



Material Contravention Statement

STRADBROOK ROAD SENIOR LIVING SHD
PROPOSED STRATEGIC HOUSING DEVELOPMENT
AT STRADBROOK ROAD, MOUNTASHTON, BLACKROCK,
CO. DUBLIN

PREPARED FOR:

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1.0 Introduction

Tetrarch Residential Ltd.¹ intend to apply to An Bord Pleanála for permission for a Strategic Housing Development with a total application site area of c. 0.4813 ha, on a site located at Stradbroom Road, Mountashon, Blackrock, Co. Dublin.

The proposed mixed-use development at a site of some 0.4813 ha on Stradbroom Road, Mountashon, Blackrock, Co. Dublin will comprise: the demolition of existing buildings and surface car park, and the construction of: 108 No. Build-to-Rent serviced residential senior living apartments (83 No. 1-bed apartments and 25 No. 2-bed apartments), with balconies / winter gardens at all elevations, across 2 No. blocks ranging between 3 to 7-storeys with set back at sixth-floor level and additional basement .

The proposal also includes for 148 No. secure bicycle parking spaces, 55 No. underground car parking spaces, a two-way vehicular entrance ramp and bin storage, circulation areas and associated plant at basement level; a self-contained office unit, a residential staff management suite, resident's facilities, residents' communal amenity rooms, and residents' communal open space, as well as 13 No. surface car parking spaces (incl. 1 No. accessible commercial car parking space and 12 No. car parking spaces for use by the adjoining creche (incl. 1 No. accessible)), 24 No. secure cycle spaces within separate bike store, separate bin store for office use, 30 No. short-term bicycle parking spaces, and 3 No. ESB substations at ground floor level; additional communal amenity rooms at first, second, third, fourth and fifth-floor levels; roof gardens / terraces at third, fourth and sixth-floor levels; PV panels on third, fourth and sixth-floor roof-level; and associated site landscaping, lighting and servicing, and all associated works above and below ground..

The application contains a statement setting out how the proposal will be consistent with the objectives of the *Dún Laoghaire-Rathdown County Development Plan 2022 – 2028*.

The application also contains this *Material Contravention Statement* (hereafter the '*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 (as amended)* ('the 2000 Act') 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.

1.1 Purpose of this Document

This document seeks to address the issue of Material Contravention of the *Dún Laoghaire-Rathdown County Development 2022-28* (the '*Development Plan*') as required under Strategic Housing Development legislation. In this case, in our opinion, the Material Contravention of the *Development Plan* arises in respect of:

- Car Parking Provision within the proposed development (considered further in Section 4 of this *Statement*);
- Public Open Space Provision (considered further in Section 5 of this *Statement*);
- Unit Mix (considered further in Section 6 of this *Statement*);
- Employment Policy (considered further in Section 7 of this *Statement*); and

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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 Description of Proposal

2.1 Site Location – Infill Development

The subject site is located in the suburban area of Blackrock, approximately 8 km south of Dublin city centre, 1.6 km south west of Dún Laoghaire town centre, and some 700 m south east of Blackrock town centre. (See Figure 2.1.) The general area in the vicinity of the site is suburban in nature, and is primarily in mature residential use.

The lands are located within the administrative development boundary of Dún Laoghaire-Rathdown County Council. The Subject Site is principally bounded by: Blackrock College RFC club buildings and pitches to the north east, a childcare facility to the north, residential development including Windsor Park estate to the south east, and Stradbroom Road and further residential development to the west.

The site is accessed from Stradbroom Road.

There are a number of Protected Structures in proximity to the Subject Site, including Rockhouse Manor and associated entrance gates (both RPS No. 1163). We note that Wyneberg House has been included as a candidate Protected Structure within the *Dún Laoghaire Rathdown County Development Plan 2022-2028* as RPS No. 2012.



Figure 2.1: Subject Site (outlined in red). (Source: Google Maps, October 2021).

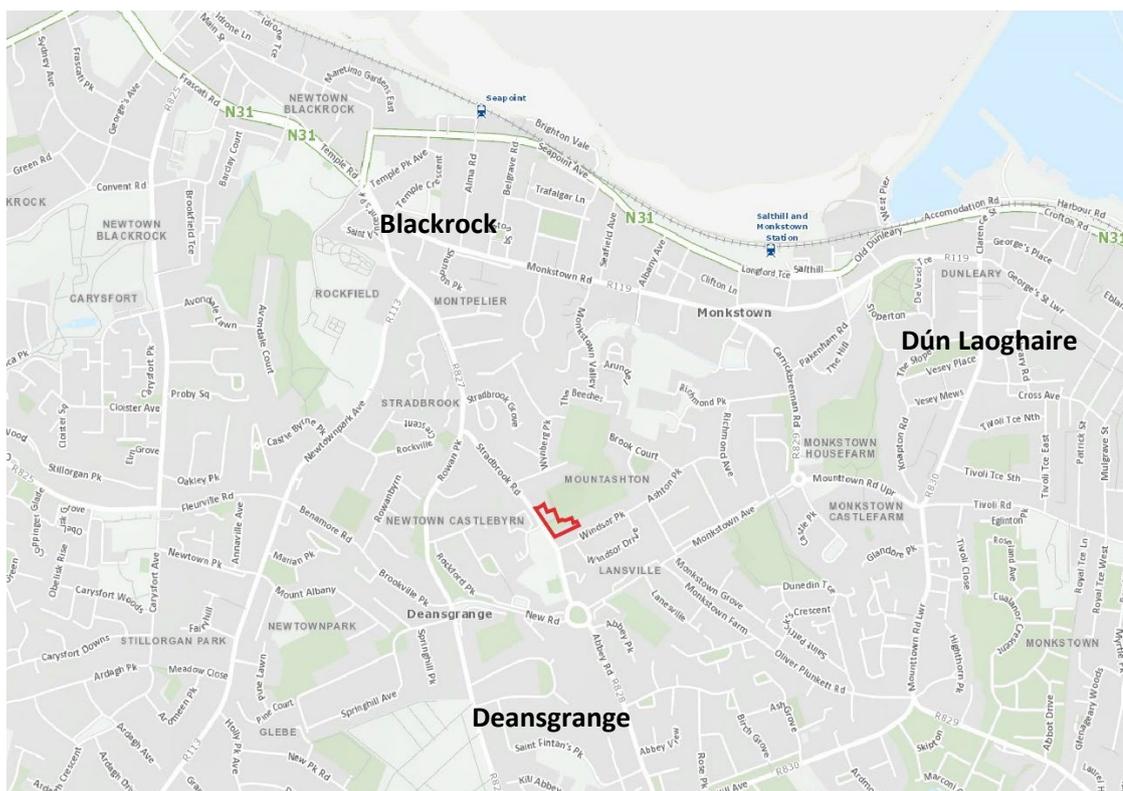


Figure 2.2: Subject Site (outlined in red). (Source: GeoHive, October 2021).

2.2 Description of Development

The proposed mixed-use development at a site of some 0.4813 ha on Stradbrook Road, Mountashton, Blackrock, Co. Dublin will comprise the demolition of existing buildings and surface car park, and the construction of: 108 No. Build-to-Rent serviced residential senior living apartments (83 No. 1-bed apartments and 25 No. 2-bed apartments), with balconies / winter gardens at all elevations, across 2 No. blocks ranging between 3 to 7-storeys with set back at sixth-floor level and additional basement .

The proposal also includes for 148 No. secure bicycle parking spaces, 55 No. underground car parking spaces, a two-way vehicular entrance ramp and bin storage, circulation areas and associated plant at basement level; a self-contained office unit, a residential staff management suite, resident’s facilities, residents’ communal amenity rooms, and residents’ communal open space, as well as 13 No. surface car parking spaces (incl. 1 No. accessible commercial car parking space and 12 No. car parking spaces for use by the adjoining creche (incl. 1 No. accessible)), 24 No. secure cycle spaces within separate bike store, separate bin store for office use, 30 No. short-term bicycle parking spaces, and 3 No. ESB substations at ground floor level; additional communal amenity rooms at first, second, third, fourth and fifth-floor levels; roof gardens / terraces at third, fourth and sixth-floor levels; PV panels on third, fourth and sixth-floor roof-level; and associated site landscaping, lighting and servicing, and all associated works above and below ground.

3.0 Car Parking Provision – Subject Proposal Materially Contravenes the Car Parking Provision Policy of the Dún Laoghaire-Rathdown Development Plan 2022-2028

3.1 Car Parking Provision – Policy Context

This *Statement* 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.

The *Development Plan* notes the general objective of national and regional planning policies to encourage a modal shift away from the private car and towards sustainable forms of transport, including public transport, cycling and walking.

Dún Laoghaire-Rathdown County has been divided into 4 No. zones, based on location and availability of public transport.

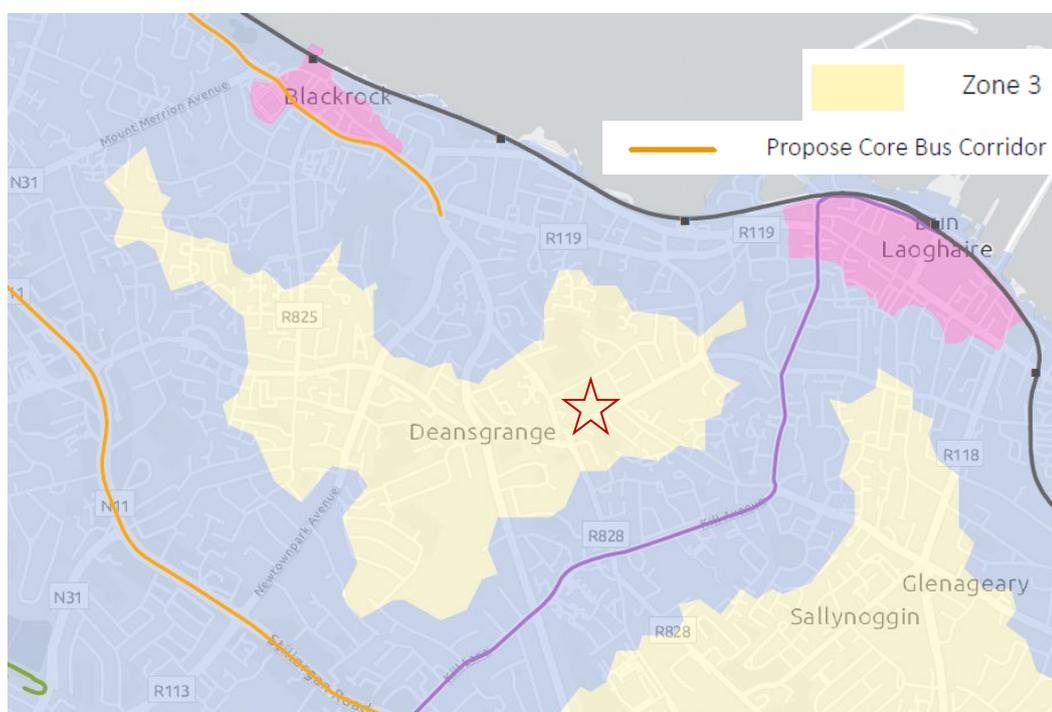


Figure 3.1: Parking Zones Map with site location in Parking Zone 3 indicated. Source: *Dún Laoghaire-Rathdown Development Plan, 2022*. Cropped and annotated by TPA, June 2022.

The Subject Site is located in Parking Zone 3 (see Figure 3.1, above). The *Development Plan* states that:

“Within parking zone 3 maximum standards shall apply to uses other than residential where the parking standard shall apply. In zone 3 additional parking shall be provided for visitors in residential schemes at a rate of 1 per 10. In some instances, in zone 3 reduced provision may be acceptable dependent on the criteria set out in 12.4.5.2 (i) below with particular regard to infill/brownfield developments in neighbourhood or district centres.”

The standards as they apply to the Subject Proposal are illustrated in Table 3.1, below:

Table 3.1: Car Parking Matrix – Required and Proposed Car Parking

Use Type	Car Parking Standard	Subject Proposal Parameter	No. Car Parking Spaces Required	No. Car Parking Spaces Provided
Apartment (1&2-bed)	1 space per apartment plus 10% additional visitor parking	108 No. 1 & 2 bed apartments	118 No.	55 No.
Office	1 space per 100 sqm	175.5 sqm office space	1.75 No.	1 No.
Childcare	1 space per 40 sqm	450 sqm childcare facility (adjacent to Subject Site)	12 No.	12 No.

The Subject Proposal contravenes the *Dún Laoghaire-Rathdown Development Plan 2022-28* in relation the provision of car parking. However, it is considered that the Subject Site and proposed development meet the factors highlighted in Section 12.4.5.2 (i) of the *Development Plan* which permit reduced parking standards. These factors and a response to each are outlined below

However, it is considered that the Subject Site and proposed development meet the factors highlighted in Section 12.4.5.2 (i) of the *Development Plan* which permit reduced parking standards. These factors and a response to each are outlined below. We also refer to Table 2.1 of the submitted *Transportation Assessment Report*, prepared by NRB and dated July 2022.

3.2 Justification of Material Contravention

3.2.2 Subject Proposal Meets Requirements for Reduced Car Parking Standard

The proximity of the proposed development to public transport services and level of service and interchange available.

Response: In addition to being within walking and cycling distance of Blackrock and Dún Laoghaire town centres, the site is located just 400 m from the nearest bus stops, and some 11 No. bus stops are located within 500 m of the site, serving Dublin Bus routes 4, 84, 84A, 63, 63A, 7B, 7D. These bus routes serve, inter alia, Dún Laoghaire Town Centre, Blackrock Village Centre, Ballsbridge, Dublin City Centre, Dublin’s northside suburbs, Dundrum and County Wicklow, and are considered reasonably frequent (i.e., 10 – 15 minute peak hour frequency). The Subject Site is also located some 1.6 km walking distance from both Monkstown and Seapoint DART Stations, providing access to a high-capacity urban public transport system.

Additionally, public transport improvements (i.e., Bus Connects) are scheduled to be provided for this area. The planned Blackrock to Merrion Core Bus Corridor begins 952 m from the Subject Site and the additional planned bus routes will increase accessibility and connectivity across the County, and will improve interchange options, frequency and capacity across the network. The National Transport Authority (NTA) intends to have applied to An Bord Pleanála to seek permissions to operate the entire system by the end of 2022.

Walking and cycling accessibility / permeability and any improvements to same.

Response: The Subject Site is located within close proximity to Dún Laoghaire Town Centre (the Subject Site is located c. 1.7 km walking distance to the south east of lands zoned 'Objective MTC' - Major Town Centre) and Blackrock Town Centre (zoned 'Objective DC' – District Centre, located some 1.2 km walking distance to the north west of the Subject Site) As such, the Subject Site is proximate to a range of services and facilities located within the urban area of Dún Laoghaire, Monkstown and Blackrock.

The need to safeguard investment in sustainable transport and encourage a modal shift.

Response: As outlined in the enclosed *Traffic and Transport Assessment*, prepared by NRB Consulting, a Residential *Travel Plan* has been prepared in respect of the proposed development which encourages sustainable travel modes among future residents of the proposed development.

Availability of car sharing and bike / e-bike sharing facilities.

Response: We refer to the enclosed *Traffic and Transport Assessment*, prepared by NRB Consulting, which includes details of existing car sharing facilities in the vicinity of the Subject Site. Refer to Appendix H of that policy document.

Existing availability of parking and its potential for dual use.

Response: Existing childcare facility parking, upgrades to which are provided as part of this proposal, could be used as visitor parking for the proposed development when the childcare facility is not operating or is not busy.

Particular nature, scale and characteristics of the proposed development.

Response: The proposed development consists of 83 No. one bedroom apartments and 25 No. two bedroom apartments. As such, none of the proposed units can reasonably accommodate families (typically a population group that are more dependent on car usage as a means of transport), and are, in fact, specifically designed for senior citizens who are hoping to downsize. As such, the majority of future residents are likely to be single persons or couples who are less dependent on car usage and more likely to avail of walking, cycling and public transport.

Car parking spaces will be 'future proofed' to facilitate charging points to be installed at a future date as electric vehicle ownership increases. The Design Team are also considering the establishment of a car-sharing club for residents of the development.

In addition, a significant quantum of bicycle parking (196 No. spaces) in easily accessible, sheltered and secure locations is provided across the scheme.

The range of services available within the area.

Response: A range of land uses including recreational, commercial and medical uses are all located within close proximity of the proposed development. This varied mix of uses ensures that future residents are within easy walking distance to a mix of services and facilities and will thus not be dependent upon car usage to reach these. A Social Infrastructure Audit has been submitted as part of this SHD Planning Application that confirms the range of services within the area.

Impact on traffic safety and the amenities of the area.

Response: No on-street parking is provided on surrounding streets. As outlined above, it is considered that the proposed parking quantum is appropriate for the development's unit mix and proximity to services and public transport. As such, the proposed development will not negatively impact on surrounding streets or the amenities of the surrounding area.

Capacity of the surrounding road network.

Response: As outlined in the enclosed *Traffic and Transport Assessment*, prepared by NRB Consulting, a *Residential Travel Plan* has been prepared in respect of the proposed development which confirms that the surrounding road network has sufficient capacity to accommodate the traffic which the proposed development is estimated to generate.

Urban design, regeneration, and civic benefits including street vibrancy.

Response: The proposed development will deliver civic benefits through the provision of high-quality housing, landscaped open spaces, planting and boundary improvements which will contribute to the overall vibrancy and quality of the area. A new pedestrian access is proposed from Stradbrook Road. It is considered that this will greatly enhance the relationship between the subject lands and the surrounding public realm, providing increased permeability and resultant movement of people, an enhanced network of community facilities and spaces and increased active frontage and natural surveillance.

Robustness of Mobility Management Plan to support the development.

Response: As outlined in the enclosed *Traffic and Transport Assessment*, prepared by NRB Consulting, a *Residential Travel Plan* has been prepared in respect of the proposed development which encourages sustainable travel modes among future residents of the proposed development.

Availability of on street parking controls in the immediate vicinity.

Response: There are double yellow lines in place preventing parking on Stratford Road and

Car Parking otherwise within the site is actively managed & controlled by both the Rugby Club and Links Creche.

Any specific sustainability measures being implemented including but not limited to:

- ***The provision of bespoke public transport services.***
- ***The provision of bespoke mobility interventions.***

Response: The *Travel Plan* details the measures that can be undertaken at management level to encourage sustainable modes of transport, including the appointment of a Travel Plan coordinator to facilitate the promotion of cycling and walking, as well as car sharing, within the scheme.

In summary, it is considered that the location of the subject site within less than 1km of DART and high frequency bus services and within close proximity to numerous neighbourhood facilities and services in Dún Laoghaire and Blackrock Town Centres is appropriate for reduced car parking provision. Such reduced car parking levels are in accordance with *Development Plan* aims to encourage the use of sustainable transport options.

Furthermore, it should be noted that car parking spaces will be ‘future proofed’ to facilitate charging points to be installed at a future date as electric vehicle ownership increases. The Design Team are also considering the establishment of a car-sharing club for residents of the development as well as a shuttle-bus service providing easy access to Dún Laoghaire and Blackrock Town Centres.

As such, the proposed quantum of car parking provision is considered appropriate and in line with wider local and strategic aims to encourage the use of more sustainable transport options in built up areas with high quality public transport infrastructure.

Please refer to the enclosed *Traffic and Transport Assessment*, prepared by NRB Consulting for greater detail in relation to car parking provision on the site.

4.2.2 Conflicting Policies within the Development Plan

The development proposes 68 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 Design 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.**”*

We note that the site is located just 400 m from the nearest bus stops, and some 11 No. bus stops are located within 500 m of the site, serving Dublin Bus routes 4, 84, 84A, 63, 63A, 7B, 7D. These bus routes serve, *inter alia*, Dún Laoghaire Town Centre, Blackrock Village Centre, Ballsbridge, Dublin City Centre, Dublin’s northside suburbs, Dundrum and County Wicklow, and are considered reasonably frequent (i.e., 10 – 15 minute peak hour frequency). The Subject Site is also located some 1.6 km walking distance from both Monkstown and Seapoint DART Stations, providing access to a high-capacity urban public transport system.

Public transport improvements (i.e., Bus Connects) are scheduled to be provided for this area. The planned Blackrock to Merrion Core Bus Corridor begins 952 m from the Subject Site (see Figure 4.2 and Figure 4.3, below), and the additional planned bus routes (see Figure 4.4, below) will increase accessibility and connectivity across the County, and will improve interchange options, frequency and capacity across the network.

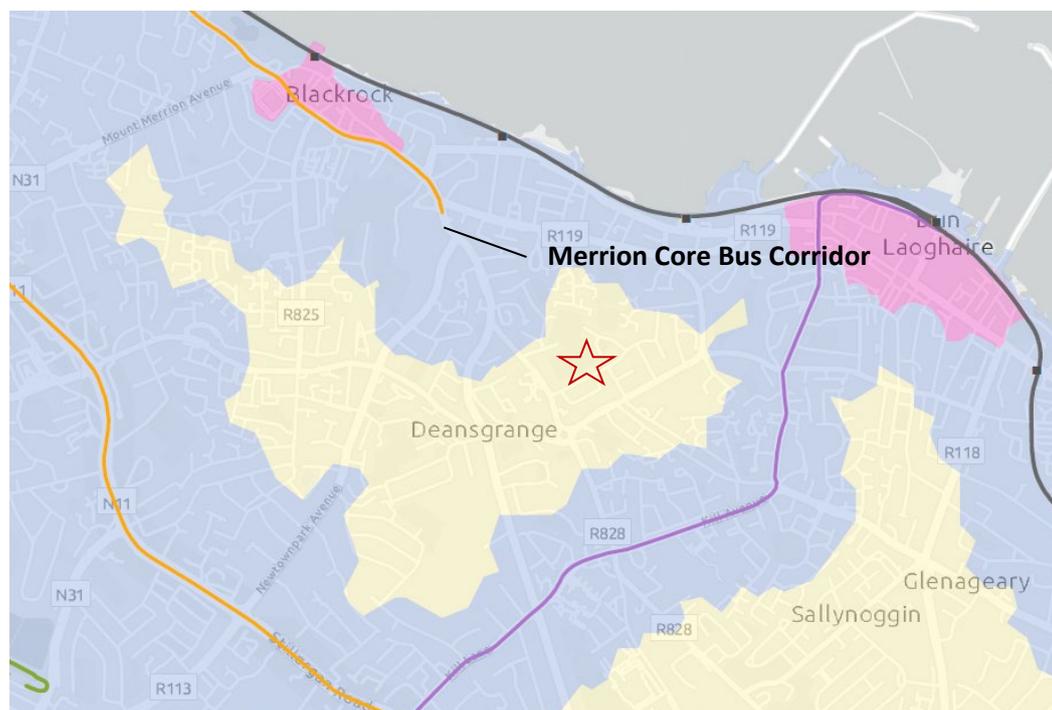


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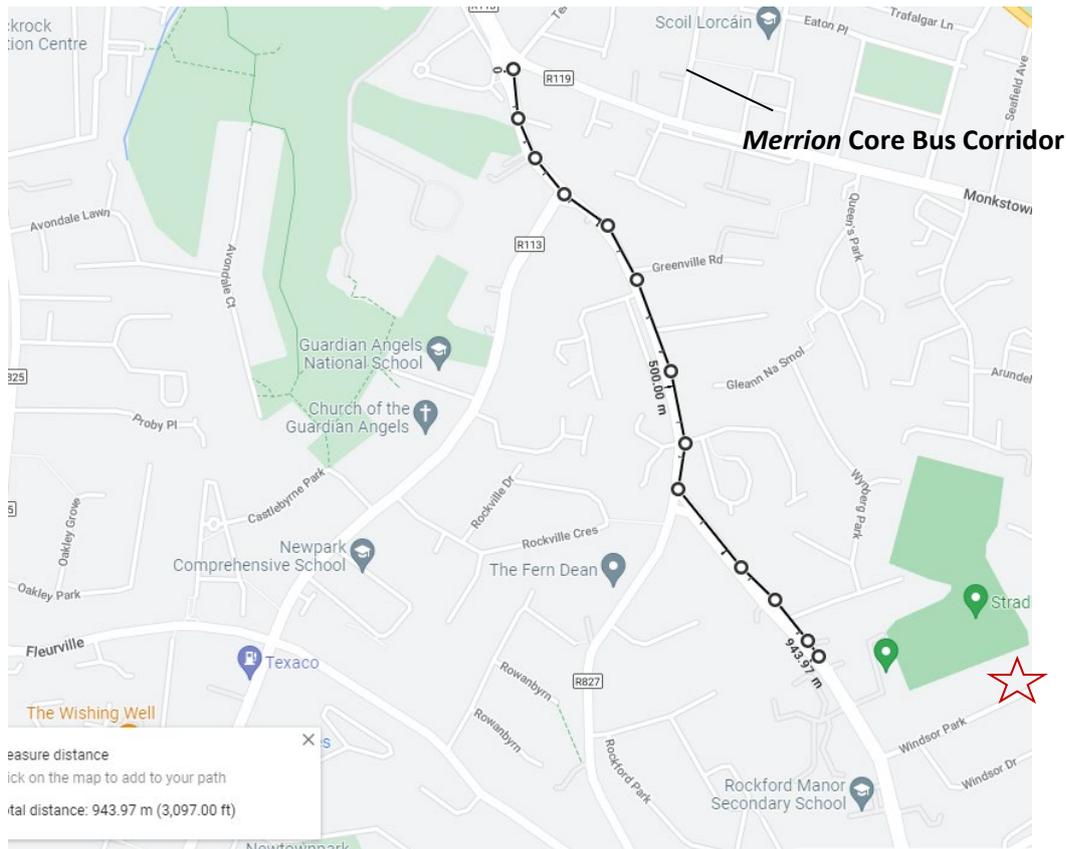


Figure 4.3: Extract from Google Maps with site location in Parking Zone 3 indicated by star shape. Location of the Merrion Bus Corridor also shown, some 950 m walking distance from the Subject Site. Source: *Dún Laoghaire-Rathdown Development Plan, 2022*. Cropped and annotated by TPA, June 2022.

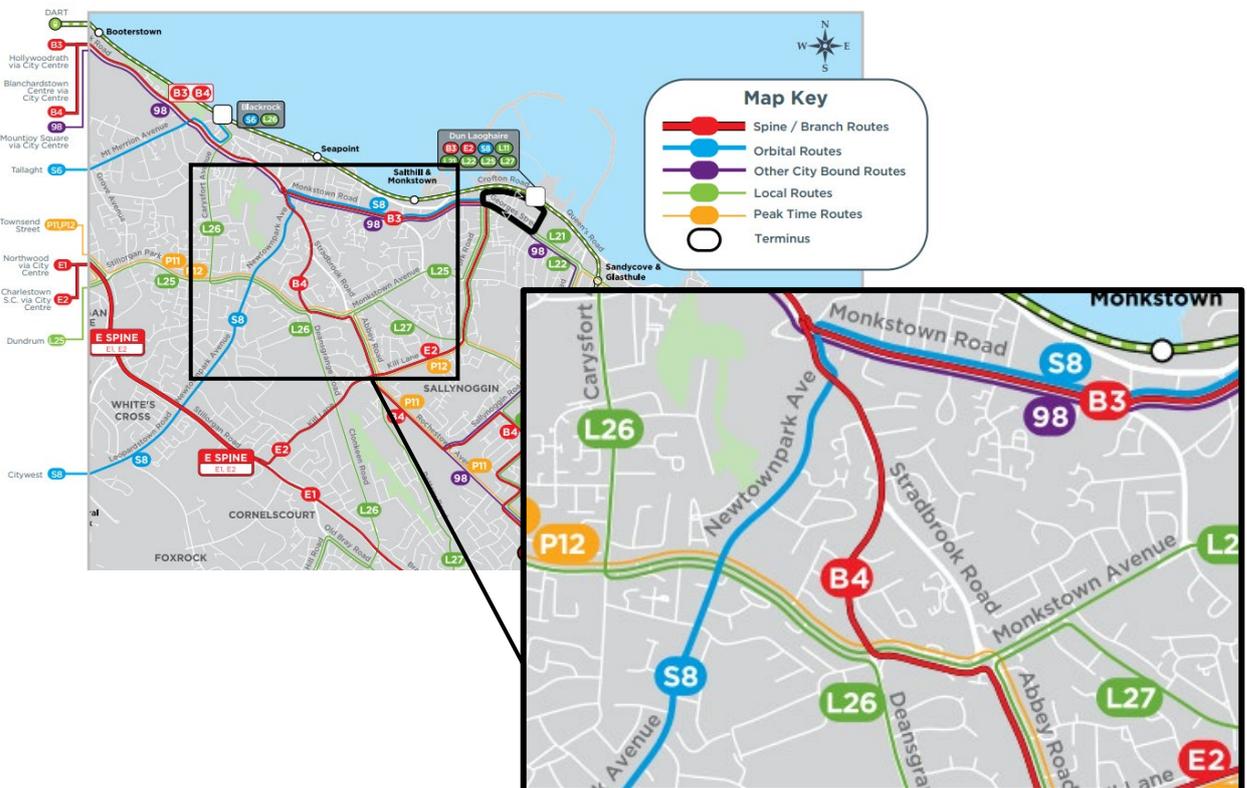


Figure 4.4: Dún Laoghaire Area Bus Connects Map. (Source: BusConnects.ie – Dublin Area Bus Network Redesign – Phase 2 BusConnects Network Redesign. Extracted by TPA, 2022.)

In line with national planning policy, as outlined above, the *Development Plan* states that higher densities can be justified along the proposed Core Bus Corridor routes.

We note that the *Dún Laoghaire Rathdown Development Plan* encourages increased height and densities at sites located within 1,000 m of a Core Bus Corridor.

We consider that the simultaneous categorisation of the Subject Site as within Parking Zone 3, as per the Parking Zones Map within the *Development Plan*, is inconsistent with the location of the Subject Site, less than 1,000 m from a Core Bus Corridor and less than 500 m from an existing, reasonably frequent bus service.

We note that the National Transport Authority (NTA) intends to have applied to An Bord Pleanála to seek permissions by the end of 2022 to operate the entire system.

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.

4.2.3 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 Design 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. 0.5 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 contribute to affecting a modal shift to more sustainable modes of transport in accordance with both the *Dún Laoghaire-Rathdown Development Plan 2022-28* and with wider strategic planning policy.

3.3 Conclusion of Justification for Material Contravention of Development Plan 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 potentially materially contravening the *Dún Laoghaire-Rathdown Development Plan 2022-28*.

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 Public Open Space – Subject Proposal Materially Contravenes the Public Open Space Policies of the Dún Laoghaire-Rathdown Development Plan 2022-28

5.1 Public Open Space – Policy Context

The *Development Plan* requires:

“Public open space requirements for residential developments – existing built up area – 15% of site area.”

By that metric, the Subject Proposal should provide some 722 sqm of public / communal open space.

The Subject Proposal provides for some 1,327 sqm of communal open space.

However, none of the Subject Site has been reserved as public open space. As per the policies outlined above, the Subject Proposal is therefore in contravention of the *Development Plan* in relation to public / communal open space provision.

Table 12.7 of the *Development Plan* provides definitions for public, communal and private open space as set out below:

Open Space Category	Classification
Public Open Space	<p>Public open space is defined as being generally freely available and accessible to the public, and in the case of certain residential developments has, or is intended to be, ‘taken-in-charge’ by the Local Authority.</p> <p>In all new residential development schemes, there should be some appropriate provision made for public open space within the site. In all instances where public open space is not provided a contribution under Section 48 will be required for the short fall.</p>
Communal Open Space	<p>Communal open space is for the use of a set group of residents within the development only and would ordinarily be maintained by a Management Company i.e., is privately owned.</p> <p>This would be typical of apartment - type residential developments and can be gated/located adjacent to one/two specific apartment blocks for their exclusive semi-private use.</p> <p>It can also apply to some housing schemes.</p>
Private Open Space	<p>Private open space normally refers to balconies and/or private gardens, which are the responsibility of, and only accessible to, the individual resident.</p>

The *Development Plan* specifies that for residential development within the existing built-up area should provide 15% of the site area as public open space. This is in addition to a required communal open space provision based on the 2020 *Apartment Design Guidelines*:

- 5 sqm per 1-bed apartment
- 6 sqm per 2-bed apartment (3 person).

- 7 sqm per 2-bed apartment (4 person).

5.2 Justification for Material Contravention

Development Plan Allows for Deviation from Standard

The *Development Plan* states:

“It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended.”

Thus, we consider that the *Development Plan* also provides a valid basis for the public / communal open space provision included within the Subject Proposal.

While the Subject Proposal does not include for any additional public open space, it is considered that ample communal amenity and open space is provide for use by residents of the proposed development. That Subject Site is located directly adjacent to existing large areas of open space, the open character of which is guaranteed by the *Development Plan*.

Further, Figure 5.1, below, illustrates the public parks located within a 1km radius of the Subject Site. These parks include Rockfield Park, Newtown Park, Seapoint Park, St. Fintan’s Hall Park, Duneden Park and Belgrave Square.

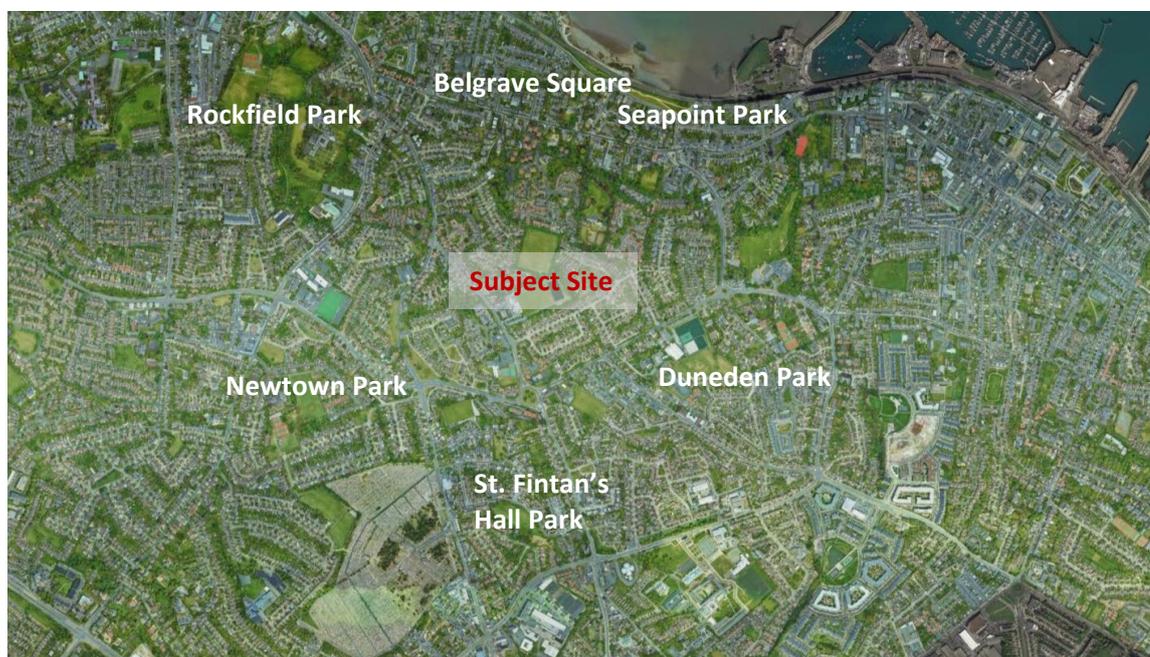


Figure 5.1: Aerial Photo illustrating location of public open spaces within 1 km of the Subject Site. (Source: Google, 2021. Cropped and annotated by TPA, October 2021.)

We consider that the quantum and variety of high-quality public open space located within 1 km of the Subject Site, combined with the 1,300 sqm of high-quality communal open space provided within the proposed development, provides for a very high standard of residential amenity for future residents.

We also note that the provision of high-quality communal open space, rather than public open space, is appropriate to future residents given the characterisation of the proposed development as a senior-living residential scheme, particularly in relation to security.

As such, we contend that the *Development Plan* provides a valid basis for the lack of public open space provision included within the Subject Proposal.

Apartment Design Guidelines Take Precedence

Appendix 1 of the *Apartment Design Guidelines* includes specifications relating to communal open space provision within apartment developments.

We note that the Guidelines do not differentiate between outdoor and indoor communal spaces, and do not include public open space requirements.

The relevant minimum floor areas for communal amenity space as per the *Apartment Design Guidelines* are:

- 5 sqm per 1-bed apartment
- 6 sqm per 2-bed apartment (3 person).
- 7 sqm per 2-bed apartment (4 person).

The Subject Proposal includes for 108 No. apartments (incl. 83 1-bed apartments and 25 2-bed apartments).

Assuming that all 2-bedroom apartments are occupied by 4 persons, the Subject Proposal is required by national policy to provide a minimum of 590 sqm of communal space.

The Subject Proposal includes for some 1,327 sqm of communal open space.

This quantum exceeds the minimum standards as set by the *Apartment Design Guidelines* by some 737 sqm. Further, the communal open spaces are of a high-quality design specification and will contribute significantly to residents' quality of life.

5.3 Conclusion of Justification for Material Contravention of Development Plan in relation to Public / Communal Open Space

While the Subject Proposal contravenes the current *Development Plan* in relation to public open space to be provided, it is submitted that the *Development Plan* also allows for deviation from the general open space policy. We submit that the Subject Proposal meets the criteria for availing of this deviation.

Notwithstanding the above, we further note that the Subject Proposal is compliant with – and, in fact, far exceeds – national planning guidance relating to the provision of communal amenity space within apartment developments.

Thus, having regard to both, the *Development Plan* provisions; and relevant national planning guidance under section 28, we conclude that permission should be granted for the Subject Proposal.

6.0 Unit Mix – Subject Proposal May Materially Contravene the Unit Mix Policies of the Dún Laoghaire-Rathdown Development Plan 2022-28

6.1 Unit Mix – Policy Context

Policy PHP27 (Housing Mix) of the *Development Plan* states that:

“It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.”

Section 2.9.2 of the *Housing Demand Need Assessment* (HDNA), contained within Appendix 2 of the *Development Plan*, relates to housing mix. The HDNA notes that:

“Within the more mature suburban areas of the County it is acknowledged that the existing housing stock which is predominantly semi-detached and detached dwellings, the provision of apartments so as to aid in the mix and allow for downsizing is appropriate.”

Nonetheless, the Planning Authority request that all new developments more than 50 No. units in the ‘Existing Built Up Area’ – including, as per Section 12.3.3 of the *Development Plan*, Build-to-Rent developments normally exempt from apartment-mix directives – provide for at least 20% 3-bedroom units and no more than 30% 1-bedroom units.

See Table 2.9.1, ‘Apartment Mix Requirements’, within the HDNA ,as well as Table 12.1 within the *Development Plan*.

The Subject Proposal provides for 83 No. 1-bed units (77%) and 25 No. 2-bed units (24%). No 3-bed units are proposed (0%).

It is acknowledged that the subject scheme does not in and of itself provide a ‘wide variety of units’ and as such the Applicant acknowledges that there may be a reasonable basis for concluding that the proposed development could potentially materially contravene Policy RES7.

Notwithstanding that the proposed development in isolation provides for a relatively limited mix of units, it is considered that the proposed unit mix is fully in accordance with broader planning policies and is appropriate given the existing unit mix in the area.

6.2 Justification for Material Contravention

Supportive Planning Policy

Dún Laoghaire Rathdown Development Plan 2022-28

Section 2.9.2 of the *Housing Demand Need Assessment* (HDNA), contained within Appendix 2 of the *Development Plan*, relates to housing mix. The HDNA notes that:

“Within the more mature suburban areas of the County it is acknowledged that the existing housing stock which is predominantly semi-detached and detached dwellings, the provision of apartments so as to aid in the mix and allow for downsizing is appropriate.”

On page 36 of the Plan, it is further noted that future housing demand will be primarily for one and two person households given wider demographic shifts. The proposed development will contribute to the mix of household types and sizes in the county and thus adhere to the broad objective of the Development Plan to create neighbourhoods with a good housing mix capable of accommodating a range of demands and persons throughout different life periods.

The Subject Proposal is for a Senior-Living residential development, designed to allow those within the locality to ‘downsize’. We note Appendix 2 of the of the *Development Plan* contains the Planning Authority’s *Housing Strategy and Housing Needs Demand Assessment* (HDNA). The HDNA is considers the housing demand and supply within the County, as well as affordability, social housing provision and specific housing needs.

The HDNA notes, *inter alia*, the notably aging profile of the County, demonstrating that:

“Dún Laoghaire-Rathdown has a greater proportion of people over 65 than in County Dublin, the EMRA region or in the State.

While it has a similar profile in terms of families by family cycle to other areas, Dún Laoghaire-Rathdown is also an area with a greater percentage of older and retired people than in other counties in the Dublin region.”

The proportion of retired couples in the County equated to 13.6% in 2016.² We submit it is likely that a portion of the 14,809 of the County’s non-descript ‘adult’ population are also of the category of residents for which the proposed development is intended – retired couples and single people wishing to downsize from larger homes.

In this respect, the HDNA notes that:

“the average size of households in the County is expected to decline, resulting in a higher rate of household formation.”

Section 2.6.4 of the HDNA considers the provision of specific housing for older persons. Difficulties encountered by older people within the County relating to housing supply have encouraged:

*“DLR Housing Department [to be] **currently proactively promoting downsizing where appropriate**, also referred to as ‘Rightsizing at the Right Time’ as part of its ongoing efforts to ensure the best use of the Council’s social housing stock.”*

The HDNA also notes that the provision of accommodation for older persons is beneficial for meeting social housing needs and Part V purposes, and is therefore encouraged.

² ‘Retired’ in DLRCC’s 2022-28 HDNA is defined as “family nucleus of married or cohabiting couple without children where female is aged 65 years and over”.

While not sought in relation to the Subject Proposal, the HDNA includes a policy that Part V obligations be reduced where it is proposed that any site be developed for, *inter alia*, ‘**supported housing for older persons**’. The HDNA expressly notes that this is:

“to encourage the development of these types of units.”

Some 30 No. social housing residential units are proposed within this Planning Application.

The Planning Authority notes that the provision of specific housing options for older people is likely to have a wider positive effect on the local market. The HDNA states that such housing provision, as included within the Subject Proposal:

“may also result in older people vacating larger units for units more appropriate to their current needs and in turn returning family sized accommodation to the market.”

As such, the HDNA highlights the wider *Development Plan* Policy Objective PHP30: ‘Housing for All’:

“It is a policy objective to:

- **Support housing options for older people** and persons with disabilities/mental health issues consistent with NPO 30 in the NPF, RPO 9.1 and 9.12 of the RSES.
- Support the provision of specific purpose-built accommodation, including assisted living units and lifetime housing, and adaptation of existing properties.
- Promote ‘aging in place’ opportunities for ‘downsizing’ or ‘right sizing’ within their community.”

2018 Apartment Guidelines

Section 2.20 of the *Apartment Guidelines* acknowledges the need for different forms of housing to be supported and highlights *“the need to facilitate a mix of apartment types that better reflects household formation and housing demand”*.

The proposed apartment mix complies with the provisions of the 2020 *Apartment Guidelines*, as *Specific Planning Policy Requirement (SPPR) 8*, which notes that ‘*no restrictions on dwelling mix [...] shall apply*’.

The breakdown of units in the proposed development equates to 77% one-bedroom units and 24% two bedroom units. The proposed unit mix is thus fully in compliance with the standards of the Apartment Guidelines. The proposed breakdown of units ensures that the mix of units in the area is enhanced and also ensures that current and future housing demand will be satisfied appropriately.

The 2016 Census results demonstrate that the housing stock in the Dublin area is dominated by larger units greater in size than one and two bedrooms. Of the 530,753 permanent households recorded in the census, just 55,091 or c.10% are comprised of one and two bedroom units³. Given that changing demographics are resulting in smaller household size and more single person households, demand for these smaller units is high at present and very likely to increase further in the future.

³ CSO, 2016

6.3 Conclusion of Justification for Potential Material Contravention of Development Plan in relation to Unit Mix

It is considered that the proposed development by providing a mixture of one and two bed apartments in an area predominately characterised by larger family size houses would indeed contribute to the variety of accommodation types and sizes in the county.

The proposed development thus contributes to the diversity of housing types and sizes and satisfies a critical area of demand where there are significant shortfalls at present. This is in line with the policies contained within the *Dún Laoghaire-Rathdown Development Plan 2022-28* and other relevant national policies and Guidelines.

7.0 Employment Use – Subject Proposal Materially Contravenes Employment Policy of the Dún Laoghaire-Rathdown Development Plan 2022-28

7.1 Employment Use – Policy Context

The subject lands are zoned ‘Objective E’ (see Figure 7.1, below), the aim of which is:

‘To provide for economic development and employment’.

Table 13.1.13 of the *Draft Development Plan* sets out DLRCC’s policies pertaining to ‘Objective E’ zoned lands, which reflect the:

‘To provide for economic development and employment.’

Residential development is permitted on Objective E-zoned lands, subject to Policy Objective E14: Securing Employment Growth, which states:

“It is a Policy Objective to ensure that employment zoned lands facilitate its primary objective which is provide for economic development and employment. The Council will apply a restrictive approach to residential development on employment-zoned lands.”

We note that Chapter 6 of the *Draft Development Plan* continues to specify certain strategic employment locations within the County that require particularly restrictive controls on residential development in order to protect the opportunity for employment-generating land uses. These are Sandyford, Cherrywood and Carrickmines – the Subject Site is not included.

For other areas, residential use may be considered in appropriate locations. Sites zoned ‘Objective E’ that are appropriate for residential development are well-served by public transport and close to community infrastructure.

Chapter 6 of the *Development Plan* also notes that:

“Generally, any residential development proposals on such ‘E’ zoned lands must ensure that the employment element on site in terms of floor space is no less than that on site prior to redevelopment and must ensure that the employment element on site in terms of overall floor space remains the primary land use and doesn’t undermine the use of adjoining lands for employment use.”

Given that the proposed employment-related floor space amounts to less than the employment-related floorspace within the existing (albeit vacant) office building, and because the employment element on site in terms of overall floor space does not remain the primary land use within the Subject Proposal, we conclude that the Subject Proposal may represent a material contravention of the employment policy relating to the site as per the *Development Plan*.

The Subject Proposal seeks permission to demolish a vacant commercial office block measuring some 1,210 sqm. A mixed-use scheme, incorporating, *inter alia*, 2 No. employment-generating uses including a Build-to-Rent residential scheme incorporating c. 86 sqm of non-residential staff spaces, and a c. 175 sqm commercial office space, is proposed.



Figure 7.1: Extract from Land Use Zoning Map 3 showing the location of the Subject Site outlined in red. (Source: Draft Dún Laoghaire Rathdown Development Plan 2022-2028. Cropped and annotated by TPA, October 2021.)

Given that the proposed employment-related floor space amounts to less than the employment-related floorspace within the existing (albeit vacant) office building, and because the employment element on site in terms of overall floor space does not remain the primary land use within the Subject Proposal, we conclude that the Subject Proposal represents a material contravention of the employment policy relating to the site as per the *Development Plan*.

7.2 Justification for Material Contravention

Proposed Development will Provide for Employment Uses

As previously noted, the Subject Proposal is not completely lacking employment-related uses. The Subject Proposal, which is a serviced senior living BTR scheme, includes for a certain amount of employment in property management and maintenance, as well as for a hub for various services to be offered to residents.

Some 85 sqm of dedicated staff areas are encompassed within the Subject Proposal to facilitate this important element of the scheme.

The proposed development includes for c. 175 sqm of commercial office space that will be specially dedicated to technology research and development in the Senior Living sector and will act as Ireland's first 'Innovation Hub for Elder Care'.

The Applicant has identified a leading 'med tech' partner who will assist in the design, development, testing, roll out and commercialization of assistive technologies specifically focused on the challenges faced by our ageing population and those responsible for the care of that population. The technologies to be developed in the Innovation Hub will be capable of being rolled out in other similar Integrated Retirement Communities planned by the Applicant in Ireland and also in third party developed and operated Senior Living schemes, nursing homes and private homes.

The software and hardware, applications and services to be developed in the Innovation Hub will focus on key issues affecting our Senior population, including:

- Hearing loss
- Medication management, including reminders and dispensing
- Health care monitoring and treatment
- The use of wearables / devices for healthcare monitoring and management
- Document / records management, digitization and integration
- Social networking opportunities for the elderly, including through gamification
- Lifestyle, fitness, health and wellbeing
- Recovery platforms and supports.

It is intended that, in time, the Innovation Hub can and will become a Ireland's first med tech centre of excellence focused on healthcare services and supports solely for our rapidly growing older population.

Such uses will provide for a level of activity and animation that is not currently offered by the vacant commercial office block at the Subject Site. We refer to the submitted *Stradbroad Road Extra Care Economic Benefits Assessment*, prepared by Savills.

Proposed Development will Protect and Improve Residential Amenity in the Area

The Applicant has retained a multi-disciplinary Design Team, who have designed the development to take account of the residential amenities of existing residents in the area as well as those of future residents of the proposed development. The various assessments enclosed demonstrate that the proposal will complement the surrounding land uses and contribute to the development of the established residential and commercial community, in addition to consolidating this suburban area.

At present, the lands are underutilised. This is not a sustainable use for the lands acknowledging the current housing crisis, and is contrary to national policy objectives to provide additional housing in existing built-up urban areas.

The proposed development also incorporates courtyard spaces and pocket gardens which will further enhance local amenity provision. The proposed development provides adequate separation distances to the boundaries and will not result in overlooking or overbearing impacts on the adjoining residential properties or within the development.

Proposed Development will Contribute to Solving the Housing Crisis

The Subject Proposal will contribute to the resolution of Ireland's chronic housing crisis. By providing 115 No. serviced apartments for particular use by senior citizens from within the community, the Subject Proposal will offer those wishing to downsize or relocate to an urban area an attractive option.

Such an injection of unit types variety to the local housing market in Dún Laoghaire-Rathdown will encourage increased mobility within the housing market, and will enable a more efficient distribution of existing residential units between citizens at all stages of the life cycle.

7.3 Conclusion of Justification for Material Contravention of Development Plan in relation to Employment Use Policy

It is considered that the proposed development does provide for a sufficient level of employment-related activity on site notwithstanding that the 'office' floorspace on the site will be reduced from current levels. By providing a dedicated office space, as well as a quantum of permanent employment-related floor space for the use of management and maintenance personnel, the Subject Proposal will provide for a level of activity and animation that is not currently offered by the existing vacant commercial block on the Subject Site.

Further, the Subject Proposal will contribute to the alleviation of the housing crisis, in line with local, regional and national policy, and will also provide for an improved level of residential amenity for the site specifically, and for the neighbourhood generally.

8.0 Conclusion

The proposed development is clearly in line with National and Regional Policy. It is also a highly sustainable, strategic housing development, which complies with the principles for increased height, reduced car parking and apartment provision as 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 the Subject Site, 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 *Development 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 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.

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 provision, public open space provision and unit mix 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



Stephen Barrett
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