

# **Statement of Material Contravention of the Dublin City Development Plan 2016-2022**

*In respect of*

**Clarehall, Malahide Road, Dublin 17.**

*Prepared by*

**John Spain Associates**

*On behalf of*

**E to Infinity ICAV acting on behalf of its  
sub-fund Blacklion Real Estate Fund**

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## 1.0 **INTRODUCTION**

- 1.1 On behalf of the applicant, E to Infinity ICAV, acting on behalf of its sub-fund Blacklion Real Estate Fund, we hereby submit this Material Contravention Statement to accompany this application for the proposed Build to Rent development at Clarehall, Malahide Road, Dublin 17. This statement provides a justification for the material contravention of the Dublin City Development Plan 2016-2022 in relation to height parameters set out in Section 16.7 which allows for a maximum height of up to 16 metres in the outer city.
- 1.2 The proposed Build to Rent development which is the subject of this planning application proposes height of part 4 to part 9 no. storeys, rising to a maximum of 29 metres.

We note that the DCC Opinion states the proposed height is a material contravention of the Dublin City Development Plan 2016-2022. While it can be argued that the proposed height of the development is not a material contravention to the Dublin City Development Plan, having regard to the relevant Section 28 Building Height Guidelines, it is a matter for An Bord Pleanála to determine if the proposed development is a material contravention of the Development Plan.

- 1.3 Therefore, should the Board consider it appropriate, a justification of the proposed height is set out in this report.

### *Legislative Context*

- 1.4 The Planning and Development (Housing) and Residential Tenancies Act, 2016, states the way in which, An Bord Pleanála may grant permission for a development which is materially contravenes a Development Plan, other than in relation to the zoning of land, as follows:

*“(6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under Section 4 even where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned.*

*(b) The Board shall not grant permission under paragraph (a) where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of land.*

*(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if Section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.*

- 1.5 Section 37(2)(b) of the Planning and Development Act 2000 which 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— the*



*proposed development is of strategic or national importance, 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”.*

- 1.6 It is submitted that recent Nation Policy, as set out in the Statement of Consistency / Planning Report, provides for increased building heights and strong encouragement of higher densities on appropriately zoned and serviced lands adjacent to town centres and high quality public transport. It is therefore considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development notwithstanding the material contravention of the Development Plan.
- 1.7 However, it is respectfully requested that An Bord Pleanála have regard to the following justification for increased height above that set out in the development plan on the basis that the policies and objectives stated in the Section 28 Government Guidelines, particularly “Urban Development and Building Heights Guidelines for Planning Authorities” (*Building Height Guidelines 2018*), “*Guidelines for Planning Authorities on Sustainable Residential development in Urban Areas (2009)*”, the “*National Planning Framework 2040*” and the “*Sustainable Urban Housing: Design Standards for New Apartments 2018*” and the “*Urban Development and Building Height Guidelines 2018*” enable increased building height and residential densities on sites adjacent to quality public transport routes and within existing urban areas.

## **2.0 DUBLIN CITY DEVELOPMENT PLAN 2016-2022**

- 2.1 Section 16.7.2 states “*planning applications will be assessed against the building heights and development principles established in a relevant LAP/SDZ/SDRA. Proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA in addition to the assessment criteria for high buildings and development plan standards.*”
- 2.2 The majority of the site is within the LAP area and Clongriffin-Belmayne (North Fringe) Local Area Plan 2012-2018 (‘the LAP’) and subject to LAP height policies. The remainder of the site is subject to the City Development Plan’s outer city residential height restriction of 16m.
- 2.3 Permissible heights under the LAP are generally low (4 storeys) with 5-6 storeys supported in the two KDCs. The LAP height policy UD07 states the following:

***“The height strategy for the LAP will seek positive integration of new building height with established character. Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys). Heights of 2-6 storeys (including a set back at the top floor of a 5/6 storey building) may be facilitated subject to quality design criteria and set back requirements along the river corridor to complete the urban form of pavilion buildings to complete Marrsfield, One location for a landmark profiled building (10-14 storey office height equivalent) is designated adjacent to Clongriffin Rail Station. In other locations, where 4 storeys residential height is proposed, some***



*flexibility will be allowed on the height equivalent (13m) to achieve design improvements to the façade.”*

- 2.4 The LAP states “A significant **increase in building height may be accepted where it can be demonstrated that there is a strong urban design rationale** for doing so, and where specific social, economic or architectural gains will be delivered by increasing height above the established height.”
- 2.5 The proposed development ranges in height from 4 no. storeys on the eastern boundary to 9 no. storeys centrally and stepping down to 5 no. storeys on the western boundary of the site as to ensure the existing land uses are not impacted in terms of visual or residential amenity. The Development Plan and LAP do not provide any policies which would allow for the proposed heights of any greater than 5-6 storeys.

### **3.0 JUSTIFICATION FOR MATERIAL CONTRAVENTION**

- 3.1 The following section shall demonstrate how the proposed height is justified in the context of recent National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned services lands adjacent to high quality public transport corridors. These include:
- Project Ireland: National Planning Framework 2040
  - Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2018)
  - Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

#### **Project Ireland: National Planning Framework 2040**

- 3.2 The National Planning Framework 2040 (hereinafter NPF) seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl, increase the sustainability of public transport networks and meet the housing needs of our growing population. The following objectives in the NPF are of particular relevance:

*“In particular, **general restriction on building height** or universal standards for car parking or garden size **may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria** appropriate to general locations e.g. **city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc”.***

*NPO13 “In urban areas, planning and related standards, including in particular **building height** and car parking will be based on **performance criteria that seeks to achieve well-designed high quality outcomes in order to achieve targeted growth.**”*

*NPO35 “**Increase residential density** in settlements, through a range of measures, including reductions in vacancy, re-use of existing buildings, **infill development schemes, area or site-based regeneration and increased building heights.**”*

- 3.3 It is clear that there is a strong emphasis towards increased building heights in appropriate locations within existing urban centres and along public transport corridors in order to provide for the critical mass needed to make the public transport services viable. As such it is respectfully submitted the proposed 4 no. storeys to 9 no. storeys building is in line with government guidance and emerging trends for sustainable residential developments.



- 3.4 The subject lands are located in adjacent to 'Public Transport Corridors' in the context of the densities required under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). These areas are defined as being located within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The subject site is located within 5 minutes' walk of the No. 15 and No. 27 high-frequency bus services, and adjacent to a QBC / Bus Connects Corridor. The subject site therefore constitutes a 'central and / or accessible urban location' as defined within the 2018 Apartments Guidelines. The site is adjacent to a KDC 1, with significant existing and future employment in the area.
- 3.5 The proposed density and height of the development is considered appropriate for the location of the site and the availability of public transport facilities and proximity to a Key District Centre. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 3.6 Restricting the height of the development at such a location well served by public transport under the Dublin City Development Plan 2016-2022 is a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

**Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guideline 2018)**

- 3.7 The Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guideline 2018) build upon the provisions of the NPF by moving away from blanket restrictions on height in certain locations in favour of an evidence based approach on performance criteria.
- 3.8 The Apartment Guidelines provide clear guidance with regard to the types of location which are considered suitable for higher density residential development such as 'Central and/or Accessible Urban Locations and 'Intermediate Urban Locations' It is considered that the subject site falls into the category of 'Accessible Urban Locations' as set out below.
- 3.9 The Apartment Guidelines state that Central and/or Accessible Urban Locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, and are classified as follows:
- 'Sites within walking distance (i.e. up to 15 minutes or 1,000- 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
  - Sites within reasonable walking distance (i.e. up to 10 minutes or 800- 1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
  - **Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services'.**
- 3.10 The subject site is located within 5 minutes' walk of the No. 15 and No. 27 high-frequency bus services, and adjacent to a QBC / Bus Connects Corridor. The subject site therefore constitutes a 'central and / or accessible urban location' as defined within the 2018 Apartments Guidelines. The site is adjacent to a KDC 1 and within a SDRA, with significant existing and future employment in the area, and is therefore considered appropriate to accommodate higher density development and a suitable location for a BTR scheme.



- 3.11 The provisions set out in the Apartment Guidelines conflict with the height limitations set out in the Development Plan and reiterate that the height limits under the Dublin City Development Plan 2016-2022 are a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

**Urban Development and Building Heights Guidelines for Planning Authorities (Building Height Guidelines 2018)**

- 3.12 The Urban Development and Building Height Guidelines 2018, are intended to set out National Planning Policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040, as outlined above.
- 3.13 The Guidelines in effect put in place a presumption in favour of high buildings at public transport nodes. The guidelines state that it is Government policy to promote increased building height in locations with good public transport services.
- 3.14 The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 3.15 In relation redevelopment and enhancement of the city core, the guidelines state that *“to meet the needs of a growing population without growing out urban areas outwards requires more focus in planning policy and implementation term on reusing previously developed “brownfield” land, **building up urban infill sites** (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements”*.
- 3.16 The Guidelines also place significant emphasis on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks.
- “In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the **footprint of our developing sustainable mobility corridors**”*.
- 3.17 In addition, the Guidelines states that *“the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become **more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights**”*.

**Compliance with Building Height Guidelines 2018**

- 3.18 Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.



- 3.19 SPPRs in the Building Height Guidelines, take precedence over any conflicting, policies and objectives of development plans, local areas plans and strategic development zone planning schemes. Where such conflicts arise, such plans/schemes need to be amended by the relevant planning authority to reflect the content and requirement of these guidelines and properly inform the public of the relevant SPPR requirements.
- 3.20 SPPR 1 states the following:
- “In accordance with Government policy to support **increased building height in location 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 **and infill development** to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height”.*
- 3.21 As outlined above, the Development Plan provides a maximum building height of 16m on the subject site. However, in accordance with SPPR 1 of the Height Guidelines, a blanket restriction should be avoided and an appropriate building height for the subject site and location be applied.
- 3.22 The proposed infill development in this regard provides for an appropriate scale of development given the location of the site along a major public transport corridor on the Malahide Road.
- 3.23 SPPR 3 of the Building Height Guidelines notes that where the applicant sets out compliance with the criteria for assessing building height at the scale of the relevant town / city, at the scale of district / neighbourhood / street and at the scale of a site / building that the planning authority or An Bord Pleanála may approve such development even where specific objectives of the relevant development plan, local area plan or planning scheme may indicate otherwise.
- 3.24 SPPR 3 (a) states:
- “It is 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 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, local area plan or planning scheme may indicate otherwise”.*
- 3.25 Compliance with the relevant criteria set out in the Building Height Guidelines is demonstrated below.
- 3.26 The guidelines set out the criteria for developments at the scale of the relevant city / town as follows:
- *The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*



**Response**

- 3.27 The subject site is located within 5 minutes' walk of the No. 15 and No. 27 high-frequency bus services, and adjacent to a QBC / Bus Connects Corridor.
- *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.*

**Response**

- 3.28 The subject site is not located in a particularly architecturally sensitive area. The current condition of the site is poor, highly underutilised and in need of regeneration. There are no existing sensitive views or areas of visual interest surrounding the site. There are a number of existing 2 no storey dwellings in the vicinity of the site. These properties have been considered in terms of visual impact and impact on residential amenity. It is proposed that the subject development significantly enhances the quality and visual amenity of the area.
- 3.29 The height in respect of the surrounding context has also been carefully considered. The height step down to 4 no. storeys respect the existing 3 no. storey properties present.
- 3.30 The proposed development provides for appropriate urban edge to the adjacent road to the north west, with an increase in height towards the centre of the site to provide a landmark building fronting the roundabout with setbacks to adjoining residential developments. The proposed height and scale of the development represents good quality urban design principles and provides for a quality street frontage at this location, creating a sense of place and to set the scale of the development on such a major public transport route.
- 3.31 We refer the Board to the LVIA prepared by Kennett Consulting and the photomontage and CGI brochure prepared by Primary Design.
- *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.*

**Response**

- 3.32 The proposed development will provide for a high quality architectural development that will respond to and reflect on the existing and permitted development in the area. The proposed development will create a focal point at this location. The proposed development provides for appropriate urban edge to the adjacent road to the north west, with an increase in height towards the centre of the site to provide a landmark building fronting the roundabout.
- 3.33 Cumulatively the proposed development along with the permitted and existing development in the area will create a sense of place inviting to the wider community and proposed future occupant.



- 3.34 The proposed development will significantly improve the quality of the street frontage and public realm in the vicinity of the site which is currently significantly lacking at this location. The proposed development will provide for open spaces that will add to the sense of place and make a positive contribution to the overall structure, form and connectivity of the development. We refer to the Architectural Design Statement prepared by HJL Architects for which accompanies this application for further details.
- 3.35 The guidelines further set out the criteria for developments at the scale of district/ neighbourhood / street context as follows:
- *The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape;*

**Response**

- 3.36 The proposed development ranges in height from 4 no. storeys to 9 no. storeys (29m). The range in building heights takes account of the surrounding context of development. The reduced height along southern and eastern boundary responds to the existing residential properties in the area and provides for an appropriate transition in heights.
- *The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered;*

**Response**

- 3.37 The proposal provides a street edge onto the north western elevation, and seeks to provide a flanking perimeter block, with a separation distance to the adjacent apartment block. A setback is provided along the eastern elevation to create an entrance plaza with public space to ensure an inviting entrance is provided to this build-to-rent scheme. The form of the building has been designed to facilitate a greater setback from the neighbouring buildings to negate against any negative daylight impacts (see Daylight Assessment section below) and overlooking. Half the boundary of the site is abutted by third party lands which limits the options for entrance/access to the development. Therefore, the creation of an entrance plaza will provide a sense of arrival.
- *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 "the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009;*

**Response**

- 3.38 The proposed development provides for appropriate urban edge to the adjacent road to the north west, with an increase in height towards the centre of the site to provide a landmark building fronting the roundabout with setbacks to adjoining residential developments. The proposed height and scale of the development represents good quality urban design principles and provides for a quality street frontage at this location.
- *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 integrated in a cohesive manner.*



**Response**

- 3.39 The proposed development significantly enhances the public realm and street frontage at this location through the provision of a high quality residential building of 4 to 8 storeys in height which steps down and includes setbacks to adjacent residential properties. It will provide for a suitable and sustainable reuse of the subject site which is currently a vacant overflow car park.
- 3.40 The proposed development significantly improves the pedestrian quality of the development and creates a more appropriate use of the subject site by providing active frontage at ground level with high quality residential accommodation on the upper levels.
- 3.41 The guidelines lastly set out the following criteria for developments at the scale of the site / building:-
- *The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*

**Response**

- 3.42 A daylight/ sunlight assessment has been prepared and is submitted with this application. The report assesses a variety of different unit types and uses within the development. The proposed internal layout has been carefully considered with regard to the best possible results for daylight / sunlight levels. The orientation of the room layout has been carefully considered to ensure that the best amenity value is obtained for the residents.
- 3.43 The communal areas have also been assessed as part of this application. In some months the courtyard area receives low levels of light, however, on this basis the landscape proposal has been designed to enable active use throughout the year through the materials and finishes proposed. In addition, as a compensatory measure, a roof garden is proposed that receives high levels of light throughout the year. It is intended that this will be a usable meeting / recreational space for residents to lounge and relax on summer evening.
- 3.44 As such it is respectfully submitted that the proposed development has been carefully designed as to maximise access to natural daylight, ventilation and views and to minimise overshadowing and loss of light.
- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlines in guides like the Building Research Establishment's "Site Layout Planning for Daylight and Sunlight" (2<sup>nd</sup> edition) or BS 8206-2;2008 – "lighting for Buildings – Part 2; Code of Practice for Daylighting".*

**Response**

- 3.45 As mentioned above, a daylight / sunlight analysis has been prepared and is submitted with this application. The design, form and layout have been informed by achieving the best possible results for daylight/ sunlight within the development and the surrounding properties. The guidelines also note that:
- 3.46 It is respectfully submitted that the proposed development has had regard to the planning policy framework as set out in the building height guidelines and National



Planning Framework. The provision of residential development at this location between 4 no. and 9 no. storeys is supported by the height guidelines which encourages increased density and building heights. The proposed development complies with such objectives therefore is considered to be in accordance with the provisions of national policy guidelines.

**Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

- 3.47 The role of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas is to ensure the sustainable delivery of new development throughout the country.
- 3.48 The Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the Guidelines are accompanied by a Design Manual discussed below which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.
- 3.49 These Guidelines support a plan-led approach to development as provided for in the Planning and Development Act 2000. Section 2.1 of the Guidelines note that *'the scale, location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy'*.
- 3.50 The Guidelines reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 and *'the sequential approach as set out in the Departments Development Plan Guidelines (DoEHLG, 2007) specifies that zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities...'*
- 3.51 Having regard to the above, the subject site is zoned Z1. The proposed development is therefore making the most efficient use of the subject land increasing residential development in an existing urban area and providing for high density residential development in key location well served by existing public transport and local services. The proposed development is therefore compliant with the guidelines in terms of the sequential development approach.
- 3.52 Sustainable neighbourhoods require a range of community facilities, and each district/neighbourhood will need to be considered within its own wider locality, as some facilities may be available in the wider area while others will need to be provided locally. The proposed development is located in close proximity to local services at Clarehall, Key District Centre 1.
- 3.53 Section 5.8 of the Guidelines recommends that *'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'*. The proposed density of 347 no. units per hectare.
- 3.54 The proposed density is in excess of the recommended minimum residential density and is considered to be appropriate, being located on a high quality public transport



route and is located within an existing district centre. The site is therefore considered to have capacity to achieve higher densities to complement the surrounding services.

- 3.55 The guidelines clearly state that increased densities should be provided on site within 500m of a bus stop and within 1km of a proposed light rail stop. The subject development fits within this criterion, being located on a BusConnects route, therefore is considered appropriate for higher densities.
- 3.56 Furthermore, it has been demonstrated as part of the application consultation documentation that the proposed height does not materially affect the surrounding lands in terms of daylight / sunlight and overlooking.
- 3.57 As such it is considered that the proposed increase in height is in accordance with the National Policy guidance and is appropriate given the context of the subject site at this key corner location.

#### **4.0 CONCLUSION**

- 4.1 It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the Dublin City Council Development Plan 2016-2022, an appropriate justification is set out within this statement demonstrating that the proposed development should be considered for increased building heights.
- 4.2 The proposal which provides heights of 4 to 9 no. storeys is clearly in line with National Policy which has set out the need for increased density at an appropriate location. The current limitation of building height as set out in the Development Plan acts as a barrier as higher density development cannot be achieved without the provision of taller buildings.
- 4.3 The proposal meets all criteria outlined in National planning policy and S.28 Guidelines, particularly the Building Height Guidelines 2018, in terms of suitability for high density development incorporating taller buildings. The site is located on a high quality public transport corridor, located in a KDC and SDRA, there is an adjacent 6 storey building and potential to provide 'landmark' qualities close to the southern approach to the KDC.
- 4.4 It is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed height in this instance. There is ample justification for An Bord Pleanála to permit a material contravention of the Development Plan in terms of allowable height having regard to Section 37(2)(b)(ii) and (iii) of the Planning and Development Act, 2000 (as amended).