines', the CIRIA 'C624 Development and Flood Risk' and Appendix 13 of the Dun Laoghaire County Development Plan 'Strategic Flood Risk Assessment'.

*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.*

- 2.142 The proposed development will add interest and articulation to the seafront and the town centre as it faces the harbour, while effectively breaking down the scale and massing of the scheme to ensure that it sits comfortably in its setting. It will make a positive contribution to the legibility of the area, the wider seafront quarter, and the town centre.

- 2.143 The proposed development is accessed from Crofton Road and will continue to facilitate a vehicular link to St Michael's Hospital to the south via a roadway informed by the line of the site's western perimeter. This is complemented by a landscaped pedestrian pathway at the eastern perimeter, enhancing permeability in the area in accordance with the objectives of the Planning Authority as set out in the Dun Laoghaire Urban Framework Plan. These connections enhance permeability and legibility at the location when considered in the context of the current site use and provide quality connections which facilitate as far as possible any future link through neighbouring lands to Eblana Avenue, subject to landowner agreement.

- 2.144 The development will introduce a new residential population at the location who will benefit from the site's accessibility in terms of public transport and existing pedestrian links whilst providing cohesive additional links to neighbouring lands to the south. The development will also attract footfall through the introduction of commercial elements in the form of a publicly accessible café and bookable coworking space at ground floor level at Building 01. This will integrate successfully with the site's town centre use and increase pedestrian movement and activity in the area, with vehicular movement reduced owing to the decrease in car parking spaces at the location.

*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.*

*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' (2<sup>nd</sup> 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.*

- 2.145 The proposed form, massing and height of the development has been informed by the existing and emerging built environment in the surrounding area. The development introduces a higher built element to the urban environment which seeks to optimise the site's location and position with the Seafront Quarter at Dun Laoghaire. The scale and height of the design of the proposed residential blocks take cognisance of the surrounding urban form, stepping down in height moving west towards the protected structures at Charlemont Terrace and Avenue. This is seen to integrate successfully with the urban environment whilst introducing an element of height which relates to other higher building element in Dun Laoghaire town centre.
- 2.146 Building modulation has been directly informed by the character and form of adjacent development. It is important to note that maximum building heights of both Building 01 and Building 02 now submitted have been reduced in height to that presented at PAC Request stage. This ensures a more appropriate level of modulation of Building 01 with Charlemont Terrace to the west, with a graduation in height of 1.9 metres at this location.
- 2.147 The previously proposed western section of Building 02 has been omitted through design development. This increases separation distances with neighbouring buildings at this location, preserving the amenity of properties at Charlemont Terrace and Avenue. This approach reduces the mass of the building at this location, whilst introducing a setback 8<sup>th</sup> storey level, reducing the visual appearance of the building whilst relating with prevailing heights at Harbour View to the east.
- 2.148 A Sunlight / Daylight Report has been carried out by Hollis in the preparation of this request. The sunlight / daylight analysis assessed the level of light access at residential windows of adjacent buildings at 5 Charlemont Terrace, St. Michael's Hospital, Harbour View, 1 Charlemont Avenue and 5-6 The Mews.
- 2.149 The Hollis Report has been prepared in response to the feedback and comments provided by the Planning Authority and An Bord Pleanála at Pre-Application Consultation stage. A detailed methodology of the approach adopted by Hollis is set out in the Executive Summary of the report now submitted, providing a rationale for the assessment undertaken.
- 2.150 Hollis note that the flat nature of the subject site *'leads to artificially elevated levels of daylight and sunlight amenity at neighbouring properties as they receive light across the boundaries of the site without obstruction... this is not considered to be a typical reflection of an urban situation at an infill site such as this'*.
- 2.151 The report provides a detailed and comprehensive of the projected impacts of the proposed development upon neighbouring properties, whilst also providing comparisons against alternative baseline scenarios in the form of a 'mirror image' of Harbour View on the application site and the indicative development on the site as indicated in the Dun Laoghaire Urban Framework Plan, which the Hollis report notes *'present a more realistic view of development on the subject site'*. The methodology is set out at paragraph 1.2.10 of the Hollis report and is considered appropriate in the context of the BRE Guidelines which recommend such comparisons to be made, as well as the content of the Dun Laoghaire CDP Appendix 12.
- 2.152 It is important to note that: *'of the 271 windows assessed at the surrounding properties, 114 currently achieve the BRE target of 27% VSC. The remaining 157 achieve levels of VSC below the recommended BRE target value. This equates to 42% of the surrounding windows meeting the BRE's numerical target values in the existing*

*condition. It should therefore be taken into account that the majority of windows surrounding the site do not currently achieve the BRE's target values, despite them overlooking a surface car park This is mainly due to the inherent design of Harbour View Apartments, which contains recessed windows located beneath balconies; features which, as highlighted in the BRE guide, impair the potential for good daylighting'.*

- 2.153 The Hollis report summarises that owing to the context of the site and the design of the existing Harbour View apartments, the shortfalls in terms of VSC *'are viewed as generally minor and acceptable given the site context'*. Compliance with Daylight Distribution (DD) rises to 75% at Harbour View. Their report provides an assessment of the daylight reaching the room as a whole, which is considered a more objective and realistic approach to the assessment of impact.
- 2.154 The Hollis study also assesses the VSC of Harbour View apartments to the east against the current open and unbuilt nature of the site. It is noted that owing to the design of these apartments including recessed balconies on a west facing aspect, the daylight levels received are poor at present, as noted at paragraph 1.3.3, later noting that *'balconies and overhangs significantly reduce the light entering windows below them'* (paragraph 5.2.24).
- 2.155 The proposed design and layout of the development comprising two buildings on a east-west orientation is considered to represent a superior solution to the alternative conceptual footprint design as set out in the Dun Laoghaire Urban Framework Plan and the 'mirror image' advocated by the BRE Guidelines in terms of daylight access at the Harbour View apartments to the east.
- 2.156 Hollis note that the proposed siting and massing of the two buildings has *'improved upon the premise of a solid block massing that would mimic the adjacent building'* which will allow light to *'reach the central section of Harbour View Apartments'*. The taller, slimmer nature of the tower element of Building 1 enables light to *'come around its side and into the surrounding windows'*. The proposed layout creates a central courtyard which benefits aspects and access to light to Harbour View, avoiding a monolithic block at the eastern perimeter which would compromise amenity at lower floor levels at existing and proposed apartments.
- 2.157 These measures are considered as both mitigatory and compensatory design solutions which serve to minimise impact whilst ensuring the proposals align with national policy objectives and the site's Major Town Centre zoning. This is further detailed at Section 5 of the accompanying RAU Design Appraisal.
- 2.158 Windows analysed for VSC at other neighbouring buildings present superior results to the compromised situation at Harbour View. Results show 60% and 67% of windows analysed at the Mews and Charlemont Avenue achieving compliance with the BRE guidelines, with 75% of those at St. Michael's Hospital and 80% at Charlemont Terrace achieving compliance. Each of these percentages rises when analysed against the DD test, with 100% compliance achieved at 5 Charlemont Terrace, 5 and 6 The Mews, 1 Charlemont Avenue and St. Michael's Hospital and 92% compliance at Harbour View.
- 2.159 Taking into consideration results of both of the above methods in comparison with the analysis for the proposed development, it is considered that the proposals constitute the optimum design solution for the site which sensitively considers the amenity of adjacent buildings whilst also implementing a high quality development which complies with national planning objectives and section 28 guidelines.

- 2.160 The Hollis report sets out that the proposed development provides an improved scenario in comparison to the DLR Urban Framework Plan notional design on the site, with the proposals producing better results at 66% of windows assessed for VSC and 89% improvement in terms of rooms assessed for DD.
- 2.161 The Average Daylight Factor for dwellings within the proposed development has also been assessed, with 89% of units meeting BRE Guidelines. The remaining bedrooms and living rooms tested which fall below the ADF levels recommended have been mitigated by enlarged windows, a south facing aspect and generous private balcony space. This is compensated by high levels of communal amenity at various locations throughout the development such as external terraces at levels 6, 9 and 13 at Building 1 and 9<sup>th</sup> storey level at Building 2 which exceeds required standards set out in the Apartment Guidelines 2020.
- 2.162 The Hollis report notes that the BRE Guidelines are not mandatory and should be interpreted flexibly because natural lighting is one of many factors in the site layout design. Furthermore, the BRE Guidelines are considered to be applicable to suburban residential development with typically low densities, in contrast with the proposals.
- 2.163 In respect of the Harbour View apartments, the report notes that:
- ‘Overall, it is likely that any kind of viable development on the site would significantly alter the levels of daylight reaching the windows and rooms to Harbour View Apartments. This is due to the location of the main windows facing west over the existing surface car park, and the inherent design of the recessed windows beneath the balconies. Given the overall context of the site, the results are considered to be reasonable.’*
- 2.164 The Hollis report considered that *‘it is likely that any kind of viable development on the site would alter the levels of daylight reaching these windows, whether this be a massing of equal size to Harbour View Apartments or one based on the DRLCC Framework’* as considered in the analysis. Therefore, any development on the site that may be considered acceptable in the context of the current national planning framework and section 28 guidelines, which encourage increased densities and heights at central and accessible locations such as this, may have an amenity impact at neighbouring properties.
- 2.165 Notwithstanding this, the report concludes that *‘the majority of windows to other properties which face the site are not materially affected and retain reasonable levels of VSC’*. It is noted that where shortfalls are encountered, these are marginal in nature, with flexibility in applying numerical criteria promoted by the BRE guide.
- 2.166 The proposals will enable the regeneration of an area of infill brownfield land which is significantly underutilised at present, with a high-quality development, the introduction of a residential population in close proximity to Dun Laoghaire town centre and excellent public transport, as well as providing publicly accessible commercial uses and landscaped public open space, all factors which are of importance in achieving wider planning objectives.

#### Specific Assessments

*To support proposals at some or all of these scales, specific assessments may be required and these may include:*

*Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.*

- 2.167 Owing to the scale and nature of the proposed development and its proximity to the adjacent Harbour View apartments, a wind modelling survey has been prepared by B-Fluid and now accompanies this submission. The study concludes *'the proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings'*.

*In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.*

- 2.168 The accompanying Appropriate Assessment Screening Report prepared by Enviroguide Consulting notes the presence of the South Dublin Bay SPA and SAC located to the north of the site. The site is developed, brownfield land which is currently in use as a surface car park, with small elements of landscaping and grassed strips, a vacant 2 no. storey dwelling exists adjacent to the northern perimeter. The Screening notes that the site *'is urban in nature and has little value in terms of biodiversity'*.

- 2.169 An Ecological Statement has also been prepared by Enviroguide. This notes that *'due to the low biodiversity value of the site, significant impacts to habitats are not anticipated'*. Following an inspection of the existing building on the site, the Ecological Statement concludes that *'the building holds little bat potential'* and is observed to be *'intact with no breaks or gaps that would allow entry to the building interior by bats via the roof'*. No evidence of bats was observed within the building which is concluded to *'hold little to no bat roost potential'*. The statement concludes that *'the Proposed Development is unlikely to result in any significant impacts to bats due to the apparent lack of use by, and unsuitability of the Site for bats'*. The Ecological Statement recommends a full roost survey is undertaken prior to demolition.

- 2.170 The proposals have been designed and scaled in order to respond appropriately to the local building heights, with existing 8 no. storey to the east and 5 no. storey buildings to the south at Harbour View and St. Michael's Hospital respectively. The accompanying Ecological Statement by Enviroguide confirms that the site was surveyed for the likelihood of bird collisions, with *'no medium or high collision risk species'* recorded during the flight line surveys. The statement considers that *'given the general heights of the surrounding buildings, it is not considered that the Proposed Development will constitute a significant collision risk for bird species'*.

*An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.*

- 2.171 A telecommunications study prepared by ISM Ireland accompanies this application and *'has not identified any telecommunication channels that will be affected by the height of the St. Michael's Hospital Car Park development'*.

*An assessment that the proposal maintains safe air navigation.*

- 2.172 The application site is located approximately 15km southeast of Dublin Airport and is considered to maintain safe air navigation in this regard. Dublin Airport Authority and

the Irish Aviation Authority have been contacted in preparation of this application. The response of both authorities are attached at Appendix 1.

*An urban design statement including, as appropriate, impact on the historic built environment.*

- 2.173 The proposals are accompanied by a Design Appraisal prepared by Reddy Architecture & Urbanism and a Conservation Impact Assessment prepared by Rob Goodbody, Historic Building Consultant, which provide a robust rationale for the development in the context of the surrounding urban environment.

*Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.*

- 2.174 An Appropriate Assessment Screening Report prepared by Enviroguide Consulting accompanies this submission. The Screening notes that the site '*is urban in nature and has little value in terms of biodiversity*'. The application site has been subject to SEA as part of the Dun Laoghaire-Rathdown CDP, with a separate EIA Screening Report submitted with this application.
- 2.175 It is clear that there is a strong emphasis towards increased density and building height in appropriate locations within existing urban centres and in close proximity to public transport links within existing and emerging Government policy.
- 2.176 From the above analysis, it is considered that the proposal meets the criteria for higher buildings as set out within the Building Height Guidelines. The site is well placed to absorb a high-density development which is appropriately scaled and designed in the context of its urban surroundings, whilst introducing an element of increased building height which defines the edge of the Seafront Quarter and mark a gateway to the town centre.
- 2.177 The site benefits from excellent public transport and cycle links and a plethora of services and amenities within the town centre of Dun Laoghaire. Employment locations within Dublin city centre, such as Docklands and Ballsbridge are also easily accessible via Dublin Bus and DART services.
- 2.178 The proposals make optimum use of this underutilised area of land which is zoned for major town centre use, under which residential and commercial development is permissible. The proposals are therefore considered compatible with adjacent existing land use. The scheme integrates appropriately with the urban environment and enhances public open space provision and pedestrian permeability without compromising the setting and character of the protected structures to the west.

#### **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020**

- 2.179 These Guidelines identify a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and set out specific criteria in relation to Build to Rent development.
- 2.180 The concept of Central and/or Accessible Urban Locations was introduced by these Guidelines. Such locations are generally suitable for small to large-scale and 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.

2.181 The site is considered an Accessible Urban Location given its proximity to Dun Laoghaire DART station and bus terminus.

#### Car Parking Provision

2.182 The provision of car parking proposed is considered justifiable in the context of the Apartment Guidelines, which are considered to take precedent over Table 8.2.4 of Section 8 of the Dun Laoghaire CDP in relation to car parking provision.

2.183 Paragraph 4.19 states that at 'Central and/or Accessible Urban Locations' (such as in this instance) and in '*higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances*'.

2.184 The Guidelines go on to state that the policies above would be '*particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity*'. In this respect the proposed development is suitably located for a substantially reduced quantum of car parking, located 120 metres from a DART station and bus terminus.

2.185 SPPR 8 of the Apartment Guidelines set out the following applicable to BTR proposals:

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

2.186 It is noted that the proposal includes 3 no. car parking spaces, including 1 no. disabled access space. It is intended that 2 spaces will be used for share car facilities operated by Yuko Car Club, providing a flexible alternative for residents. This is in accordance with the guidelines which encourage alternative mobility alternatives and shared solutions.

2.187 Furthermore, 176 no. bicycle parking spaces are provided for use by residents and visitors, with 150 no. secured spaces at ground floor level at Building 02. An additional 8 no. spaces are provided within the public open space at the northern perimeter adjacent to the café. This provision encourages sustainable modes of travel, with the recently implemented coastal cycleway on N31 providing excellent cycle infrastructure a short distance from the site.

2.188 On this basis, the proposed quantum of car parking is considered appropriate when taking cognisance of Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended which states that:



*'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.'*

#### Mix of Units

- 2.189 Section 8.2.3.3 (iii) of the County Development relates to 'Mix of Units' within apartment developments. The proposed provision of 80 no. 1-bed units and 22 no. 2-bed units is considered appropriate having regard to SPPR 8 (i) of the Apartment Guidelines which state that in the case of Build to Rent residential proposals:

*"no restrictions on dwelling mix and all other requirements of these Guidelines shall apply..."*

- 2.190 In this respect, any material contravention in this respect can be justified on the basis of SPPR 8 (i) of the Apartment Guidelines when taking cognisance of Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended which states that:

*'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.'*

- 2.191 The proposed mix of units has been included to suit the urban location of the site and the demographic of potential prospective occupants who are anticipated to be mainly young professionals and couples who wish to benefit from the site's excellent location and proximity to public transport links to Dublin City Centre and main centres of employment nearby. Residents may also be older people who are seeking to 'downsize' to a more central and accessible urban location which is well-served by a range of nearby facilities and on-site amenities.

#### Private Open Space

- 2.192 In respect to Private Open Space, Section 8.2.8.4 (iv) refers to Table 8.2.5 which notes a requirement of 6 sqm and 8 sqm of private open for 1 and 2 no. bed apartments respectively. A number of units proposed fall below these standards, with some units without a balcony or terrace as a design response to the character of Charlemont Terrace.

- 2.193 SPPR8 (ii) of the Apartment Guidelines states that:

*'flexibility shall apply in relation to the provision of a proportion of... private amenity space associated with individual units as set out in Appendix 1'.*

- 2.194 Appendix 1 requires the provision of 5 sqm of private amenity space for one bedroom units and 7 sqm for two bedroom, 4 person apartments.

- 2.195 Therefore, SPPR8 (ii) of the Apartment Guidelines justifies the contravention of the County Development Plan in this regard when taking cognisance of Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended which states that:

*'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.'*

- 2.196 The majority of units provide residential amenity well in excess of the relevant standards and the development provides a significant quantum of communal open space above that required by the Apartment Guidelines which will adequately compensate for any shortfall in private amenity.

### **Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2008**

- 2.197 These Guidelines recognise the need to maximise the return on public investment in transport services and recommend that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities, on lands within existing or planned transport corridors.
- 2.198 Walking distances from public transport nodes are to be used in defining such corridors. Increased densities should be promoted within 500 metres walking distance<sup>18</sup> of a bus stop, or within 1km of a light rail stop or a rail station. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Higher density development is located at the eastern part of the proposed development in closer proximity to high capacity public transport.

### **Summary**

- 2.199 Having respect of the documents referred to above, it is clear that there is a strong emphasis towards increased density and building height in appropriate locations within existing urban centres and in close proximity to public transport links in Government policy.
- 2.200 From the above analysis of national planning policy and planning guidelines, it is considered that the proposal meets the criteria for higher buildings as set out within the Building Height Guidelines. The site benefits from an excellent location which is well-placed to absorb a high density development which is appropriately scaled and designed in the context of its urban surroundings, at a highly accessible location and in close proximity to high frequency public transport and Dun Laoghaire town centre.
- 2.201 The proposals will introduce a high quality element of architecture at a gateway location to the Dun Laoghaire Seafront Quarter and provides an element of appropriate height which reflects and provides balance to the skyline along the seafront.
- 2.202 The proposals make optimum use of this underutilised area of land under which residential and café uses are permissible under the site's Major Town Centre zoning objective and is therefore considered compatible with the surrounding pattern of development and urban fabric.
- 2.203 The development increases permeability through the site, providing high quality links to St. Michael's Hospital and public open space at the northern perimeter, significantly enhancing the public realm at this location and attracting users to the publicly accessible café and coworking space. These design features align with the objectives

for the redevelopment of the site as set out in the Dun Laoghaire Urban Framework Plan at Appendix 12 of the County Development Plan.

- 2.204 It is respectfully submitted that the proposed development has had regard to the planning policy framework as set out in the Guidelines and the National Planning Framework. The provision of residential development at this location between 5 no. and 13 no. storeys is supported by the Urban Development and Building Height Guidelines which encourage increased density and building heights at appropriate locations such as the application site. As such, the proposed development is considered to be in accordance with the provisions of national policy guidelines.

### 3 CONCLUSION

- 3.1 As set out in Section 37(2)(b) and Section 28(1)(C) of the Planning and Development Act 2018 (as amended), An Bord Pleanála may materially contravene a development plan where national planning policy objectives take precedence. In particular, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan, the provisions of SPPRs must be applied instead.
- 3.2 In the context of increased height, the most relevant of these requirements SPPR 3A of the Building Height Guidelines which applies to the assessment of this application to the Board. It is submitted that the Development Management criteria under Section 3.2 of the Guidelines have been satisfied in this regard by the development as proposed and that, accordingly, the Board can grant permission for any material contravention of building height policy and standards under the Development Plan having regard to the terms of the relevant national policy discussed above and SPPR 3A of the Building Height Guidelines, in particular.
- 3.3 Any material contravention in terms of car parking, mix of units and private open space is considered justifiable having regard to SPPR 8 (i), (ii) and (iii) and paragraph 4.19 of the Apartment Guidelines 2020, which promote flexibility in respect of these elements.
- 3.4 It is respectfully submitted that should An Bord Pleanála consider the proposed development is a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 an appropriate justification is set out within this Material Contravention Statement demonstrating that the proposed development should be considered for increased building heights due to the location of the subject site, the overall context of the wider development, the close proximity of the proposed development to high capacity public transport links and having regard to the sustainable pedestrian and cycle infrastructure and the policies and objectives set out within the Urban Development and Building Heights Guidelines 2018.
- 3.5 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 Dun Laoghaire-Rathdown County Development Plan 2016-2022, by reference to sub-paragraphs (i) and (iii) of Section 37(2)(b) of the 2000 Act, as amended, for the reasons set out above.
- 3.6 In the event that the Board were to grant permission, the Board's "*reasons and considerations*" would have to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Development Plan. It is apparent from section 10(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself.
- 3.7 Section 10(3) provides as follows:
- "(3) A decision of the Board to grant a permission under section 9(4) shall state-  
...  
(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be."*
- 3.8 Having regard to the justification set out within this statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the

proposed development in accordance with national planning policy and statutory guidelines.

**APPENDIX 1: Irish Aviation Authority & Dublin Airport Authority Correspondence**

RE: Proposed Residential Development - Dun Laoghaire



MACCRIOSTAIL Cathal &lt;Cathal.MacCriostail@IAA.ie&gt;

To Ian Livingstone

Cc RAFFERTY Audrey



31/08/2020

You replied to this message on 31/08/2020 10:30.

Dear Ian,

Many thanks for the correspondence and the detail included.

My area of responsibility is for the Air Traffic Management Flight Procedures at Dublin Airport.

I can confirm that the proposed building, including any craneage associated with construction **do not** impact these flight procedures.

Please don't hesitate to refer any issues to me, should they arise.

Kind regards,

Cathal

**Cathal Mac Criostail**

Údarás Eitlíochta na hÉireann / Irish Aviation Authority

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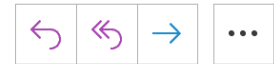
+353 (0)86 0527130

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## RE: Proposed Residential Development - Dun Laoghaire



Planning-daa &lt;planning@daa.ie&gt;

To  Ian Livingstone

27/08/2020

 You replied to this message on 28/08/2020 12:26.

Hi Ian,

Thank you for your query. Consultation with the Aerodrome Standard's Manager has confirmed that daa, would have no issues to raise with respect to the proposal and as such would have no further comment to make.

Kind regards,

Louise

**Louise Byrne**

amd, daa, Cloghran House, Dublin Airport

**Tel: 00353-1-9442791**