



## **Material Contravention Statement**

KNOCKRABO PHASE 2 SHD  
PROPOSED STRATEGIC HOUSING DEVELOPMENT  
AT MOUNT ANVILLE ROAD, DUBLIN 14



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## 1.0 Introduction

Knockrabo Investments DAC intend to apply to An Bord Pleanála for permission for a Strategic Housing Development with a total application site area of c. 1.78 ha, on a site located at Knockrabo, Mount Anville Road, Goatstown, Dublin 14.

The proposed development relates to Phase 2 of the development on the 'Knockrabo' lands. Phase 1 of 'Knockrabo' was granted under Dún Laoghaire-Rathdown County Council (DLRCC) Reg. Ref. D13A/0689/An Bord Pleanála (ABP) Ref. PL06D.243799 and DLRCC Reg. Ref. D16A/0821 (Phase 1) and DLRCC Reg. Ref. D16A/0960 (Phase 1A) and comprises a total of 125 no. units.

The proposed development will consist of the amendment of the permitted 'Phase 2' residential development of 93 no. units, childcare facility and community/leisure uses (DLRCC Reg. Ref. D17A/1124) on a site of 2.75ha. The proposed development will provide for the reconfiguration and redesign of the approved residential development. The Knockrabo Way entrance road (constructed and unconstructed), the renovation of Cedar Mount House including childcare facility and community/leisure uses, the Coach House, Gate Lodge (West), the Gate House and all associated landscaping permitted under D17A/1124 which are outside the boundary of the current application are proposed to remain as previously granted.

The site is bounded to the south-east by Mount Anville Road; to the south by 'Mount Anville Lodge' and by the rear boundaries of 'Thendara' (a Protected Structure – RPS Ref. 812), 'The Garth' (a Protected Structure – RPS Ref. 819), 'Chimes', 'Hollywood House' (a Protected Structure – RPS Ref. 829); to the south-west by existing allotments; to the north by the reservation corridor for the Dublin Eastern By-Pass (DEBP); and to the east by the site of residential development 'Knockrabo'.

There are 3 no. Protected Structures located in the overall 'Knockrabo' landholding, but which are outside the application boundary. These include 'Cedar Mount' (a Protected Structure - RPS Ref. 783), 'Knockrabo Gate Lodge (West)' (a Protected Structure - RPS Ref. 796), including Entrance Gates and Piers, and 'Knockrabo Gate Lodge (East)' (a Protected Structure – RPS 740) including Entrance Gates and Piers. For clarity no works are proposed to any Protected Structures as part of this proposed development.

The development, with a total gross internal area of c. 23,096.7 sqm, will consist of the construction of 227 no. residential units in 4 no. apartment blocks ranging in height from Part 2 – Part 8 storeys including semi-basement podium.

The development will provide 76 no. 1 bed units, 145 no. 2 bed units and 6 no. 3 bed units as follows:

**Block E** (c. 1015.3 sqm GIA) is a 5-storey including semi-basement podium apartment block comprising of 8 no. units (1 no. one bed unit and 7 no. 2 bed units).

**Block F** (c. 8042.2 sqm GIA) is a Part 2 to Part 8 storeys including semi-basement podium apartment block comprising 84 no. units (53 no. 1 bed units and 31 no. 2 bed units).

**Block G** (c. 8626.5 sqm GIA) is a Part 6 including semi-basement podium to Part 8 storey including semi-basement podium apartment block comprising of 82 no. units (37 no. 1 bed units, 40 no. 2 bed units and 5 no. 3 bed units).

**Block H** (c. 5413.7 sqm GIA) is a Part 6 to Part 7 storey apartment block including semi-basement podium comprising 53 no. units (7 no. 1 bed units, 45 no. 2 bed units and 1 no. 3 bed unit).

Residential Tenant Amenities comprising c. 537.2 sqm are provided at Level 00 of Block G and H to serve all residential units within this application.

Balconies/Wintergardens are provided on all elevations at all levels for the 4 no. apartment blocks, with (Private) Terraces provided at top floor levels and a communal Roof Terrace of c. 198 sqm to be provided on Block F.

The development will also provide 178 no. car parking spaces, which comprises 125 no. residential podium parking spaces, 35 no. on-street parking spaces, 16 no. visitor/drop off parking and 2 no. car sharing on-street parking spaces are provided; Provision of 389 no. private residential bicycle parking spaces and 130 no. visitor bicycle parking spaces; Provision of 12 no. motorcycle parking spaces.

All other ancillary site development works to facilitate construction, site services, piped infrastructure, 2 no. sub-stations, plant, public lighting, bin stores, bike stores, boundary treatments, provision of public, communal and private open space areas comprising hard and soft landscaping, site services all other associated site excavation, infrastructural and site development works above and below ground.

The development will be served by the permitted access road 'Knockrabo Way' (DLRCC Reg. Ref. D13A/0689; ABP Ref. PL.06D.243799, DLRCC Reg. Ref. D16A/0821 and DLRCC Reg. Ref. D16A/0960). The application does not impact on the future access to the Reservation for the Dublin Eastern Bypass.

The application contains a statement setting out how the proposal will be consistent with the objectives of the *Dún Laoghaire-Rathdown County Development Plan 2016-2022*, the *Goatstown Local Area Plan 2012* and the *Dún Laoghaire-Rathdown County Draft County Development Plan 2022 – 2028*.

The application contains this Material Contravention Statement ('Statement') indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

The application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, during public opening hours at the offices of An Bord Pleanála and Dún Laoghaire-Rathdown County Council. The application may also be inspected online at the following website set up by the applicant: [www.knockraboshd.com](http://www.knockraboshd.com)

## 1.1 Purpose of this Document

This document seeks to address the issue of Material Contravention of the *Dún Laoghaire-Rathdown County Development Plan 2016-2022* (the ‘*Development Plan*’) and the *Goatstown Local Area Plan 2012*, as required under Strategic Housing Development legislation. In this case, in our opinion, the Material Contravention of the *Development Plan* arises in respect of:

- Building Heights (considered further in Section 2 of this *Material Contravention Statement*),
- Car Parking Provision within the proposed development (considered further in Section 3 of this *Statement*),
- Dual aspect (considered further in Section 4 of this *Statement*),
- Material contravention of the map based local objective for the road reservation for the Dublin Eastern By-Pass (DEBP) (considered further in Section 5 of this *Statement*).

These issues are described in greater detail below, together with the grounds by which the Board may grant permission for the Subject Proposal, having regard to Section 37 (2) of the *Planning and Development Act 2000 (as amended)*, (‘the 2000 Act’).

## 1.2 Legislative Context

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’.*

Section 37(2)(b) of 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’.*

For the purposes of this *Statement*, these matters are considered in further detail below with reference to each of the issues highlighted in Section 1.1 above.

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 County 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.”*

Having regard to the analysis set out below of the compliance of the proposed development with national planning policy, section 28 guidelines and previous planning history on the site, 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), (ii), (iii) and (iv) of Section 37(2)(b) for the reasons set out below.

## 2.0 Site Context

The Subject Site is located in the suburban area of Goatstown, Dublin 14. (See Figure 2.2). The site is bounded to the south by Mount Anville Road, to the east by Phase 1 of the overall Knockrabo development, to the southwest by existing allotments including Cedar Mount (a Protected Structure) and to the north by the reservation corridor for the Dublin Eastern By-Pass (DEBP). The total site area is approximately 1.78 hectares and is predominantly greenfield. The Subject Site is accessed from a circa 100m section of constructed entrance road, Knockrabo Way, which also facilitates access to the adjacent Phase 1 development to the east.

The site forms part of a broader site on which the construction of Phase 1 has already taken place. Phase 1 to the east of the subject lands comprises a mix of houses and apartments and was granted under Reg. Ref. D13A/0689. The subject lands occupy the western side of this broader Knockrabo site, which has an existing grant of planning (D17A/1124) for the development of 93 No. Residential Units and Childcare Facility along with community/leisure facilities and all associated infrastructure. The Knockrabo Way entrance road previously permitted under Reg Ref D17A/1124 is proposed to remain as previously granted.

The lands are located within the administrative development boundary of Dún Laoghaire-Rathdown County Council, and are therefore also subject to the provisions of the Dún Laoghaire.

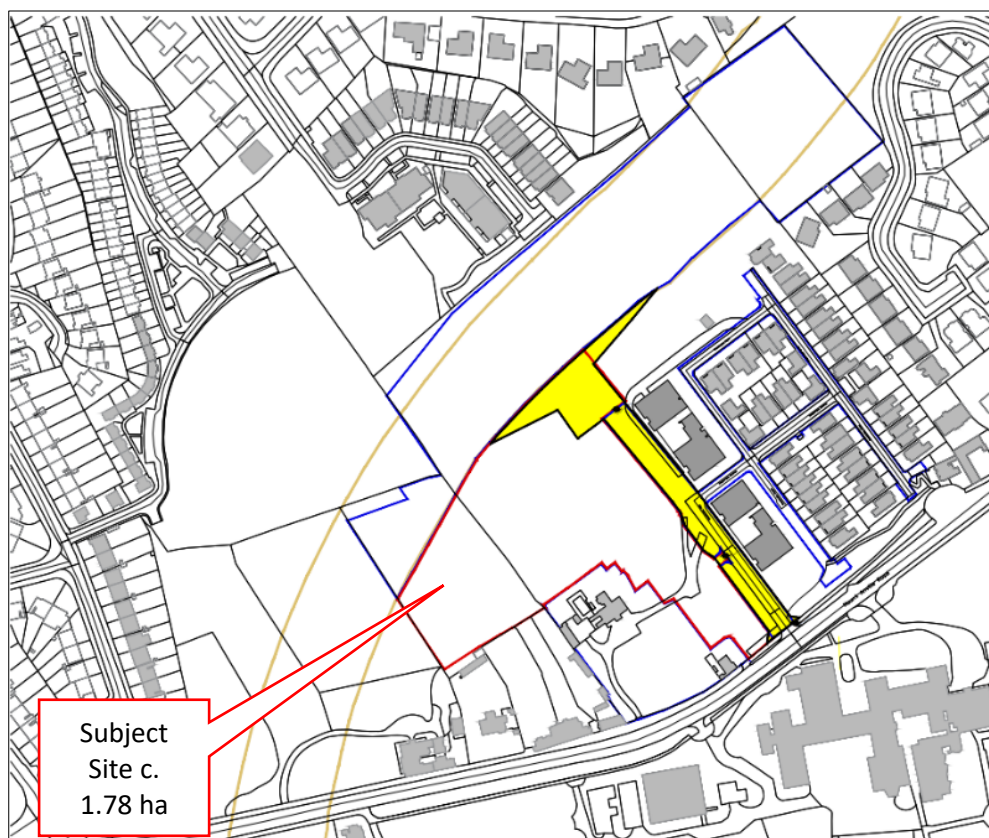


Figure 2.1 Site Context Map



### 3.0 Building Heights – Subject Proposal Materially Contravenes the Height Policy of the Goatstown Local Area Plan 2012

#### 3.1 Building Height – Policy Context

The relevant approved Local Area Plan is the *Goatstown Local Area Plan*, adopted in April 2012, extended in March 2017 and which is due to expire in April 2022.



Figure 3.1 Extract from Goatstown Local Area Plan 2012 Indicating Knockrabo Sites

The proposed development comprises 227 No. residential units in 4 No. separate apartment blocks ranging in height from Part 2 to Part 8 storeys including semi-basement podium as identified in the architectural drawings prepared by OMP Architects. This is in contravention to the benchmark in relation to height as outlined in the Development Guidance of the *Goatstown Local Area Plan 2012* (as extended).

It is considered that sufficient justification for this height is available with regard to recent Dún Laoghaire-Rathdown height policy, as well as National and Regional Policies and Objectives (discussed in further detail in Section 3.2, below).

This *Statement* provides a justification for the material contravention of the *Goatstown Local Area Plan 2012* (as extended) (hereinafter referred to as the ‘LAP’), as a result of the following objective:

<b>Knockrabo Sites - Development Guidance (Table 6.3 of the LAP)</b>	
<b>Height</b>	<ul style="list-style-type: none"> <li>• Variation of height</li> <li>• <b>Benchmark height of four or five-storeys depending on levels (with possible setback floor or occupied roof space on four-storey buildings)</b></li> <li>• <b>Maximum height of two storeys along boundaries with existing residential properties</b></li> </ul> <p style="text-align: right;">[Our emphasis]</p>

Section 37(2)(b) of the 2000 Act states:

*“(2) (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.”*

[Our emphasis.]

It is submitted that recent National and Regional Policies and Objectives provide justifications for the proposed building heights within the Subject Proposal due to the strong encouragement for consolidation of urban areas, higher densities on appropriately zoned and serviced lands within Dún Laoghaire-Rathdown’s area and the current pattern of development in the area since the making of the LAP and the *Dún Laoghaire–Rathdown County Development Plan 2016-2022*.

It is therefore considered that sufficient justification exists for An Bord Pleanála to grant permission for the proposed development notwithstanding the material contravention of the LAP. This is considered in further detail below.

### 3.2 Justification of Material Contravention

#### 3.2.1 Local Area Plan Policies Conflict with National Policy

The LAP has prescribed limitations on building height at the sites at Knockrabo. It is submitted that these policies are contrary to elements of national-level policy that have been introduced since the adoption of the LAP.

Furthermore, Table 6.3 of the LAP (see Table 3.1, below) lists the various design elements that should be considered for any potential development or redevelopment at Knockrabo Sites.

<b>Knockrabo Sites - Development Guidance</b>	
<b>Zoning</b>	<ul style="list-style-type: none"> <li>• 'A' - To protect and/or improve residential amenity</li> </ul>
<b>Height</b>	<ul style="list-style-type: none"> <li>• Variation of height</li> <li>• Benchmark height of four or five storeys depending on levels (with possible setback floor or occupied roof space on four storey buildings)</li> <li>• Maximum height of two storeys along boundaries with existing residential properties</li> </ul>
<b>Density</b>	<ul style="list-style-type: none"> <li>• In accordance with County Development Plan</li> </ul>
<b>Design Objectives</b>	<ul style="list-style-type: none"> <li>• Respect the residential amenity of adjoining properties</li> <li>• Provide for a mix of residential units that enhances the overall residential mix within the plan area</li> <li>• High quality architectural design that makes a positive contribution towards the local built environment</li> <li>• Provide a sensitive response to the streetscape along Mount Anville Road</li> <li>• Protect and provide for the reuse of the existing Gate Lodge, which is a protected structure</li> <li>• Integrate Gate Lodge in any redevelopment proposal</li> <li>• Design to provide for a high standard of residential amenity in terms of orientation, internal layout, private open space and public open space</li> <li>• Address and maximise orientation</li> <li>• Provide measures to mitigate noise impact from any future road / BRT</li> <li>• Consider location and design of ESB substations and bin storage</li> </ul>
<b>Open Space</b>	<ul style="list-style-type: none"> <li>• Residential units to be provided with adequate high quality useable private open space</li> <li>• Provide high quality useable public open space</li> <li>• Provide a safe suitably located play area for children</li> </ul>
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>• Protect and enhance existing biodiversity - habitat assessment to be carried out</li> <li>• Retain and integrate existing mature trees and planting</li> <li>• Provide a detailed tree survey, landscape plan and planting plan</li> </ul>
<b>Movement</b>	<ul style="list-style-type: none"> <li>• Permeability analysis to be carried out</li> <li>• Provide for direct, safe pedestrian and cycle links</li> <li>• Cycle parking to be provided for residents and visitors</li> <li>• Mixture of underground and surface level car parking</li> <li>• Minimise traffic impacts on the residential amenities of adjoining estates through the promotion of walking/cycling and traffic calming or other equivalent measures, where appropriate.</li> </ul>

**Table 3.1: Development Guidance for potential development or redevelopment of Knockrabo sites.**  
(Source: Table 6.1 of the *Goatstown Local Area Plan*.)

It is notable that the content of that table is referred to as 'Development Guidance' rather than being a requirement for any development proposed at the Subject Site.

The proposed development comprises, *inter alia*: 4 No. buildings which range in height from Part 2 to Part 8 storeys including semi-basement podium.

It is clear that the proposed development exceeds the development/redevelopment criteria with regard to height<sup>1</sup> at the Subject Site.

The documentation that accompanies this Application, including, *inter alia*, the *Architects Design Appraisal* prepared by OMP Architects and *Statement of Consistency and Planning Report*, provides a detailed justification for the provision of increased height at the Subject Site, given its site-specific context and the evolution of national planning policies with regard to building height since the adoption of the LAP.

It is submitted that the content of the ‘Development Guidance’, which limits building height at the Subject Site as per Table 6.3 of the LAP, run contrary to the current aims and objectives of national planning policy that have been introduced since the adoption of the LAP.

We have considered the relevant national and regional policy requirements along with relevant *Development Plan* policies, and the provisions of the LAP.

### 3.2.2 National and Regional Guidance on Building Height

The suggested approach contained within both in the National Planning Framework (‘NPF’), and various section 28 Guidance, such as the *Design Standards for New Apartments - Guidelines for Planning Authorities 2020* (the ‘*Apartment Guidelines*’) and *Urban Development and Building Height Guidelines 2018* (the ‘*Building Height Guidelines*’) – regarding the flexible application of planning standards for well-designed proposals, and as described in detail in Sections 2.3.4 and 2.3.5, below – is particularly notable in respect of development of this nature.

In this regard, it is considered that the Subject Site is capable of easily accommodating the additional height proposed here without giving rise to any significant adverse planning impacts in terms of daylight, sunlight, overlooking or visual impact. We also refer the Board to the enclosed *Daylight and Sunlight Assessment* carried out by IES and the *Landscape and Visual Impact Assessment* prepared by Dermot Foley Landscape Architects.

On balance, it is our opinion that the proposed development amounts to a material contravention of the LAP.

Ultimately, however, it is a matter for the Board to determine whether the proposed development is in material contravention of the *Development Plan* having regard to the application of the Upward and Downward Modifiers referenced in the DLRCC Building Height Strategy considered in Section 3.2.3 of this *Statement*.

In the event that the Board concludes that it is a material contravention, we are of the opinion that a grant of planning permission for the development of the height proposed can be justified by reference to the *Building Height Guidelines*, as further detailed below in Section 3.2.2.3 of this *Statement*.

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<sup>1</sup> Please see the *Statement of Consistency and Planning Report* prepared in relation to the Subject Proposal by TPA, and dated October 2021, for reference to the other ‘Development Guidance’ issues.

It is our opinion that, in reliance on Section 37(2)(i), (ii), (iii) and (iv) of the 2000 Act, the Board may 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.

This section provides that 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 planning guidelines for the area, guidelines under section 28, policy directives under section 29**, the statutory obligations of any local authority in the area, and **any relevant policy of the Government**, the Minister or any Minister of the Government or*
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”*

### **3.2.2.1 National Planning Framework (NPF), Rebuilding Ireland and Housing For All**

The Subject Proposal can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF's aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links. Details of the applicable objectives of the NPF and other national and regional policies are outlined in this *Statement*.

At present, the lands of the Subject Site are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is counter to the site's zoning objective, as well as national policy to provide additional housing in existing built-up urban areas. The proposed development will, upon delivery, play an important part of the overall solution to the housing crisis, by providing 227 No. housing units through sustainable, compact growth in a suburban site that is well connected to public transport, existing employment opportunities and supportive social infrastructure.

In addition, three of the *'Five Pillars'* of the *Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)* (*'Action Plan'*) are explicitly applicable to the proposed development. As the proposed development is located on zoned, serviced lands, within walking distance of a range of amenities and services and will deliver 227 No. units in the coming years. The development is proximate to existing residential areas and employment opportunities, which is in line with the provisions of the *Action Plan*. The *Pillars* support a range of actions to support the increased delivery of housing. The proposed development will directly respond to Pillar 2 of the *Action Plan*, which seeks to *'accelerate the delivery of social housing.'* The proposed development is subject to the requirements of the Part V of the 2000 Act. Social

housing provision requirements have been discussed with the Housing Department in DLRCC and 22 no. units are envisaged to be provided. Please refer to the enclosed Part V information pack.

Pillar 3 of the *Action Plan* seeks to ‘*build more homes*’ in order to meet ongoing demand. The proposed development of 299 No. units will provide a mix of unit types and will be suitable for a range of household types and needs.

Pillar 4 of the *Action Plan* has the objective to improve the rental sector and Pillar 5 relates to utilisation of existing housing stock. Neither of these Pillars are applicable to the proposed development as it is not a build to rent scheme and is a vacant site.

A new National Plan addressing housing supply has recently been launched for the period 2021-2030. According to ‘*Housing for All – A New Housing Plan for Ireland*’ (2021), Ireland needs an average of 33,000 homes constructed per annum until 2030 to meet targets set out for additional households as outlined in the NPF up from approximately 20,000 homes a year.

“Increasing New Housing Supply” is one of four pathways identified by the Plan to achieve the objectives. Under this pathway, new arrangements will be introduced for Large-Scale Residential Developments (LSRD) that will replace the current Strategic Housing Development (SHD) arrangements.

The proposed development will contribute to the increased supply required to meet the demand for housing in Dublin including the provision of social/affordable housing.

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

The *Design Standards for New Apartments Guidelines for Planning Authorities* (hereinafter *Apartment Guidelines*) build upon the provisions of the *NPF* in signalling a move away from blanket restrictions on heights and densities in certain locations in favour of an evidence-based approach based on performance criteria.

The referenced document above sets out that to meet housing demand in Ireland, it is necessary to significantly increase supply. The *NPF* targets increased housing supply in Ireland’s cities and urban areas. Increased housing supply must include a dramatic increase in the provision of apartment development.

As per the *Apartment Guidelines*, the identification of the types of location in cities and towns that may be suitable for apartment development, will be subject to local determination by the planning authority, having regard to the following broad description of proximity and accessibility considerations:

#### *Intermediate Urban Location*

*Medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) including:*

Criterion	Response
<i>Sites within easy walking distance (i.e., up to 5 minutes or 400-500m) of reasonably frequent (min. 15 minute peak hour frequency) urban bus services.</i>	Bus Routes No. 11 and No. 175 directly serve the subject site and are located within a 5-minute walk. The No. 11 is a high frequency route with buses every 10-15 minutes at peak hours.

**Table 3.1: Demonstration of compliance with Intermediate Urban criteria. Source: Section 2.4 of the Apartment Guidelines (20120**

Section 2.18 of the *Apartment Guidelines* state the following:

*“In the context of sustainably increasing housing supply, targeting a greater proportion of urban housing development and matching to the type of housing required, there is a need for greater flexibility, removing restrictions that result in different approaches to apartment mix on the one hand, and to other forms of residential accommodation on the other. This is particularly relevant where comprehensive Housing Need and Demand Assessment (HNDA) has not been undertaken.” (p. 8)*

Response to Section 2.18:

No *Housing Need and Demand Assessment* (HNDA) was undertaken during the preparation of the *Local Area Plan*.

In the context of a much-changed policy background since the introduction of the LAP, which now calls for increasing densities within ‘*Dublin City and Suburbs*’, it is in our opinion that greater flexibility or the removal of the building height restrictions prescribed in the *Local Area Plan* should be considered for the proposed development.

In consideration of the appropriateness of the site to accommodate higher density development, it is clear that the height limit (and resulting density limit) as prescribed in the *Local Area Plan* is in direct conflict with the provisions set out by the *Apartment Guidelines* for an ‘Intermediate Urban Location’.

### **3.2.2.3 Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**

The *Urban Development and Building Heights, Guidelines for Planning Authorities 2018* (hereinafter referred to as the ‘*Building Height Guidelines*’) were published in December 2018. The *Building Height Guidelines* were prepared in response to the publication of *Project Ireland 2040* and the *National Planning Framework*, which signalled for the preparation of new Section 28 guidelines regarding building height and increased densities.

Section 2.6 of the *Building Height Guidelines* addresses the negative effects of restrictive height limits in the context of site development.

It states:

*“In some cases, statutory development plans have tended to set out **overly restrictive maximum height limits in certain locations** and crucially*

*without the proper consideration of the wider planning potential of development sites and wider implications of not maximising those opportunities by displacing development that our wider society and economy needs to other locations that may not be best placed to accommodate it. Such a **displacement effect presents a lost opportunity in key urban areas of high demand for new accommodation**, whether that is for living, working, leisure or other requirements in the built environment.”*

[Our emphasis.]

Furthermore, SSPR 3(A) of the *Building Height Guidelines* states:

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

- 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.***” (p. 15)

[Our emphasis.]

SPPR 4 of the *Building Height Guidelines* states:

*“It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:*

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007[SIC])” or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g., two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.”* (p. 17)

The proposed development complies with SPPR 4 of the *Building Height Guidelines*.

The Subject Site is located in close proximity to good public transport links. The minimum residential density set out in the above-referenced *Sustainable Residential Development in Urban Areas Guidelines (2009)* for development within the catchment of such high-capacity public transport is 50 units per hectare:



*“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.”<sup>2</sup>*

With 227 No. apartments proposed for a subject site measuring c. 1.78 ha net site area, the proposed development achieves a density of 157.1 No. units per hectare, well in excess of the minimum net density figure required.

The area surrounding the Subject Site is largely dominated by 3, 4 and 5-bedroom detached and semi-detached houses. The delivery of high-density apartments in this area will provide a greater mix of building heights and typology for the future development of the suburban location.

We have had particular regard to Section 3.1 of the *Building Height Guidelines*, which sets ‘broad principles’. These broad principles are set out below along with a brief response to each of these items with reference to the proposed development. Further detail is also provided in the enclosed documentation:

<b>Development Management Principle</b>	<b>Response</b>
<i>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?</i>	Yes. The subject development inherently complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF’s aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links.
<i>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?</i>	As noted above, the both the <i>Development Plan</i> and the <i>Goatstown LAP 2012</i> predate the implementation of the <i>National Planning Framework</i> and the relevant <i>Guidelines</i> referenced, and therefore, has not taken account of the <i>Guidelines</i> . We note SPPR 1 outlined in Chapter 2 of the <i>Guidelines</i> , which states:  <i>“In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and</i>

<sup>2</sup> *Sustainable Residential Development in Urban Areas Guidelines (2009)* p.18.

	<p><i>Economic Strategies and shall not provide for blanket numerical limitations on building height.”</i></p> <p>And SPPR 2 which states;</p> <p><i>“In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans<sup>2</sup> could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities.”</i></p> <p>We note that SPPR 1 and SPPR 2 relate to development planning rather than development management. The LAP does not implement these requirements of Chapter 2 of Building Height Guidelines. Therefore, it is necessary to focus on the criteria under Section 3.2 of the Guidelines.</p>
<p><i>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?</i></p>	<p>As noted above, the both the <i>Development Plan</i> and the <i>Goatstown LAP 2012</i> predate the implementation of the <i>National Planning Framework</i> and the relevant <i>Guidelines</i> referenced. In our opinion, the pre-existing policies and objectives of the relevant plan or planning scheme do not fully align with and support the objectives and policies of the NPF. We note the NPF seeks to promote compact, well-designed sustainable forms of residential development on an underutilised suburban site, as a part of broader Compact Growth goals for our cities and suburbs.</p> <p>Under the heading of ‘<i>Compact Growth</i>’, the NPF is:</p> <p><i>‘Targeting a greater proportion (40%) of future housing development to happen within and close to existing built-up areas. Making better use of under-utilised land, including ‘infill’ and ‘brownfield’ and publicly owned sites together with higher housing and jobs densities, better serviced by existing facilities and public transport’. [Our emphasis]</i></p> <p>There is a much greater emphasis on higher densities (which can, in part can be achieved by</p>

	greater height) under the NPF than under the current LAP, which does not fully align with the objectives of the NPF. In our opinion, the proposed development height strategy is a more sustainable and appropriate use of the site.
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SPPR3 of the *Urban Development and Building Heights Guidelines* requires applicants for planning permission to set out how the proposal complies with the “*criteria above*”.

This “*criteria*” refers to the Development Management Criteria contained within Section 3.2 of the *Building Height Guidelines*, which are discussed in turn below.

If the Board is satisfied that the Development Management 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 *Urban Development and Building Heights Guidelines 2018* 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.*

**Development Management Criteria:**

**A. "At the scale of relevant city/town"**

The applicant must demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála, for the purposes of Section 3.2 of the *Guidelines*, that the proposed development satisfies the following criteria at the scale of the relevant city/town. These are now considered below:

<b>Development Management Principle</b>	<b>Response</b>
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>	The subject lands are approximately 1.25km (15-minute walk) from University College Dublin, and approximately 1.9 km (25-minute walk) from Dundrum Town Centre, which are large employers in the area. The site is c. 1.8km (22-minute walk) from Dundrum Luas Stop. Bus Routes No. 11 and No. 175 directly serve the subject site and are located within a 5-minute walk. The No. 11 is a high frequency route with buses every 10-15 minutes at peak hours. This connects the site with Dublin City (7km/35 minutes bus journey) and Sandyford Business District (4.2km/19 minute bus journey) which is also a large employer in the County. Additionally, the development is 1.5km (15 mins walk) from a Quality Bus Corridor (QBC) with services to the city centre running every 6 minutes and similarly close to the Dundrum LUAS stop with services running every 7 minutes to the city centre.
<i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</i>	A Landscape and Visual Impact Assessment Report has been prepared by Dermot Foley Landscape Architects. It concludes as follows;  <i>'Except for the views from the immediate environs of the site, particularly along Mount Anville Road and the existing open space north east of the subject site, the proposed development will have slight to no impact. The proposed development would create a visual intrusion in short distance views, but not inappropriately or uncharacteristic in the context. The design of the buildings and open space are of a high quality and would be a well considered continuation and follow the urban design framework established by the Knockrabo Phase 1 development. For most short and mid distance views, as proposed boundary tree planting matures over time, the buildings will be further screened and integrated with the existing landscape vegetation, characteristic of the area.'</i>

<p><i>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</i></p>	<p>The Design Strategy in relation to height on page 17 of the OMP Architectural Design Report states;</p> <p><i>'The subject site sits within a context of contrasting scales. The lands which adjoin the Knockrabo site are predominantly suburban in character, with 2 storey houses in Ardilea Downs and along Mt Anville Road. Mt Anville School is a notable landmark in the area, with buildings varying between 2 and 5 storeys.</i></p> <p><i>Within the Phase 1 Knockrabo lands, the buildings of lower heights have been located beside existing houses, so as to mitigate the impact of development on adjoining residents. The apartment buildings, which are generally 5-6 storey, have been located beside the main access route within the scheme, which creates an avenue effect, and locates the taller structures within the less sensitive part of the site.</i></p> <p><i>Within the Phase 2 Knockrabo lands, it is proposed that the small structures, which are generally 1 or 2 two storey, and are associated with Cedar Mount House and its outbuildings, be constructed as per the Extant Permission D17A/1124, in recognition of the sensitivity of this part of the site.</i></p> <p><i>The height of the constructed apartment blocks (A, B, C and D), and the permitted apartment blocks (G, H), vary between 3 and 7 storeys including podium level, and set a precedent for scale on the Phase 2 lands. The subject application proposes that the existing parapet height of Block B sets a consistent building height for the streetscape to the rear of Cedar Mount House, and that the proposed buildings then increase in scale as they approach the public open space to the north of the site, and the reservation for the DEBP.</i></p> <p><i>The height of the existing trees, which measure up to 30m in places, and the steeply sloping topography also impact our perception of scale on the site.</i></p> <p><i>We note that that the proposed height of the scheme was not a concern at the Tripartite meeting, and that the DLRCC Report from that stage notes that "the development of blocks, F, G and H would present a strong urban edge to the Dublin Eastern By-Pass, and also providing strong visual continuity in association with Block B when viewed from Cedar Mount House."</i></p>
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**B. "Scale of the district/neighbourhood/street"**

Second, the applicant must demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, for the purposes of section 3.2 of the *Guidelines*, that the proposed development satisfies the following criteria at the scale of the district/neighbourhood/street:

<b>Development Management Principle</b>	<b>Response</b>
<p><i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i></p>	<p>The Landscape and Design Strategy is outlined in the Landscape Design Rationale prepared by Dermot Foley Landscape Architects as follows;</p> <p><i>'The proposed site strategy has been generated by Dermot Foley Landscape Architects, O'Mahony Pike Architects and Arborist Associates by locating proposed 'blocks' of residential development within the site to allow for the extension of the area of public open space to the north and an appropriate landscape treatment of the historic lands at Cedar Mount House to the west. Open spaces are designed around existing trees which are used to create a strong identity on site.</i></p> <p><i>Spaces are designed in such a way as to make them visible, identifiable, and easily accessible for residents and the wider community. Engineering requirements for drainage and utilities have also been integrated into the overall landscape strategy. The landscape architects worked closely with the conservation architects and have developed carefully considered landscape proposals around Cedar Mount House in previously granted planning application.</i></p> <p><i>The following components contribute to the landscape strategy:</i></p> <ol style="list-style-type: none"> <li><i>1. improved permeability throughout the site for pedestrians and cyclists;</i></li> <li><i>2. extended public open space to the north of the site, to form continuous parkland with public open space of Phase 1 development;</i></li> <li><i>3. a safe environment which is available to future residents but is also a positive addition to the public realm of the wider area;</i></li> <li><i>4. integration of functional landscape and external works such as parking and defensible space within the overall strategy;</i></li> <li><i>5. substantial and realistic retention of existing trees;</i></li> <li><i>6. native planting to assist with the biodiversity metric of the site post-development;</i></li> <li><i>7. retention of significant site boundaries, protected structures and substantial existing walls within the site;</i></li> <li><i>8. facilitation of the possible future taking-in-charge of the public areas of the development by the local authority.'</i> </li></ol>
<p><i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i></p>	<p>In our opinion, the proposed development is not monolithic in nature and avoids long, uninterrupted walls of building in its form and the existing context has been well considered. The development is varied in height from Part 2 to Part 8 over podium.</p> <p>As discussed above, by responding to the site's context, a sense of place is created through a range of quality designed building forms, carefully designed outdoor space.</p> <p>The Design Statement notes;</p> <p><i>'The proposed buildings carry through the material palette from Phase 1 of the development as constructed, with a combination of red and</i></p>

	<p><i>white brick to the predominant facades and limited use of grey metal cladding to penthouses and recesses.</i></p> <p><i>A high quality palette of materials will also be used in the landscape, similar to that constructed in Phase 1.'</i></p>
<p><i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).</i></p>	<p>The proposed development enhances the urban design context for the development. As noted in the OMP Architects Report;</p> <p><i>'The vehicular movement strategy for the subject scheme is consistent with the constructed development and the Extant Permission. The Extant Permission has established a 15.5m corridor between Mt Anville Road and the reservation for the DEBP, and a wide turning area at the northern end of the 15.5m corridor. This application maintains this corridor and turning area in its entirety. ;</i></p> <p><i>The 15.5m corridor comprises the following areas:</i></p> <ul style="list-style-type: none"> <li>- 2m footpath (eastern side of road);</li> <li>- 7m carriageway;</li> <li>- 3.5m zone, which can become an extra traffic lane for construction access in the future;</li> <li>- 3.0m landscape zone.</li> </ul> <p><i>Knockrabo Way, which provides access to the existing, constructed phases of the development will also provide access to this phase. A local access road is provided off the northern end of Knockrabo Way - the width and alignment of this local access road are identical to a local access road in the Extant Permission. Access into two semi-basement carparks is provided off the local access road.</i></p> <p><i>A shared surface environment will be provided on the streetscape surrounding Blocks G and H. All roads will be designed in compliance with DMURS.'</i></p> <p>A Flood Risk Assessment (FRA) has been prepared by Waterman Moylan Engineers and accompanies this planning application.</p> <p>The assessment states the following:</p> <p>Given that the site is located 3km kilometres inland from the Irish Sea, that there is at large level difference between the proposed buildings and the high tide and given that the site is outside of the 1-in-1,000 year flood plain, it is evident that a pathway does not exist between the source and the receptor. A risk from tidal flooding is therefore extremely low and no flood mitigation measures need to be implemented.</p> <p>Given that the site is outside of the 1-in-1,000 year flood plain, the likelihood of fluvial flooding is low.</p> <p>Surface water discharge from the subject site is intercepted and slowed down through the use of source control devices, as described</p>

	in Section 4.6.1, minimising the risk of pluvial flooding from the subject site. Sufficient attenuation storage is provided for the 1-in-100 year storm, accounting for a 20% increase due to climate change.
<i>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i>	In terms of permeability the Dermot Foley report notes;  <i>'The main vehicular entrance to the overall development at Knockrabo forms part of the Phase 1 works. Additionally, accessible public pedestrian and cycle connections from Mount Anville Road have also been provided. The proposed Phase 2 development builds on this strategy. A new entrance to Cedar Mount House was permitted at previous application aiding overall site connectivity. The general site strategy also includes two east-west public open spaces, one at the southern end of the site and one at the northern end, both ensuring full permeability across the site.'</i>
<i>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</i>	The subject scheme proposes the following unit mix:  1 bed: 76 (33.5%) 2 bed: 145 (63.9%) 3 bed: 6 (2.6%) Total: 227 no. units  This will contribute to the overall housing stock in the area which is predominantly characterised by 2 no. storey, 3 and 4 bedroomed properties.

### **C. "Scale of the site/building"**

Thirdly, the applicant must demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, for the purposes of Section 3.2 of the *Building Height Guidelines*, that the proposed development satisfies the following criteria at the scale of the site/building:

<b>Development Management Principle</b>	<b>Response</b>
<i>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</i>	The enclosed <i>Daylight, Sunlight and Overshadowing Report</i> , prepared by IES indicates that the proposed development has negligible daylight, sunlight and overshadowing impact on any of the surrounding properties.  <b>Form and Massing of the Development:</b> The design has been an iterative process in conjunction with the Sunlight/Daylight consultant to achieve the best possible outcome for the proposed and existing residents on the site and adjoining properties. Please see conclusions of report in the following section.



<p><i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.</i></p>	<p>The IES report concluded as follows in relation to sunlight, daylight and overshadowing;</p> <p><i>'The following can be concluded based on the studies undertaken:</i></p> <p><b>11.1 Daylight Analysis of Existing Buildings</b></p> <p>This study considers the proposed scheme and the impact it will have on existing neighbouring dwellings adjacent to the development site. The BRE Guide states that if the VSC results are greater than either 27% or 0.8 times their former value (that of the existing situation) there will be negligible impact on the existing adjacent properties. Of the 45 points tested 96% (43 points) comply with the BRE recommendations.</p> <p>Therefore the proposed development will have a negligible adverse impact on the adjacent buildings outside of the wider development.</p> <p>For the adjacent Blocks A, B, C and D in Knockrabo Phase 1 which are a part of the wider development, an ADF analysis was undertaken to determine the impact the proposed development has on these blocks. The BRE guide states that <i>'Use of the ADF for loss of light to existing buildings is not generally recommended. However, there are some situations where meeting a set ADF target value with the new development in place could be appropriate as a criterion for loss of light:'</i></p> <p><i>"Point F8 (i) 'where the existing building is one of a series of new buildings that are being built one after the other, and each building has been designed as part of a larger group."</i></p> <p>As such, since the construction details for the Knockrabo Phase 1 (Plans, Elevations &amp; Sections) were available and are part of the wider development, ADF calculations were generated for the neighboring development with the proposed scheme in place.</p> <p>The proposed development has no impact on the apartment units tested in Block A &amp; B which continue to exceed the BRE guidelines for internal daylighting. The proposed development has a negligible adverse impact on the existing units in Block C &amp; D as only 1 room out of 42 rooms tested has a resultant ADF below the BRE recommended guidelines with the proposed development in place.</p> <p><b>11.2 Shadow Analysis</b></p> <p>Taking all of the above into account, the overall impact of overshadowing can be classed as a minor adverse impact, especially since the permitted development is Phase 1 of the Knockrabo development.</p> <p><b>11.3 Sunlight to Existing and Proposed Amenity Spaces</b></p> <p>As outlined in Section 3.3.17 of the BRE Guide, for a space to appear adequately sunlit throughout the year, at least half of the garden or amenity area should receive at least 2 hours of sunlight on the 21<sup>st</sup> of March.</p>
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	<p><b>Existing Gardens Adjacent to the Proposed Development</b> On the 21<sup>st</sup> of March, the existing gardens will continue to receive the same amount of sunlight even with the proposed development, thus complying with BRE guidelines.</p> <p><b>Permitted Amenity Areas Adjacent to the Proposed Development</b> On the 21<sup>st</sup> of March, the permitted amenity areas with the proposed development in place will continue to receive over 2 hours of sunlight on at least 63% of their former value, thus exceeding BRE recommendations.</p> <p><b>Proposed Amenity Areas</b> On the 21<sup>st</sup> of March, the proposed private communal amenity spaces within the development will receive over 2 hours of sunlight on 91% of their combined area, thus exceeding BRE recommendations.</p> <p>On the 21<sup>st</sup> of March, the proposed public amenity spaces within the development will receive over 2 hours of sunlight on 99% of their combined area, thus exceeding BRE recommendations.</p> <p>Overall, all amenity spaces assessed comply with BRE recommendations.</p>
<p><i>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</i></p>	<p>As per Page 7 of the IES Report, compensatory measures are outlined below;</p> <p><i>‘Compensatory measures have been incorporated in the design of the proposed development to offset reduced daylight performance in a number of bedrooms and LKDs. The floor areas of 68.7% of all apartments are more than 10% above the minimum area requirements set out within national policy and in addition, are provided with private amenity areas in the form of balconies. Taking both of these critical elements into consideration, the daylight results achieved are to a high standard as both of these factors are generally a detractor to good daylight performance. Furthermore, the number of dual aspect units and both communal and public open space provisions are above minimum recommendations. The incorporation of these compensatory measures more than offset the reduced daylight performance when the proposed development as a whole is considered.</i></p> <p><i>The Living/Kitchen/Dining spaces have also been assessed as whole rooms against an alternative 1.5% ADF target. In addition to complying with further Irish Design Standards for New Apartments such as the provision of balconies (which reduce daylight within apartments as noted within the BRE guidelines) as well as the layout of the apartments with respect to Kitchens,</i></p>

	<p><i>the 1.5% ADF target is noted as the more appropriate target. Although the design target value is lower, this is compensated with a much higher valued outdoor private amenity provision which is noted to be a very desirable commodity for occupants to benefit their connection to the outdoors.</i></p> <p><i>Therefore, when Living/Kitchen/Dining spaces are assessed as whole rooms against a 1.5% ADF target, a 98% compliance rate is achieved across all tested rooms within the proposed development.'</i></p>
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**D. "Specific assessment requirements"**

The *Guidelines* then note that to support proposals at some or all of these scales, specific assessments may be required and that these may include the following:

<b>Development Management Principle</b>	<b>Response</b>
<p><i>Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</i></p>	<p>Due to the nature of the proposed development, including the provision of external balconies on apartment blocks, in combination with a maximum height of 6 no. storeys and significant separation distances, the proposed development should not cause any negative micro-climatic effects, such as downdraft.</p> <p>We also note that a wind assessment was not requested by An Bord Pleanála in their Opinion, following the Tripartite Meeting.</p>
<p><i>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.</i></p>	<p>The proposed development site is not considered a sensitive bird or bat area.</p> <p>The EclA concludes in Section 6 as follows;</p> <p><i>'Construction would result in the removal of the majority existing habitats, with the exception of the trees that are to be protected from the construction works. But, due to the fact that the site is poor in species diversity and no species of conservation importance, except foraging bats, were found these impacts would be limited, localised and reversible depending on the planting regime. Despite the site being of relatively low biodiversity importance a robust series of standard mitigation measures are proposed. Mitigation will include pre construction surveys for bats, invasive species and mammals, the clearance of the site outside of bird nesting season, measures to prevent contaminated surface water runoff and the presence of an ecologist to monitor site works. However, none of the measures proposed are necessary for the protection of Natura 2000 sites.</i></p> <p><i>The outlined construction and operational mitigation proposed for the proposed development satisfactorily addresses the mitigation of potential impacts on the sensitive receptors through the application the standard construction and operational phase controls in addition</i></p>

	<p><i>to a sensitive lighting plan. The overall impact on the ecology of the proposed development will result in a long term minor adverse, not significant impact on the ecology of the area and locality overall. This is primarily as a result of the loss of terrestrial habitats on site, increased light spill and increased human activity. No significant negative environmental effects will be as a result of the proposed development.</i></p> <p><b><i>No significant ecological impacts would be foreseen outside the immediate vicinity of the proposed development.'</i></b></p>
<p><i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i></p>	<p>No telecommunication channels will be interrupted by the proposed development. This is confirmed in the Energy and Sustainability Report, prepared by Waterman Moylan Consulting Engineers, which states;</p> <p><i>'We have reviewed the proposed development at Knockrobo and consider that the height and scale being sought for this new development will not have an impact on any current microwave telecommunication channels.</i></p> <p><i>If however, a microwave link is found to be effected by this new development, during the construction stage of this project, mitigation will be employed by engaging with the telecommunication company and organising the re-alignment of their microwave links to a new hop site.'</i></p>
<p><i>An assessment that the proposal maintains safe air navigation.</i></p>	<p>Due to the proposed development being 8 no. storeys in height at its tallest, it is not envisaged that this would interrupt air navigation equipment.</p>
<p><i>An urban design statement including, as appropriate, impact on the historic built environment</i></p>	<p>Please refer to Conservation Strategy and Heritage Impact Assessment Report prepared by Howley Hayes Cooney for Knockrobo Phase 2 which concludes as follows;</p> <p><i>'Howley Hayes Cooney Architecture were appointed in 2020 to assess the impact of the current amended proposal upon Cedar Mount and its setting.</i></p> <p><i>The amended apartment blocks are in keeping with the scale and materiality of the previously permitted units to the east and as such will have no further impact upon Cedar Mount and its setting.</i></p> <p><i>The visual impact of block E on the western lodge of the former Mountanville House will be more significant, however, this secondary lodge of modest design is not of sufficient architectural merit to warrant the loss of development potential of the adjoining land.'</i></p>

<p><i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i></p>	<p>As noted in the EIA Screening Statement, prepared by Tom Phillips + Associates, an EIAR is not considered necessary. An Ecological Impact Assessment and AA Screening Report, prepared by Altemar is enclosed.</p>

The proposed development has also been informed by a suitably qualified Fire Engineer, has advised the project architect in relation to compliance with fire safety requirements. This is reflected in the design approach proposed.

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.

In addition, we note that the *Eastern and Midlands Regional Spatial and Economic Strategy* (2019) is relevant when considering the strategic nature of the scheme. We consider this regional policy below.

### **3.2.2.4 Eastern and Midlands Regional Spatial and Economic Strategy 2019**

The *Eastern and Midlands Regional Spatial & Economic Strategy* (hereinafter referred to as the ‘RSES’) has been published by the Eastern and Midland Regional Assembly and covers nine counties, including twelve Local Authorities. The purpose of the RSES is to provide a long-term strategic planning and economic framework in order to support the implementation of Project Ireland 2040.

The RSES includes the *Dublin Metropolitan Area Strategic Plan* (MASP) which aims to unlock the development capacity of strategic areas within the metropolitan area.

Within the MASP area, the RSES identifies the area in which the Subject Site is located as ‘Dublin City and Suburbs’. The population of this area in 2016 was 1.2 million<sup>3</sup> and the RSES envisions a growth of 200,000 to 1.4 million people by 2031.<sup>4</sup>

To realise this ambition for population growth Regional Policy Objectives 3.3 and 5.4 state:

*“Regional Policy Objective 3.3*

*Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the*

<sup>3</sup> *Eastern and Midlands Regional Spatial Economic Strategy (2019)* p.99.

<sup>4</sup> *Eastern and Midlands Regional Spatial Economic Strategy (2019)* p.34.

*‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for new Apartments Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities.’ (p.39)*

Regional Policy Objective 5.4

*Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities.’ (p.112)*

Table 4.3 of the RSES Document sets out a ‘Policy Response’ for the Dublin City and Suburbs settlement typology. It states:

*“Continued consolidated population and employment growth with a focus on improving housing supply and amenity provision to create sustainable communities and improve public transport and sustainable travel options.” (p.47)*

It is clear from the RSES Policies and Objectives that the achievement of compact growth through the development of strategically located residential sites, such as the subject site, should ensure that higher densities are delivered to ensure the projected population growth is delivered sustainably within the contiguous built-up area of *Dublin City and Suburbs*.

This will be achieved in tandem with the provision of increased building heights at such strategic sites, including the Subject Site.

### **3.2.3 DLRC Building Height Strategy Allows for Increased Building Heights**

Appendix 9 of the *Dún Laoghaire–Rathdown County Development Plan 2016-2022* addresses Building Height Strategy in the Local Authority area.

While Appendix 9 was adopted as an Appendix to the *Dún Laoghaire–Rathdown County Development Plan 2016-2022*, it should be noted that its composition predates the extension of the *Goatstown Local Area Plan*.

Indeed, Section 4.1.8 of Appendix 9 refers to a series of ‘Forthcoming Local Plans’ – the *Goatstown Local Area Plan* being listed as one.

Other than the reference to the then-forthcoming *Goatstown Local Area Plan*, there is no reference to Goatstown and its environs in Appendix 9 of the *Dún Laoghaire–Rathdown County Development Plan 2016-2022*.

Section 4.2 of Appendix 9 refers to locations subject to Local Area Plan Boundaries. That section states, *inter alia*:

*“The forthcoming local plans will likewise include specific policy on building height. From a strategic perspective, **the only areas where any cogent case can be made for taller buildings in the County is within the boundaries of certain local plan areas and UCD.** It is considered that these local plans are the most appropriate vehicle for providing the kind of fine-*

*grained analysis which can determine if taller buildings are appropriate or not to any given location.”*

[Our emphasis.]

As such, the *Building Height Strategy* in the current *Development Plan* states that the only locations within the County that are suitable for taller buildings are those lands to which a Local Area Plan applies (aswell as UCD).

We note that while the Subject Site is located within an area that is subject to an LAP.

However, we highlight that the LAP in question was first adopted in 2012, and extended since, and has not since been amended or updated in line with the Development Plan, nor national or regional policy, and is therefore out of date.

As such, we refer to Section 4.8.1 of the Development Plan, which outlines a number of 'Upward Modifiers'. Upward Modifiers, broadly, are characteristics of a proposed development or development site, which may allow for buildings in excess of the recommended height outlined for this area under certain conditions.

The overall positive benefits of a development proposal would need to be of such a significance as to clearly demonstrate to the satisfaction of the Planning Authority that additional height is justified. It will be necessary, therefore, for a development proposal to meet more than one 'Upward Modifier' criteria.

These criteria include:

*“Upward Modifiers may apply where:*

- 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.*
- 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.*
- 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.*
- 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.*
- 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.*
- f. *The size of a site, e.g. 0.5ha or more, could set its own context for development and may have potential for greater building height away from boundaries with existing residential development.*

[Our Emphasis]

In our view, the site may be considered under Modifiers A, C, E and F for the following reasons;

- **Modifier A** – Provision of 31.9% of the overall red line boundary is Public Open Space with 5,679 sqm public open space, 2,176 sqm communal open space;
- **Modifier C** – The proposed development will provide and enhance public space and social facilities, in an area where such facilities are deficient. The development will provide public open space in excess of Development Plan Standards and associated play facilities. The proposed site strategy has been generated by Dermot Foley Landscape Architects, O’Mahony Pike Architects and Arborist Associates by locating proposed ‘blocks’ of residential development within the site to allow for the extension of the area of public open space to the north and an appropriate landscape treatment of the historic lands at Cedar Mount House (Protected Structure) to the west. Open spaces are designed around existing trees which are used to create a strong identity on site.

The retention of trees is allied to the proposals for new tree planting which will provide a more diverse age profile across the site and which is in line with good arboricultural, horticultural and ecological practice. Particular attention has been paid to trees located on boundaries with minimal removal of trees at Mount Anville Road.



The finished floor levels of the buildings and the levels of the roads have all been designed to maximize tree protection. 'No-dig' solutions and Cellweb is proposed for any minor construction of landscape surfaces or ramps within the Root Protection Area (RPA) of trees to be retained.

- **Modifier E** – The lands are exceptionally well located in terms of facilities, employment and public transport, although not specifically within the distances indicated in Modifier E. The subject lands are approximately 1.25km (15-minute walk) from University College Dublin, and approximately 1.9 km (25-minute walk) from Dundrum Town Centre, which are large employers in the area. The site is c. 1.8km (22-minute walk) from Dundrum Luas Stop. Bus Routes No. 11 and No. 175 directly serve the subject site and are located within a 5-minute walk. The No. 11 is a high frequency route with buses every 10-15 minutes at peak hours. This connects the site with Dublin City (7km/35 minutes bus journey) and Sandyford Business District (4.2km/19 minute bus journey) which is also a large employer in the County. Additionally, the development is 1.5km (15 mins walk) from a Quality Bus Corridor (QBC) with services to the city centre running every 6 minutes and similarly close to the Dundrum LUAS stop with services running every 7 minutes to the city centre.

- **Modifier F** – The site has an area of c. 1.78 ha. The apartment blocks, and their associated duplexes, vary in height from 2 – 8 storeys including podium level, with the lower parts of the buildings being closer to Cedar Mount House, and the taller parts being closer to the northern site boundary. The arrangement of the blocks creates streets and communal spaces that benefit from the view over Dublin from the site. Further information in relation to the design rationale and approach is enclosed in the enclosed *Design Statement*, prepared by OMP Architects.

We note the *Development Plan* also includes 5 no. 'Downward Modifiers' which may apply where a proposed development would adversely affect several criteria. These include:

- *Residential living conditions through overlooking, overshadowing or excessive bulk and scale;*
- *An Architectural Conservation Area;*
- *Strategic protected views and prospects;*
- *A planning or social objective such as the need to provide particular housing, employment or social facilities in an area;*
- *An area of particular character including coastal fringes and mountain foothills.*

In our opinion, we note that criteria nos. 2 - 5 are not applicable. Particular attention has been paid to the first 'Downward Modifier,' which states that it may apply where a proposed development would adversely affect;

*"Residential living conditions through overlooking, overshadowing or excessive bulk and scale."*

We believe this *Downward Modifier* is not applicable for the following reasons:

- Provision of sufficient separation distances between the proposed development and adjoining properties to alleviate overlooking concerns, combined with detailed landscape proposals and boundary treatments to further assist with screening the proposed development. The *Landscape and Visual Impact Assessment*, prepared by Dermot Foley Landscape Architects notes:

*“It is considered the initial development will have a significant effect on the existing predominantly overgrown character of the site. The landscape and visual change will be most pronounced during the mobilisation and construction stage, when activity is unfamiliar and when the existing character of the lands is altered by the removal of excess ground material and vegetation. The changes arising from the initial site development and construction works will have moderate negative landscape and visual effects, predominantly from the east and north, due to the visual enclosure of the site.*

*The proposed development provides for a positive, detailed, site-specific response to site and local context. The open space network provides for an attractive and diverse range of amenity and recreational opportunities, designed to link and integrate seamlessly with the existing high quality Knockrabo Phase 1 development adjacent. Equally the open space network enhances the strong urban design framework for the site. Existing development in Phase 1, Knockrabo, and in Ardilea Crescent has laid down a high-quality precedent which the proposed development will consolidate. As a whole the proposed development will make a significant contribution to the townscape of the wider area and the future context of the surrounding lands. Likewise, the proposed network of open spaces will make a significant and positive contribution to the emerging landscape character, biodiversity, amenity and recreational opportunities for the future residents of the development.*

*The magnitude of change which would result from the proposed development is medium. It would introduce buildings to the site, however not necessarily uncharacteristic or inappropriate in the context. The character of the landscape would thus be altered by the development, but the area in which this would be experienced would be somewhat limited by the visual enclosure of the site and would be predominantly limited to the existing Knockrabo Phase 1 development immediately east of the subject site and to the north of the site.*

*Except for the views from the immediate environs of the site, particularly along Mount Anville Road and the existing open space north east of the subject site, the proposed development will have slight to no impact. The proposed development would create a visual intrusion in short distance views, but not inappropriately or uncharacteristic in the context. The design of the buildings and open space are of a high quality and would be a well considered continuation and follow the urban design framework established by the Knockrabo Phase 1 development. For most short and mid distance views, as proposed boundary tree planting matures over time, the buildings will be further screened and integrated with the existing landscape vegetation, characteristic of the area.”*

The strategy for the subject application on the Phase 2 lands is consistent with the overall site strategy for the Knockrabo masterplan in previous iterations, i.e. to create a significant public open space that retains the specimen trees along the northern edge of the site, and another significant public open space to the front of Cedar Mount House, which preserves the setting of the protected structure, the mature trees associated with the entrance to the house, and the sylvan quality of the boundary with Mt Anville Road.

The subject scheme proposes three development zones with apartment blocks:

- Block E, beside the site entrance, which frames the square with the existing oak tree and demarcates the entrance to the site;
- Block F, which is on the footprint of permitted Blocks G/F in the extant permission, and is of similar scale, and incorporates a communal courtyard;
- Blocks H and G, which are organised around a communal courtyard;
- The apartment blocks, and their associated duplexes, vary in height from 2 – 8 storeys including podium level, with the lower parts of the buildings being closer to Cedar Mount House, and the taller parts being closer to the northern site boundary. The arrangement of the blocks creates streets and communal spaces that benefit from the view over Dublin from the site.

The Daylight, Sunlight and Overshadowing Study prepared by IES concludes on Pages 130 as follows;

*‘This study considers the proposed scheme and the impact it will have on existing neighbouring dwellings adjacent to the development site. The BRE Guide states that if the VSC results are greater than either 27% or 0.8 times their former value (that of the existing situation) there will be negligible impact on the existing adjacent properties. Of the 45 points tested 96% (43 points) comply with the BRE recommendations.*

*Therefore the proposed development will have a negligible adverse impact on the adjacent buildings outside of the wider development.*

*For the adjacent Blocks A, B, C and D in Knockrabo Phase 1 which are a part of the wider development, an ADF analysis was undertaken to determine the impact the proposed development has on these blocks. The BRE guide states that ‘Use of the ADF for loss of light to existing buildings is not generally recommended. However, there are some situations where meeting a set ADF target value with the new development in place could be appropriate as a criterion for loss of light:’*

*“Point F8 (i) ‘where the existing building is one of a series of new buildings that are being built one after the other, and each building has been designed as part of a larger group.”*

*As such, since the construction details for the Knockrabo Phase 1 (Plans, Elevations & Sections) were available and are part of the wider development, ADF calculations were generated for the neighboring development with the proposed scheme in place.*

*The proposed development has no impact on the apartment units tested in Block A & B which continue to exceed the BRE guidelines for internal daylighting. The proposed development has a negligible adverse impact on the existing units in Block C & D as only 1 room out of 42 rooms tested has a resultant ADF below the BRE recommended guidelines with the proposed development in place.’*

While the scale of the proposed development is larger than that of the surrounding context, it is our opinion that the height is regarded as acceptable due to the compliance with several of the Upward Modifiers outlined in the DLRC Height Strategy. This is considered in combination with a shift in national guidance on building heights, which has been adopted since the Development Plan was originally drafted.

It is a matter for the Board to determine whether the proposed development meets the criteria set out in the upward modifiers as per the *Development Plan* with the result that there is no material contravention of the LAP.

In the event that the Board concludes that it does not do so, we are of the opinion that a grant of planning permission for the development of the height proposed can be justified by reference to the *Building Height Guidelines* and other Regional and National Guidance, as detailed above.

### **3.3 Conclusion of Justification for Material Contravention of LAP in relation to Building Heights**

As outlined above, the Subject Site is suitable for higher-density residential development and taller buildings, as per the Dún Laoghaire-Rathdown Development Plan 2016-2022 and various national and regional planning policies.

The Subject Proposal is therefore justified in materially contravening the *Goatstown Local Area Plan 2012*, which was adopted a number of years prior to the referenced higher-level policies and is inconsistent with national policy and section 28 Guidelines.

Thus, having regard to the:

- Strategic nature of the Subject Proposal in achieving the goals of the NPF
- Relevant Regional Spatial and Economic Strategy for the area, guidelines under section 28, and other relevant policies of the Government, and the
- Pattern of development and permissions granted in the area since making the LAP,

we conclude that permission should be granted for the Subject Proposal.

#### 4.0 Car Parking Provision – Subject Proposal Materially Contravenes the Car Parking Provision Policy of the Dún Laoghaire-Rathdown Development Plan 2016 -2022

##### 4.1 Car Parking Provision – Policy Context

This *Statement* also seeks to address the issue of potential material contravention in relation to Car Parking, as required under SHD legislation as outlined in Section 1.2 of this *Statement*, and outlines the justification to permit the proposed car parking ratio.

Section 8.2.4.5 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 (the '*Development Plan*') prescribes minimum standards for the quantum of car-parking spaces that are to be provided in new developments. Those quantum depend on the land-use associated with a given development.

Table 8.2.3 of the *Development Plan* sets out the standards for residential land-use and takes account of both resident and visitor requirements. (See Table 4.1, below)

For apartments, the standards are based on the size of the unit in question. 1 No. car parking space is required for each 1-bedroom unit; 1.5 No. car parking spaces are required for each 2-bedroom unit; and 2 No. car parking spaces are required for 3- bedroom units.

Land use	Standards
Residential Dwelling	1 space per 1-bed unit and per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location).
Apartments, Flats, Sheltered housing	1 space per 1-bed unit 1.5 spaces per 2-bed unit 2 spaces per 3-bed unit+ (depending on design and location)

**Table 4.1: Residential Land Use – Car Parking Standards (Table 8.2.3) (Source: Pg. 189, *Dún Laoghaire Rathdown County Development Plan, 2016-2022*. Annotated by TPA, 2020.)**

The standard number of car parking spaces that would be required for the proposed development is 306 no. car parking spaces as per the *Development Plan* minimum car parking standards:

Standard	No. of Units	Total
1 bed per 1 bed unit	76	76
1.5 spaces per 2 bed	145	217.5
2 spaces per 3 bed	6	12
<b>Total Spaces Required</b>	<b>223</b>	<b>305.5</b>

The development proposes 178 no. car parking spaces for 227 no. residential units comprising of 125 no. residential podium car parking spaces, 35 no. residential on-street car parking spaces and 16 no. visitor on-street car parking spaces. In addition to this, the development proposes to supply 2 No. Go Car spaces where each car sharing vehicle that is placed in a community has the potential to replace the journeys of up to 15 private cars. This equates to c. 0.77 spaces per residential unit. This is considered to be appropriate with regard to the location of the site and its proximity to public transport and local amenities.

This is in line with Government Guidance regarding reducing dependence on the private motor car and increasing use of public transport/cycling.

## 4.2 Justification of Material Contravention

### 4.2.1 Conflicting Policies within the Development Plan

The development proposes 178 no. car parking spaces which is below the car parking provision indicated in Section 8.2.4.5 of the *Development Plan*.

With regard to the *Apartment Guidelines*, the subject site location is classified as an 'Intermediate Urban Location', which is defined as:

*"[Locations] generally suitable for smaller large-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) including:*

- *Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;*
- *Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between*
- *5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;*
- *Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services."*

[Our emphasis.]

Section 4.21 of the *Apartment Guidelines* addresses car parking in the context of 'Intermediate Urban Locations'.

That section states:

*"In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard."*

The subject lands are approximately 1.25km (15-minute walk) from University College Dublin, and approximately 1.9 km (25-minute walk) from Dundrum Town Centre, which are large employers in the area.

The site is c. 1.8km (22-minute walk) from Dundrum Luas Stop.

Bus Routes No. 11 and No. 175 directly serve the subject site and are located within a 5-minute walk. The No. 11 is a high frequency route with buses every 10-15 minutes at peak hours. This connects the site with Dublin City (7km/35 minutes bus journey) and Sandymount Business District (4.2km/19 minute bus journey) which is also a large employer in the County.

Additionally, the development is 1.5km (15 mins walk) from a Quality Bus Corridor (QBC) with services to the city centre running every 6 minutes and similarly close to the Dundrum LUAS stop with services running every 7 minutes to the city centre.

In addition, 519 no. bicycle parking spaces comprising 389 no. residential and 130 no. visitor bicycle parking spaces. This number is in excess of both Development Plan and Apartment Guidelines standards.

Taking those locational factors into account, the subject site may be defined as an 'Intermediate Urban Location' and therefore, the proposed development may benefit from a reduced provision of car parking spaces.

In this regard, we focus on the following under Section 5(6) of the 2016 Act:

- Section 37(2)(b)(ii) of the 2000 Act: There appear to be conflicting objectives in the development plan, the objectives of which are not clearly applied in relation to this development.

Section 8.2.4.5 of the *Development Plan* provides the context for the Car Parking Standards for Dun Laoghaire Rathdown County Council's Administrative Area. Table 8.2.3 provides the Residential Land Use Car Parking Standards. It is highlighted that the requirements set out in this table are considered "standard" parking provision as opposed to a "maximum".

However, this table of "standard" provision is in conflict with the supporting text set out in Section 8.2.4.5 of the *Development Plan*, in which it is recognised that;

*"the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport."*

This section of the Development Plan also highlights that :

***"Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:***

- *The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.*

- *The proximity of the proposed development to public transport.*
- *The precise nature and characteristics of the proposed development.*
- *Appropriate mix of land uses within and surrounding the proposed development.*
- *The availability of on-street parking controls in the immediate area.*
- *The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.*
- *Other agreed special circumstances where it can be justified on sustainability grounds...*

*In very limited circumstances, the Council may also consider the development of car-free housing on suitable small-scale sites which have with high levels of public transport accessibility, have convenient and safe access to local shops and community facilities and/or are located very close to Town Centres.”*

It is also noted that Section 8.2.4.5 highlights that:

*“The Planning Authority may require the maximum number of car parking spaces specified in Tables 8.2.3 and 8.2.4 to be further reduced where it is considered that the surrounding road network is not sufficient to cater for the volume of traffic likely to be generated by the proposed development.”*

Finally, **Policy ST3**: Development of Sustainable Travel and Transportation Policies states that:

*“it is Council policy to promote, facilitate and co-operate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009-2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. **Effecting a modal shift from the private car to more sustainable modes of transport will be paramount objective to be realised in the implementation of this policy.**” (Our Emphasis)*

The objective for having a “standard” requirement for residential parking as set out in Table 8.2.3, requiring this development to provide over 306 car parking spaces, is in conflict with the Policy ST3 which is aiming for a modal shift away from private cars as well as the text within Section 8.2.4.5 which requires a reduced car parking standards for any development that is in proximity of public transport, the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a Travel Plan. All of which can be achieved on this site.

It appears that the rigid application of Table 8.2.3 does not take into account the circumstances of the site and the circumstances where reduced car parking may be appropriate.



**4.2.2 Section 37(2)(b)(iii) of the 2000 Act: The Board is referred to the Section 28 Ministerial Guidelines – Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020).**

Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are **required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. SPPRs, as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.**

The Apartment Guidelines emphasise the policies of the NPF to the proportion of more compact forms of growth enabling people to be closer to employment and recreational opportunities, as well as to walk or cycle more and use the car less.

The NPF advises ***“general restrictions 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 location e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village, etc.”***

We note the pattern of development throughout the DLRCC administrative area, in particular provision on a site at Walled Garden, Gort Muire, Dundrum, Dublin 14 is of particular relevance. As with the subject site, the ‘Walled Garden’ site is similarly classified as an ‘intermediate urban location’. An SHD development was permitted by the Board in September 2019 at this site which comprised a car parking ratio of 0.31 spaces per residential unit (ABP Ref. 304590-19). A subsequent amendment application for development on the ‘Walled Garden’ site was approved in October 2020 comprised a reduced car parking ratio of 0.18 (ABP Ref. 307545).

The Inspector’s Report prepared in relation to the latter amendment application (ABP Ref. 307545) noted that whilst there was a significant shortfall in car parking provision, the reduced car parking numbers are in line with national guidance, which emphasises a need to move away from universal parking standards to a more tailored performance-based approach.

The inspector further noted that the proposed car parking provision was in line with County Development Plan objectives and was also;

*“in compliance with Policy ST3 by effecting a modal shift from the private car to more sustainable modes of transport”.*

In addition, we note a reduced car parking ratio was provided in the nearby Marmalade Lane SHD (ABP Ref. 308157), where 0.44 spaces per unit were proposed. In assessing this, the Inspector’s Report states;

*“It is clear from the above that a shortfall in car parking provision is proposed and that the proposal does contravene Table 8.2.3 of the operative County Development Plan,*

*cited above. There appears to be conflicting objectives in the operative County Development Plan in relation to this matter. I note from an examination of the operative County Development Plan that the written text of section 8.2.4.5 states that 'Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments...' Based on this, I consider that the standards set out in Table 8.2.3 could be regarded as a guide only and note that this section seeks that 'appropriate consideration' be given by the planning authority to 'promoting modal shift to more sustainable forms of transport'...*

*It could be argued that the proposed development is promoting modal shift to more sustainable forms of transport, in line with both this policy of the operative County Development and national guidance in this regard...*

*I am cognisant of the need for car storage as a component of residential developments. While I acknowledge that the issue of car storage is very relevant, it is noted that residents of the scheme will be aware of the limited quantum of spaces when deciding whether or not to live in the proposed scheme and this matter may ultimately influence their decision. I am also of the opinion of that future residents should be advised in advance that there are only limited car parking spaces in this development.*

*I consider the parking strategy, as proposed, to be acceptable in this instance...*

*I am of the opinion that the proposed site is such that it largely satisfies the criteria set out in section 8.2.4.5 of the operative County Development Plan in relation to reduced car parking standards for appropriate development. I am also satisfied that the proposal is in compliance with Policy ST3 of the operative County Development Plan by effecting a modal shift from the private car to more sustainable modes of transport...*

*Importantly, potential residents will be aware of the parking situation when deciding to move into the complex." [Our Emphasis]*

The car parking ratio of c. 0.77 spaces per unit proposed within the subject application represents an increased car parking provision when compared against the 2 no. above referenced permissions at the 'Walled Garden' site.

The subject proposal will also clearly contribute to affecting a modal shift to more sustainable modes of transport in accordance with both the *Dún Laoghaire-Rathdown Development Plan 2016-2022* and with wider strategic planning policy.

#### **4.3 Conclusion of Justification for Material Contravention of LAP in relation to Car Parking Provision**

As outlined above, the Subject Site is suitable for a lower car parking provision than that prescribed by the Development Plan. The Subject Proposal is consistent with various national and regional planning policies.

The Subject Proposal is therefore justified in materially contravening the *Dún Laoghaire-Rathdown Development Plan 2016-2022*, which was adopted a number of years prior to the referenced higher-level policies and is inconsistent with national policy and section 28 Guidelines.

Thus, having regard to the:

- Strategic nature of the Subject Proposal in achieving the goals of the NPF; the
- Relevant Regional Spatial and Economic Strategy for the area, guidelines under section 28, and other relevant policies of the Government;
- Pattern of development and permissions granted in the area since making the LAP,

We conclude that permission should be granted for the Subject Proposal.

## 5.0 Dual Aspect – Subject Proposal Materially Contravenes the Dual Aspect Policies of the Dún Laoghaire-Rathdown Development Plan 2016-2022

### 5.1 Dual Aspect – Policy Context

This report also seeks to address the issue of a possible material contravention in relation to Dual Aspect policy, as required under SHD legislation as outlined in Section 1.2 of this *Statement*, and outlines the justification to permit the proposed configuration of the site.

Section 16.3.3 of the *Dún Laoghaire-Rathdown County Development Plan 2016-2022* (the '*Development Plan*') prescribes minimum standards for the quantum of dual aspect apartments that are to be provided in new developments. Section 16.3.3 states;

*“(ii) Dual Aspect*

*Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments, and no single aspect units should be north facing.”*

We note that the proposed development provides 51.1% dual aspect units. 12 no. single aspect units are north facing and are located in Block F. The single aspect apartments in Block F which face north overlook a significant public open space, that contains some very high-quality mature trees.

In this respect, a Material Contravention of the Development Plan is noted.

### 5.2 Justification for Material Contravention

We are of the opinion, as outlined above, that the configuration and shape of the land holding limits the number of layout options available to the site, when taking into consideration the other development management requirements, as outlined in this *Statement* and the *Statement of Consistency*. Daylight, sunlight and shadow considerations, open space and car parking requirements, the requirement to taper buildings from adjoining properties and consideration of the sites context have led the scheme to the layout, as currently outlined in the enclosed documentation prepared by OMP Architects.

By responding to the site's context, a sense of place is created through a range of building forms, carefully designed outdoor spaces and distinct character areas. The quality of residential amenity spaces along with a variety of strategically located landscaped areas will further encourage a sense of community. All communal outdoor spaces are overlooked by a number of apartments, for passive surveillance and to create a sense of ownership amongst residents.

The layout of the scheme, while responding to the surrounding context has been well considered in the iterative design approach taken to the site, as outlined in the enclosed *Design Statement*, prepared by OMP Architects. This was assessed while noting that at present, the lands of the subject site are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is counter to the site's zoning objective, as well as national policy to provide additional housing in existing built-up urban areas. The proposed development will, upon delivery, play an important part of the overall solution to the housing crisis, by providing 227 No. housing units through sustainable, compact growth

in a suburban site that is well connected to public transport, existing employment opportunities and supportive social infrastructure.

We note that Dual Aspect Ratios are included in the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* (2020). The Guidelines state;

*“The amount of sunlight reaching an apartment significantly affects the amenity of the occupants. Dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible. In duplex type or smaller apartment blocks that form part of mixed housing schemes in suburban areas, dual aspect provision is generally achievable. In more urban schemes, where there may be a terraced or perimeter block pattern wholly or partly fronting a street, this may not be the case...”*

*Accordingly, it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments...”* [Our Emphasis]

In addition, we note Specific Planning Policy Requirement 4 (SPPR4) part (ii) which states;

*“In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:*

*(ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.”* [Our Emphasis]

As the proposed development exceeds this minimum requirement, the scheme is in compliance with the above requirement of the Guidelines. It is our opinion that in reliance on Section 37(2)(i) and (iii) of the *Planning and Development Act 2000* (as amended) the Board may 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.

This section provides that 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”*

and

*“(iii) permission for the proposed development should be granted having regard to regional planning guidelines 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.”*

As noted above, the subject development can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services.

The development accords with the NPF's aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links. Details of the applicable objectives of the *NPF* and other national and regional policies are outlined in this *Statement*.

We note that SPPRs (as stated in the *Apartment Guidelines*) take precedence over any conflicting policies and objectives of development 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, the provisions of SPPRs must be applied instead. Compliance has been demonstrated in relation to of Section 3.2 of the *Guidelines*, that the proposed development satisfies the criteria at the scale of the relevant city/town, as outlined above.

As noted in the enclosed *Statement of Consistency*, we contend that the proposed scheme strikes an appropriate balance between the protection of the amenities and privacy of adjoining dwellings; the protection of established character of the area; and the need to provide residential infill development at an adequate density, particularly in serviced urban areas. The scheme provides a layout and housing typology that responds appropriately to the site and surrounding area.

### **5.3 Conclusion of Justification for Material Contravention of LAP in relation to Car Parking Provision**

It is considered that this report represents an appropriate justification for why the proposed development can and should be considered suitable for dual aspect ratio provision, which is in line with the requirements outlined in SPPR4 of the *Apartment Guidelines*, but in contravention of the development management criteria of the Development Plan. The report outlines how this can be justified in the context of prevailing national planning policies which actively promote increased heights and densities, with reduced dual aspect ratio requirements, on accessible sites in urban areas close to high quality public transport.

The Subject Proposal is therefore justified in materially contravening the *Dún Laoghaire-Rathdown Development Plan 2016-2022*, which was adopted a number of years prior to the referenced higher-level policies and is inconsistent with national policy and section 28 Guidelines.

Thus, having regard to the provisions of Section 37(2)(b) of the 2000 Act, we conclude that permission should be granted for the Subject Proposal.

## 6.0 Dublin Eastern By-Pass Reservation – Map Based Objective – Subject Proposal Materially Contravenes the Dual Aspect Policies of the Dún Laoghaire-Rathdown Development Plan 2016-2022

### 6.1 Dublin Eastern By-Pass Reservation – Policy Context, Justification and Conclusion

The reservation for the Dublin Eastern Bypass runs to the north of the subject lands. In the current DLR Development Plan, a spur road that runs between the Eastern bypass and Mount Anville Road bisects the overall Knockrabo development site, with the Cedar Mount House Lands to its west, and the larger part of the Knockrabo Lands to its east.

The National Roads Authority have prepared a Corridor Protection Study (2011), which alters the design of the bypass: the junction to the north of the Knockrabo lands and the spur to Mt Anville Road are omitted.



The NRA Corridor Protection Study notes that a route across the Knockrabo lands that could provide construction access only between Mt Anville Road and the DEBP may be required.

In subsequent planning decisions, the NRA Corridor Protection Study has been considered by An Bord Pleanála to be the authoritative document, thereby negating the sterilisation of the lands within the curved alignment of the access road across the Knockrabo lands, as shown in the DLR Development Plan. (See Appendix 2 for Copy of Corridor Protection Study) In this regard, please refer to Proposed Route Reservation which indicates in a hatched red line on the Knockrabo lands which confirms that *'Additional Land Not Required*

*Following Scheme Opening'*.

As part of the previous planning application, Planning Application File Ref. D17A/1224, on the Knockrabo lands, the issue of a suitable corridor to provide potential construction access to the DEBP has been discussed and agreed by the applicant and DLRCC. This planning application maintains this corridor and turning area in its entirety. These lands are subject to a future Licence Agreement with DLRCC.

The established corridor between Mt Anville Road and the reservation for the DEBP is 15.5m wide, with a turning area at the northern end of the 15.5m corridor, as shown in orange on the diagram below.

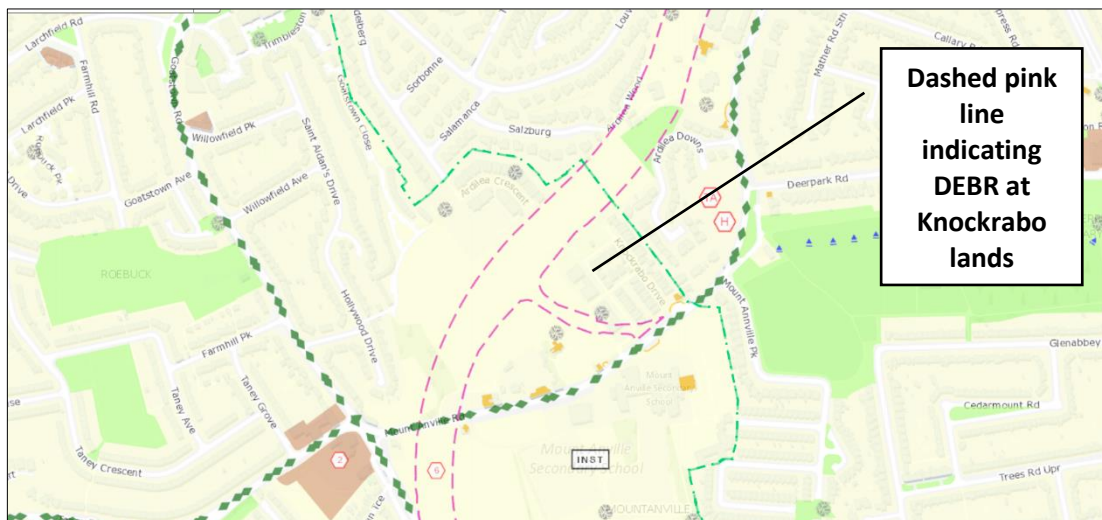
The 15.5m corridor comprises the following areas:

- 2m footpath (eastern side of road)
- 7m carriageway
- 3.5m zone, which can become an extra traffic lane for construction access in the future;
- 3.0m landscape zone.



**Figure 5.1 Map indicating approved Dublin Eastern Bypass Reservation**

The reservation for the Dublin Eastern Bypass is indicated as a pink dashed line on the plan below. The Map based objective differs from the approved line agreed on the site with DLRC.



**Figure 5.1 Extract from DLRC 2016 – 2022 Development Plan Map indicating reservation line of the Dublin Eastern Bypass Reservation**

Please Refer to Appendix 1 of this report for an A3 Plan which indicates the following;

- Application Site Outlined in Red
- Reservation for Proposed Eastern Bypass
- Outline of reservation to provide future access to DEBP as permitted under D17A/1124
- Outline of former DEBP as per the *Development Plan*



It is clear that there is a potential material contravention of a map-based objective because the road reservation line permitted in D17A/1124 and indicated on the current application differs to that shown on the *Development Plan* map.

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 –*

***(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'***

As discussed above, the new road reservation line was approved under Reg Ref D17A/1124 by DLRCC and supercedes the *Development Plan*. It is clear that An Bord Pleanála can grant permission based on this relevant planning history on the site.

## 7.0 Conclusion

The *Urban Development and Building Height Guidelines 2018* state in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the criteria outlined;

*“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.”*

It is submitted that the criteria noted above in this *Statement* are fully complied with in this planning application in line with National planning policy and the parameters of the *National Planning Framework* such that SPPR 3 can be invoked in relation to building height.

The proposed development, which provides buildings ranging in height from part two to part eight storeys including podium, is clearly in line with National and Regional Policy. It is also a highly sustainable, strategic housing development, which complies with the principles for reduced car parking and dual aspect ratios outlined in the *National Planning Framework* and the *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2020* for sites such as this which can be considered a ‘Intermediate Urban Location’.

National and Regional Policy has set out the need for increased residential densities in appropriate locations. The current limitation with regard to building height as prescribed in the *Goatstown Local Area Plan* acts as a barrier against this.

Given the importance of housing delivery in order to meet the ongoing serious under-provision of dwellings, it is critical that an allowance for the contravention of inappropriate

height restrictions can be facilitated where it has been demonstrated that a scheme, such as the subject development, comprises a high quality proposal which will create an exemplary living environment for existing and future residents; and where such a proposal constitutes the provision of an active and vibrant development.

In addition, the map-based objective for the Dublin Eastern By-Pass reservation line has been superseded by a grant of permission which has been agreed by all parties involved, as indicated on the current application drawings.

As required in legislation, it is submitted that the above material contraventions can be justified under Section 37(2) (i) (ii) (iii) and (iv) of the *Planning and Development Act 2000* (as amended) where the Board may determine under this section, indicating in its decision the main reasons and considerations, 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. This section states that 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 planning guidelines 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.*

*(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.”*

The subject development can be considered strategic in nature, as it complies with the overarching themes of the NPF by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The development accords with the NPF's aims to consolidate Dublin through the development of underutilised, infill sites in locations that benefit from high quality public transport links.

It is considered that the proposed development will inherently accord with National and Regional sustainable planning principles in respect of dual aspect and building height particularly in relation to the promotion of more compact and efficient forms of urban development on brownfield sites and increased residential densities in appropriate locations, specifically in close proximity to high quality public transport services and centres of employment.

This is in line with the:

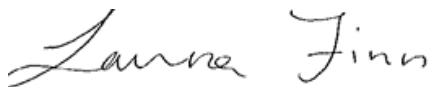
- *National Planning Framework;*
- *Regional Spatial and Economic Strategy for the Eastern and Midland Region,*

- *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities 2009;*
- *Design Standards for New Apartments - Guidelines for Planning Authorities 2020, and*
- *Urban Development and Building Height Guidelines 2018, being guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000, as amended.*

On that basis, it is submitted that the Board can grant permission for the proposed development in respect of building height, car parking, dual aspect and contravention of a map-based objective as outlined in Section 37(2) (i) (ii) (iii) and (iv) of the *Planning and Development Act 2000* (as amended).

It is considered that this statement provides appropriate justification for the Board to grant permission for the development in accordance with national policy and guidelines.

Yours sincerely



---

**Laura Finn**  
**Associate**  
**Tom Phillips + Associates**

**Appendix 1**

**Proposed Site Layout with former DEBP as per DLRCC Development Plan,**

**Drawing No. 1307F-OMP-00-00-DR-A-1050**



**Proposed Site Layout with former DEBP as per DLRC Development Plan**

PLEASE REFER TO ENGINEER'S DRAWINGS FOR PROPOSED ROAD LEVELS & SITE SERVICES LAYOUT AND TO LANDSCAPE ARCHITECT'S DRAWINGS FOR LANDSCAPING PROPOSALS & PROPOSED BOUNDARY TREATMENTS. ALL DIMENSIONS IN MILLIMETERS

- Application Site outlined in red
- Lands which abut subject site and are under control of the Applicant
- Reservation for proposed Eastern Bypass
- - - - Outline of reservation to provide potential future access to DEBP, as permitted under D17A/1124
- Site Notice Location

Outline of former DEBP as per DLRC Development Plan

**OS MAP REF:**  
 ORDANCE SURVEY IRELAND LICENSE No. AR 0005021  
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 Historic 6" Latest Edition  
 Ordnance Survey Ireland (OS) Data Source / Reference:  
 Map Sheets:  
 DN022  
 DN023  
 Centre Point Coordinates: X,Y = 718411.0,728710.0  
 Data Extraction Date: 04-Nov-2020

Revision Description	Date	Rev. No.	Issued by
Legal Review	14-10-2021	01	AN

Map Sheets:  
 DN022  
 DN023

Centre Point Coordinates: X,Y = 718411.0,728710.0  
 Data Extraction Date: 04-Nov-2020

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**Project:** Knockrabo Phase 2  
**Location:** Mt. Anville Road, Dublin 14  
**Client:** KIDAC

**Project No.:** 1307F  
**Scale @ A1:** 1:500  
**Project Lead:** SD  
**Date Printed:** 14-10-2021  
**Drawn By:** AN  
**Current Rev.:** 01  
**Model No.:** 1307F-OMP-00-00-DR-A-1050  
**Purpose:** PROPOSED SITE LAYOUT WITH FORMER DEBP AS PER DLRC DEVELOPMENT PLAN  
 Legal Review

**Drawing Title:** Proposed Site Layout with former DEBP as per DLRC Development Plan  
**Drawing No.:** 1307F-OMP-00-00-DR-A-1050

Suitability - Checked By - Date

**Appendix 2**

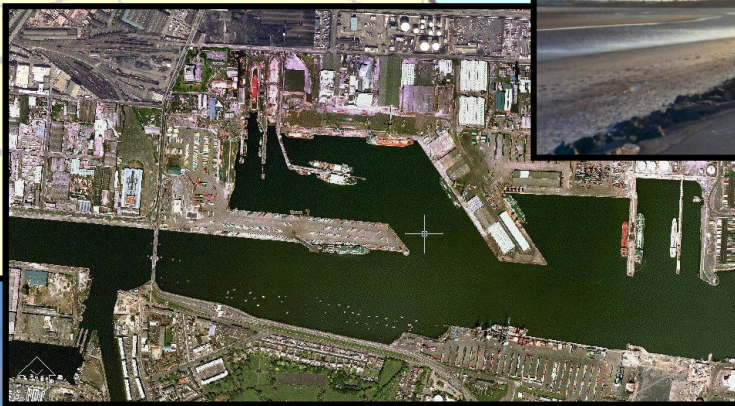
**Dublin Eastern Bypass, Corridor Protection Study**

**Boosterstown to Sandyford**

# Dublin Eastern Bypass

## Corridor Protection Study

### Boosterstown to Sandyford



**January 2011**



## Dublin Eastern Bypass

### Corridor Protection Study Boosterstown to Sandyford

**Document No:** ..... 05.293.10\_CPS\_C&D

**Made:** ..... Eoin Ó Catháin

**Checked:**..... Richard Thadani / Séamus MacGearailt

**Approved:**..... Séamus MacGearailt

Issue	Description	Made	Checked	Approved	Date
Final	Final	E Ó Catháin	S MacGearailt	S MacGearailt	January 2011

# Dublin Eastern Bypass

## Corridor Protection Study Boooterstown to Sandyford

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## 1 Introduction

This Study follows the completion of the Dublin Eastern Bypass Feasibility Study by Thoir Consult in September 2007, which concluded that there exists a strong economic case for retaining the Dublin Eastern Bypass motorway scheme as a medium to long term objective of the National Roads Authority. The Study concluded that a route reservation should continue to be protected for the future development of the scheme through the Dun Laoghaire-Rathdown County Council jurisdiction between Sandyford and Belfield. It was also recommended that development aspirations for the Port and Booterstown areas should respect the future need for the scheme and should provide a reservation for the future construction of the scheme.

The purpose of the Corridor Protection Study is to assist Local Authorities in their deliberations on planning applications by establishing guidelines for developments near or adjacent to the proposed route corridors. These guidelines have been prepared with a view to permitting certain development of the adjacent lands without undermining the future deliverability of the motorway scheme.

This report addresses the sectors of proposed Dublin Eastern Bypass that would lie within the Dún Laoghaire – Rathdown County Council jurisdiction from Sandymount Strand at Booterstown to the M50 at Sandyford. This report should be read in conjunction with the Feasibility Report for the Eastern Bypass, which is available on the NRA website.

The Corridor Protection Study was issued as a draft for consultation purposes to the Dublin Docklands Development Authority, Dublin City Council and Dún Laoghaire-Rathdown County Council in July 2008. Subsequent discussions were held with the Council during 2009 and 2010 culminating in certain revisions to the corridor including:

- Amendments to the corridor to reflect the Thoir Consult Eastern Bypass alignment and omission of certain lands that would have been required to accommodate the earlier Sandyford to St. Helen's motorway scheme, which has been abandoned;
- Omission of lands reserved for the Goatstown Junction, which is no longer considered compatible with the functions of the Eastern Bypass;
- Provision for possible future junctions with the N11 at Belfield and at Sandyford industrial Estate.

## 2 The Motorway Scheme

The Feasibility Study investigated several route options for the motorway scheme, having divided the route between Dublin Port and Sandyford into four sectors, as follows:

- Sector A: Dublin Port;
- Sector B: Dublin Bay;
- Sector C: Booterstown;
- Sector D: N11 to M50.

The following route options were retained following the Feasibility Study Stage:

- A1: Medium Level Opening Bridge across Dublin Port;
- A2: Cut & Cover Tunnel through Dublin Port;
- A4: High Level Bridge across Dublin Port;
- B3: Bored Tunnel across Sandymount Strand;
- B4: Viaduct across Sandymount Strand;
- C3: Bored Tunnel under Booterstown
- D1: Open Cut from N11 at Belfield to M50 at Sandyford with sections of mined tunnel.

The route options that have been used as the basis for this study are shown on **Figure 1** appended hereto. An Interchange Study has identified land footprints required to accommodate interchanges along each of the route options described above.

## 3 Route Corridor to be Protected

**Figure 1** shows the route corridor developed for the proposed motorway scheme. It is proposed that development should generally not be permitted within this corridor where it would jeopardise the deliverability of the Eastern Bypass motorway. This study also discusses development adjacent to the route corridor and includes suggested measures for development control that would assist the delivery of the scheme by reducing potential costs and risks. Alignment details are available on request from the local authority.

## 4 Suggested Development Control Measures for Developments Adjacent to Route Corridor

The principal issues are outlined below and discussed in detail in the following pages.

- (a) Possible noise, vibration and air impacts to be mitigated during construction and operational phases. This will take account of exceptional activities that will arise on the Eastern Bypass project such as rock breaking in granite.
- (b) Appropriate access provision to the Eastern Bypass construction site for haulage vehicles, especially in the context of large volumes of excavated material to be removed. Provisions to minimise segregation by the route in future.
- (c) Proximity to mainline alignment, allowing some flexibility for future optimisation to the mainline design.
- (d) Specific considerations where retaining walls are proposed along the Eastern Bypass route.
- (e) Service diversions to be included in development proposals to remove future obstacles to construction of the Eastern Bypass.
- (f) Open Space Provision
- (g) Visual impact
- (h) Soil Disturbance
- (i) Groundwater Considerations
- (j) Public Awareness

### (a) Noise, Vibration and Air

Both the construction and operational phases of the Dublin Eastern Bypass will, as in the case of any new motorway scheme, give rise to air and noise pollution, as well as possible vibration impacts arising from

- (1) blasting / rock breaking activity at construction stage and
- (2) truck traffic at operational and construction stages.

It would be prudent that developers of proposed larger developments abutting the protected route corridor should be required to demonstrate the following provisions to mitigate these concerns:

- (1) Where practicable, the proposed route corridor should be screened from the development areas by suitable landscape features such as earth bunds and/or planting strips. This would provide some degree of mitigation against air pollution;
- (2) Where practicable, new developments abutting the route corridors should incorporate noise and vibration mitigation measures for traffic volumes of 80,000 AADT (10% Truck Traffic) on the Eastern Bypass. Supporting analysis should be provided and should allow for temporary impacts at construction stage, as well as permanent impacts. This may be based on reasonable assumptions, rather than detailed background readings. This analysis should also take account of possible blasting / rock breaking activity at the construction stage in areas where granite is present at a shallow level.
- (3) In areas with granite at a shallow level, blasting / rock breaking will be required for construction of the Eastern Bypass. This has the potential to impact on nearby buildings. Similarly, vibrations will arise in the case of

bored / mined tunnel construction and this should be taken account of in the design of new structures adjacent to the route. Developers should be asked to demonstrate that the structural design of adjacent buildings and foundations will prevent any cracking or subsidence of the buildings as a result of such works. Details of tolerances should be included;

- (4) Developers should be required to demonstrate that vibrations caused by truck traffic on the Eastern Bypass will not affect adjacent buildings. It should be assumed that truck traffic will comprise 10% of the 80,000 AADT on the mainline;

**(b) Access Provision**

It should be assumed that the Eastern Bypass works site will be accessed from the existing road network. New development should be laid out in such a way so as not to preclude access for construction traffic to the Eastern Bypass construction site. Where the Local Authority considers that a particular development might compromise access to the Route Corridor, the following measures are suggested as requirements for planning applications:

- (1) Drawing indicating possible construction traffic routes from national / regional / local roads through to Eastern Bypass Route corridor;
- (2) Autotrack (or equivalent) Analysis indicating tracked path for large articulated vehicles and large rigid vehicles along the proposed routes;
- (3) Pavement analysis indicating the suitability of the pavement structure to cope with traffic during the construction period;
- (4) In the event that access to the development lands requires crossing the motorway reservation, the developer should be required to undertake to fund any future infrastructure required to maintain this connection, e.g. motorway overbridge. This would apply not only to cut off development land but also any open space included as part of planning application.

**(c) Proximity to Alignment**

It would be prudent that developers be required to submit drawings showing clearly the proximity of the site and key elements of developments to the proposed route corridor. The following details should be identified, as considered appropriate by the Local Authority, having regard to the size and scale of the proposed development:

- (1) Proximity of site boundary to route reservation;
- (2) Proximity of site access route to route reservation;
- (3) Proximity of possible site circulation routes to route reservation;
- (4) Proximity of any structures proposed (overground and underground) to the route reservation;
- (5) Proximity of any services proposed to route reservation.

**(d) Areas where retaining walls are proposed**

Certain sections of the Eastern Bypass route corridor will require the construction of retaining walls as the available reservation is of insufficient width to accommodate cut slopes to the depth required. Development adjacent to these areas would have increased potential for adding significant expense to the Eastern Bypass scheme and it might be appropriate that planning restrictions be more onerous in these areas. Suggested requirements for such developments are outlined below:

- (1) Drawings demonstrating proximity of structures (overground and underground) to likely retaining wall locations;
- (2) Drawings indicating zone of influence of building foundations near route corridor and supporting calculations demonstrating that no undermining of the building would occur during the construction of the Eastern Bypass retaining walls (with particular regard to retaining wall foundations, assuming standard construction). A worst case scenario should be assumed where the retained section is 2m deeper and 2m closer to the development than the indicative alignment for the purposes of this assessment.
- (3) Proximity of roads to likely retaining wall location;
- (4) Drawing indicating zone of influence of any relevant development access road foundations near route corridor and supporting calculations demonstrating that no undermining of the roadway would occur during the construction of the Eastern Bypass retaining walls (with particular regard to retaining wall foundations, assuming standard construction). A worst case scenario should be assumed where the retained section is 2m deeper and 2m closer to the development than the indicative alignment for the purposes of this assessment.

**(e) Services and Utilities**

Insofar as is practicable for the Local Authority, it would be desirable that any new services proposed in the vicinity of the route corridor would not encroach on the corridor, as they would then require diversion to accommodate the future motorway scheme. In particular, this should apply to major gas mains, watermains and sewers, diversion of which can involve significant complexity and expense. The Local Authority may also consider it appropriate in certain instances to seek proposals for the diversion of any services that currently cross or encroach on the corridor in the vicinity of proposed developments. Suggested requirements for planning applications are outlined below:

- (1) Drawings indicating existing services and utilities servicing the proposed development site;
- (2) Drawings indicating proposals for realignment of services and utilities;
- (3) Drawings indicating proposals for connecting to services and utilities;
- (4) Drawings indicating proposals for new services and/or utilities.

Services and Utilities are deemed to include (but not necessarily be limited to):

- Foul Sewerage;
- Surface Water Sewerage;
- Watermains;
- Gas Supply;
- Electricity Supply;
- Telecoms Connections (including cable tv and broadband).

**(f) Open Space Provision**

It is suggested that Open Space provision for new developments should generally be made outside of the route corridor so that in the event of the Eastern Bypass scheme proceeding, developments would maintain the minimum standard of open space provision required by the County

Development Plan. This may not be feasible in all instances. It is suggested that drawings and text describing the proposals should be submitted as part of planning applications for development of lands abutting the route corridor.

**(g) Visual Impact**

An unquantifiable risk associated with development adjacent to the motorway route corridor is the possibility that residents / workers in adjacent developments would object to the landscape and visual impacts of the proposed scheme. While it is acknowledged that no person has a constitutional right to a protected view, it is considered preferable that no new development should overlook the route corridor. While it would be impractical to restrict building frontage towards the route corridor, it might be appropriate to require that suitable landscaping proposals should be included to restrict the line of sight from any window to a minimum of 6m above the indicative road surface level at all points within the indicative road surface area. Such measures may include:

- Earth bunds;
- Dense planting;
- Fencing.

It may be possible to include these measures in parallel with requirements in respect of Noise, Vibration and Air considerations, as described above.

**(h) Soil Disturbance**

Bored / Mined Tunnel sections of the Eastern Bypass route corridor will lead to significant disturbance to local ground conditions. Development adjacent to these areas would have increased potential for adding significant expense to the Eastern Bypass scheme and it might be appropriate that planning restrictions be more onerous in these areas. Suggested requirements for such developments are outlined below:

- (1) Drawings demonstrating proximity of structures (overground and underground) to likely retaining wall locations;
- (2) Drawing indicating zone of influence of building foundations near route corridor and supporting calculations demonstrating that no undermining of the building will occur during the construction of the Eastern Bypass. A worst case scenario should be assumed where the alignment is 2m shallower and 5m closer to the development than the indicative alignment for the purposes of this assessment.
- (3) Proximity of roads to likely tunnel alignment;
- (4) Drawing indicating zone of influence of road foundations near route corridor and supporting calculations demonstrating that no undermining of the roadway will occur during the construction of the Eastern Bypass. A worst case scenario should be assumed where the retained section is 2m shallower and 5m closer to the development than the indicative alignment for the purposes of this assessment.

**(i) Groundwater Considerations**

It is suggested that any development which proposes altering the groundwater regime in the vicinity of the proposed Eastern Bypass, e.g. through the construction of underground structures below the Groundwater Table, should



be required to demonstrate the implications of these alterations for the future construction of the Eastern Bypass.

Developers of larger developments might also be required to demonstrate that alterations to the Groundwater Table arising from the construction activities and the completion of the Dublin Eastern Bypass will not adversely affect the stability of their proposed developments.

**(j) Public Awareness**

Owners and occupiers of new developments on lands along and adjacent to the proposed route corridors should be made aware of the possible future provision of the Eastern Bypass Motorway Scheme. An undertaking in writing should be sought from developers that all owners and occupants of the scheme will be advised of the possible noise, vibration and air impacts associated with the Dublin Eastern Bypass motorway and that any compensation arising as a result would be payable by the developer of the subject lands and not by the developer of the Eastern Bypass scheme.

