

**Statement of Material Contravention in respect of a Proposed  
Strategic Housing Development at the Glebe House and Coruba site  
in Crumlin, Dublin 12.**

**On behalf of Seabren Developments Ltd and Circle VHA CLG**

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## 1 Introduction

- 1.1. This *Material Contravention Statement* is submitted on behalf of the applicant, Seabren Developments Ltd and Circle VHA CLG, and relates to a proposed Strategic Housing Development of 150 apartments on a 0.88 Ha site located at Glebe House (A Protected Structure, RPS Ref. 7560) which includes the light industrial lands to the rear and the vacant site of the former Coruba House, St Agnes Road, Crumlin, Dublin 12. The site bounds Somerville Drive and Somerville Green to the southeast and southwest, respectively, and includes the grass margin between the Coruba site boundary and Somerville Drive.
- 1.2. The architectural treatment of the proposed apartment buildings seeks to respond to recent Government policy supporting increased building heights in urban locations, particularly where well served by public transport, and the development has been designed to have regard to the surrounding context of the site. The proposed development equates to a density of 171 units per hectare across the site.

The development will consist of: A residential development of 150 no. apartments consisting of 74 one beds, 72 two beds and 4 three bed residential units, a creche and café. The proposed scheme has an overall Gross Floor Area of 15,767 sq.m.

Two apartment buildings are proposed ranging in height from 4 – 6 storeys and linked by a carpark at ground floor and a podium at first floor level comprising the following:

- Block A is 5-6 storeys and consists of 79 apartments and includes 35 no. one beds and 44 no. two beds units, ESB substation/switch room/metering room of 85sqm, 42 no. secure bicycle storage and bin storage of 44sqm
- Block B is 4-5 storeys and consists of 66 apartments and includes 38 no. one beds, 25no. two beds and 3 no. three beds, a Creche of 147 sqm at ground floor level with associated outdoor area, ground floor plant rooms of 74sqm, ESB substations/switch room/metering room/telecoms of 89sqm, 188 no. secure bicycle storage spaces in two locations, 6 no. motorbike spaces and bin storage of 75sqm.

Two no. three storey pavilion buildings either side of Glebe House to accommodate:

- One number two storey duplex 2 bed apartment above one number 1 bed apartment at ground floor in the north west pavilion and,
- One number two storey duplex 2 bed apartment above a 55 sqm ground floor café, in the south east pavilion.

The repair of fire damaged elements (following a fire 21<sup>st</sup> April 2022) and the refurbishment of Glebe House, a protected structure, into two apartments, one number 2 bed unit at lower ground floor and one number 3 bed unit at upper ground and first floor;

- Repair of fire damaged elements including the replacement of all roof coverings and structure, replacement of all first floor timber stud walls, replacement of first floor rear return joists, replacement/repair of floor joists at first floor level, replacement of internal render to kitchen/dining area in rear return building and replacement/repair of stair from upper ground to first floor level,
- the refurbishment of Glebe House including the removal of extensions to the rear and sides of the building, restoration of the façade, replacement of pvc windows with sliding sash windows and associated works to the interior and to the curtilage of Glebe House.
- Lowering the front boundary wall and return boundary wall to the front of Glebe House.

Demolition of all workshops, offices and sheds to the rear and sides of Glebe House Demolition of boundary walls around the Coruba land on Somerville Drive, the front entrance and between Coruba and the Glebe lands. Demolition of non-original brick columns at St Agnes Road entrance to Glebe House (1,636 sqm).

75 car parking spaces are proposed:

- 66 no. car parking spaces (includes 2 Go Car spaces) in ground floor car park below podium and partly in Block A and 4 No. visitor car parking spaces in front of Glebe House all with vehicular access from St Agnes's Road
- 5 No. assigned car parking spaces on the eastern side of Block B with vehicular access from Somerville Drive.

The development provides 905 sqm of Public Open Space to the front and side of Glebe House, and within the southeast public plaza. with a pedestrian route to the side of the Café at Pavilion B and 1,632 sqm of Communal Open Space located at podium level and to the rear of Block A.

76 no. visitor bicycle parking spaces are provided in the public accessible areas of the site.

The application also includes the provision of a new footpath along the south-eastern boundary at Somerville Drive, a new controlled gate between Somerville Drive and St Agnes Road allowing public access through the site within daylight hours and a new pedestrian access from the public open space onto St. Agnes Road, boundary treatment, landscaping, Solar Panels on the roof of Blocks A and B, provision of 4 no. Microwave link dishes to be mounted on 2 No. steel support posts affixed to the lift shaft overrun on Block A, lighting, services and connections, waste management and other ancillary site development works to facilitate the proposed development.

## 2 Development Plan Material Contravention

The proposed development at Glebe House and Coruba, St Agnes Road, Crumlin, Dublin 12, rises to a maximum height of 20.1 m or six storeys on part of Block A with the five storey elements of Block A and B rising to 17m. This is in excess of the limit of 16m imposed by the Dublin City Development Plan, 2016-2022 and, therefore, the proposed height of the development represents a material contravention of Section 16.7.2 in the Dublin City Development Plan, 2016-2022. The two pavilion buildings either side of Glebe House have an overall height of 8.8m similar to Glebe House and comply with the Development Plan standards.

This *Material Contravention Statement* provides a justification for permitting a material contravention of the height provisions contained in the Dublin City Council Development Plan, 2016-2022, for the proposed residential development of the Glebe House lands.

We have shown in the *Planning Report and Statement of Consistency* that the proposed development complies with national and regional policy, as expressed in the NPF, the RSES and relevant ministerial guidelines, in particular the *Sustainable Urban Housing: Design Standards for New Apartments, 2020*, and the *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*.

We have set out in the *Planning Report and Statement of Consistency* that the proposed development complies with the provisions of the Dublin City Development Plan, 2016-2022, in all respects, save in relation to building height and unit mix. In respect of these two issues, the Glebe House site in Crumlin is located in the area designated in the Development Plan as “*Outer City*”, to differentiate it from the “*Inner City*”. As set out at Section 16.7.2 of the Development Plan – *Building Height in a Sustainable City* - there is a maximum height limit of 16m in such outer city areas.

### 3 An Bord Pleanála may Materially Contravene Development Plan

The Board may decide to grant permission for a development which is a material contravention of a Development Plan or Local Area Plan (except in relation to the zoning of land) as empowered per the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, as amended. Section 9(6) of the Act of 2016 states:

*(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) of the Planning and Development Act 2000, as amended, 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.*

*(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision the main reasons and considerations for contravening materially the development plan.*



## 4 National and Regional Strategic Policy

### 4.1 Project Ireland 2040: National Planning Framework

The *National Planning Framework* of 2018 seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl and increase the sustainability of public transport networks. It states that *“to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”*.

NPF Objective 35 is an objective to

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

The NPF targets a significant proportion of future urban development on infill/ brownfield development sites within the built footprint of existing urban areas. Objective 11 of the NPF states:

*“In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth”*.

There is a strong emphasis on increasing building heights in appropriate locations within existing urban centres and along public transport corridors, in order to provide the critical mass needed to make the public transport services viable.

The NPF states in relation to building height:

*“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”*.

Objective 13 of the *National Planning Framework* states that:

*“In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieved targeted growth and that protect the environment”*.

NPF policy reflects key elements of earlier guidance, notably as set out in the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) in relation to achieving higher densities. In relation to developments along public transport corridors Section 5.8 notes that the State has committed very substantial investment in public transport and to maximise the return on this investment, it notes that it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities – on lands within existing or planned transport corridors.

*“Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. 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. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.*

As set out above relevant areas suitable for densification are indicated as those within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station with the appropriate capacity.

The Glebe lands are located within four minutes’ walk of the nearest bus stops on St. Agnes Road and within 650m to a QBC ‘high capacity and frequency’ ‘Public Transport Corridor’ in an area suitable for higher densities, under the said *Sustainable Residential Development in Urban Areas* (2009).

The category of *accessible* urban location is also further discussed in the *Sustainable Urban Housing: Design Standards for Apartment Guidelines for Planning Authorities 2020*, which state that accessible locations are suitable for high density apartment development with car parking wholly eliminated or substantially reduced.

The proposal for the redevelopment of this underutilized brownfield site at Glebe House, Crumlin, provides for a residential development with a café and creche facility. The proposed development will include 150 residential units within the built-up area of this established urban settlement in Crumlin. The proposed density, at c. 171 no. units per hectare and maximum height of up to 6 floors, are consistent with the objectives of the NPF by utilising this strategically located land to provide for the critical mass to support the surrounding services, commercial centres, employment nodes and the public transport infrastructure. The proposal accords with national policy to promote increased densities and population growth in existing urban areas adjacent to city and town cores.

The proposed development is located within walking distance of a public transport corridor with connections to the city centre. There are a number of employment centres located in the immediate vicinity of the proposed development including Crumlin Hospital, Industrial areas, Crumlin Primary Health Care Centre, Ashleaf Shopping Centre and a range of smaller independent retailers, professional offices and other local services. The design seeks to make best use of the proximity to a high capacity and high frequency public transport corridor. It is therefore considered that the subject site is an appropriate location for increased building heights and increased densities to support the objectives of the NPF.

In compliance with Objective 13 of the NPF, the proposed development will provide for increased heights and densities in a high-quality urban design to achieve targeted growth of the area. The proposed development will also provide for reduced car parking standards at a ratio of 0.5 spaces per unit, given the location of the site and, in particular, its proximity to the Crumlin Road QBC and to Cycling Routes that are within 100m distance of the main access on St Agnes Road, ensuring that the site is highly accessible by bicycle and high capacity and frequency public transport to Dublin City Centre.

The subject site in Crumlin is an appropriate location for increased height, as advocated in the relevant guidance and in the NPF. National policy promotes increased densities at such well served urban sites and discourages blanket height limits in urban areas. It is apparent that permitting higher

density residential development at the Glebe House site accords with NPF policy, and that restricting the height of such development at the site contravenes national policy.

#### **4.2 Eastern and Midlands Regional Authority *Regional Spatial and Economic Strategy***

Guidance in the NPF and in the *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*, is taken up in the Eastern and Midlands Regional Assembly *Regional Spatial and Economic Strategy* (RSES), published in 2019. Among the relevant policies in the RSES are:

- RPO 4.3: *Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.*
- RPO 5.4: *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities'.*
- Settlement Strategy
  - *Dublin City and Suburbs: Support the consolidation and re-intensification of infill, brownfield and underutilised lands with 50% of all new homes to be provided in the existing built up area of Dublin City and Suburbs in tandem with the delivery of key infrastructure to achieve a population of 1.4 million people by 2031.*
  - *"For urban-generated development, the development of lands within or contiguous with existing urban areas should be prioritised over development in less accessible locations. Residential development should be carried out sequentially, whereby lands which are, or will be, most accessible by walking, cycling and public transport – including infill and brownfield sites – are prioritised."*

As set out in the *Planning Report and Statement of Consistency*, in more detail, the proposed Glebe House development complies with the policies set out in the RSES.

## 5 Precedent SHD Applications

We have reviewed recent relevant precedent decisions issued by the Board, where permission was granted for building heights that, prior to the publication of the *Building Heights Guidelines*, would have been considered contrary to the local planning policy framework in respect to building heights.

The Planning and Development Act, 2000, states at S37 (2) (B) (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*”. While “*area*” is not defined we have concentrated our examination of relevant cases within a c2.5km radius of the proposed development site.

Four relevant applications located c. 2.5km from the Glebe site are set out below which have been permitted since the making of the development plan.

- ABP-303435-19 (c. 2km from Glebe)  
Durkan (Davitt Road) Ltd.  
Former Dulux Factory Site, Davitt Road, Dublin 12, D12 C97T, approximately 0.8266ha.  
The development consists of 265 'Build-To-Rent' apartments in 4 no. 3-7 storey blocks with a basement level. ABP Decision 17/04/2019
- ABP-304686-19 (c.2km from Glebe)  
Jackie Greene Construction Limited  
Lands immediately east of the Assumption National School, Long Mile Road, Walkinstown, Dublin 12, consisting of 153 residential units on a site measuring 0.938ha. ranging in height from three to six storeys. ABP Decision 18/07/2019
- ABP-305061-19 (c.2.6km from Glebe)  
Molaga Capital Limited  
Former Rialto Cinema, 355, South Circular Road, Dublin 8, consisting of the demolition of all buildings and structures on site with the exception of the front Art Deco section of the building, which will be retained, restored to its original form, and incorporated into the proposed development and the construction of a mixed-use building ranging in height from three to seven storeys over basement comprising a student accommodation scheme of 317 no. student beds. ABP Decision 15/11/19
- ABP-311606-21. (c.2km distance from Glebe) lands at Carriglea Industrial Estate, Muirfield Drive, Naas Road, Dublin 12, permission for the construction of a residential development of 249 no. apartments in five to eight storey blocks. ABP Decision 3<sup>rd</sup> Feb 2022.

## 6 Urban Development and Building Heights: Guidelines for Planning Authorities, 2018

The *Urban Development and Building Height Guidelines 2018* set out national planning policy guidance on building heights in urban areas in response to specific policy objectives set out in the *National Planning Framework*.

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 (SPPRs) 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. 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.

Specific Planning Policy Requirement No.3 (SPPR3A) of the *Urban Development and Building Heights: Guidelines for Planning Authorities, 2018*, provides for the granting of permission for development, when such development complies with development management criteria contained in section 3.2, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

This *Material Contravention Statement* seeks to demonstrate how the proposal complies with these development management criteria with reference to accompanying application documentation.

In order to meet the ongoing housing crisis and residential demand, the *Urban Development and Building Heights Guidelines* include a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility, subject to a performance-based criteria assessment. The *Guidelines* state that it is Government policy to promote increased building height in locations with good public transport services. The *Guidelines* emphasise the policies of the NPF (a) to greatly increase levels of residential development in urban centres, (b) to significantly increase building heights and overall density and (c) to ensure that the transition towards increased heights and densities is not only facilitated but is actively sought out and brought forward at Planning Authority level and An Bord Pleanála level.

As set out in detail in the *Planning Report and Statement of Consistency*, the proposed development is in accordance with recent National Planning Framework and other Government policies, which seek to provide for increased residential densities and building heights on appropriately zoned and serviced lands. Such appropriately located lands are within or adjacent to city centres or town centres or are near high quality public transport corridors. Glebe House is an underutilised brownfield site located close to the centre of Crumlin village, in an area served by high capacity and frequency public transport within 650m of a QBC.<sup>1</sup> The site can be classified as an 'Accessible' location under the *Apartment Guidelines 2020* and is an appropriate location for a relatively high density of residential development.

The current Development Plan does not align with national policy, which places a strong emphasis on increasing building heights in appropriate locations within existing urban centres and along public transport corridors, in order to provide the critical mass needed to make the public transport services viable. Accordingly, it is submitted that the development meets relevant development management criteria and, therefore, the Board can approve the proposed development, notwithstanding the

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<sup>1</sup> Bus routes within 3-10 minutes walk of Glebe House are: 9 (Charlestown-Greenhills), 17 (Rialto-Blackrock), 18 (Palmerstown-Sandymount), 27 (Clare Hall-Tallaght), 56A (Ringsend-Tallaght), 77A (Ringsend-City West), 83 (Airport-Crumlin), 83A (Airport-Crumlin), 122 (Cabra-Drimnagh), 123 (Walkinstown-Griffith Ave 3), 150 (City Centre-Orwell Rd), 151 (East Wall-Clondalkin).

specific height limits in the Dublin City Development Plan, which was prepared and adopted prior to the *Building Heights Guidelines* being published in 2018. This *Material Contravention Statement* demonstrates consistency of the proposed building heights with the criteria as set out under SPPR3 of the *Building Height Guidelines*.

It is submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development notwithstanding the potential material contravention of Development Plan building height policies.

## 6.1 General Principles of the Building Heights Guidelines

The Urban Development and Building Height Guidelines 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. Compliance with these requirements and, in particular with the requirements of SPPR 3(A) have been addressed in this Material Contravention Statement, accompanying the planning application.

The guidelines in effect put in place a presumption in favour of increased building height at public transport nodes. The guidelines state that it is Government policy to promote increased building height in locations with high quality public transport services.

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.

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.

The statutory plan in this respect is the Dublin City Development Plan 2016- 2022 which refers to the site as being located in the outer city. The Plan states that a 16m height is appropriate for such inner suburban city locations. The proposed development contravenes the height by proposing a 20.1m parapet height on a section of Block A, and 17m on the remainder of Block A and on Block B. Notwithstanding this, An Bord Pleanála may still grant planning permission for the proposed development pursuant to section 9(6)(c) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.

It is submitted that the justification set out within the Material Contravention Statement clearly demonstrates that the proposed development should be considered for increased building heights due to the location of the subject site close to a quality public transport corridor and the policies and objectives set out within the Section 28 Guidelines, in particular the Urban Development and Building Height Guidelines, and the National Planning Framework.

In particular, SPPR 3(A) of the Urban Development and Building Height Guidelines provides a justification for a material contravention of the Development Plan in relation to building height having regard to the compliance of the proposed development with the criteria under Section 3.2 of the Guidelines. In addition, the proposed level of car parking proposed is consistent with the policies and objectives set out within the Section 28 Guidelines, in particular the *Sustainable Urban Housing: Design standards for New Apartments 2020*.

The proposed development is located at a strategic position in Crumlin Village within walking distance of a high frequency and capacity bus corridor (8 min- 650m). This corridor, whilst well served by public transport, is due to be upgraded through the Bus Connects programme of city bus enhancement. We refer to the Bus Capacity Demand Report prepared by NRB consulting engineers. The proposed development represents an opportunity to provide for an appropriate quantum of residential development on a key brownfield site.

The proposed development ranges in height from 3 to 5 no. storeys, increasing to 6 no. storeys (20.1m) with a 20.1m parapet height on the 6 storey element of Block A, and 17m on the remainder of Blocks A and on B and therefore, exceeds the maximum building height as set out in the development plan. However, given the context of the proposed development and the location in Crumlin close to quality high frequency and capacity public transport services, it is considered that the proposed development is capable of accommodating an increased height. The increase in height at this location complies with good urban design principles and frames the location of the subject site at a key position in the area. The proposed development is therefore in accordance with planning policy objectives both nationally and locally.

## 6.2 Development Management Criteria

SPPR 3 of the *Urban Development and Building Heights: Guidelines for Planning Authorities* notes that, where the applicant demonstrates compliance with certain 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 the site / building), the planning authority or An Bord Pleanála, as the case may be, may approve such development even where specific objectives of the relevant development plan, local area plan or planning scheme may indicate otherwise.

The *Building Heights Guidelines*, chapter 3, titled *Building Height and the Development Management process*, sets out the relevant criteria (*Development Management Criteria*) compliance with which must be demonstrated to the Board (or other planning authority):

### 6.2.1 At the scale of the relevant city / town:

- *“The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.”*

The subject site is located in Crumlin, with several bus routes and a Quality Bus Corridor (QBC) with a high frequency and capacity of services is located within 650m This is set out in detail in the *Bus Services and Capacity Demand Report* prepared by NRB – Appendix 1 *Transportation Assessment Report*.

- *“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.”*

The subject site is located in the Crumlin Architectural Conservation Area (ACA) and has been sensitively designed to respond to its setting. The proposed development does not interfere with any key views set out in the Development Plan. There are a number of protected structures in the vicinity of the site as well as the protected structure Glebe House on the site.



The nearest elements of the proposed development to Glebe House are the two Pavilion buildings at three storeys on either side, with the new Block B to the rear, which is between 4 and 5 no. storeys in height.

The proposed design and scale are in keeping with the Crumlin ACA in the following ways:

- The higher element of Block A is at the furthest point from Glebe House and the ACA.
- The four and five storey elements of the scheme are set back behind Glebe house and from the main views towards the ACA from St Agnes Road;
- The existing boundary wall to the front of the site is retained, thus preserving the visual amenity of Glebe House and its setting within the ACA;
- The form, height and materials of the Pavilion buildings and the Apartment buildings to the rear are informed by Glebe House and the architecture within the ACA;
- As set out in detail in the Planning Report and Statement of Consistency, it is considered that the site is an appropriate location for high quality buildings, which will provide increased accommodation on this urban site;
- A landscape and visual impact assessment has been carried out by Áit and is included in the planning application documentation. The application is accompanied by a Photomontage and CGI booklet prepared by James Horan Visualisation. A number of photomontages have been produced from various locations in Crumlin, including from protected structures and the Crumlin ACA. The booklet illustrates that the impacts of the proposed development are not significant.

A Heritage Impact Assessment has been prepared by Mullarkey Pedersen Conservation Architects and is included with the application. Overall, in relation to the impact of the proposed development on architectural heritage, the development would not have a negative impact on the character of Glebe House but would improve its setting with two new Pavilion buildings and an enhanced public realm. In terms of the Crumlin ACA and Protected Structures in the vicinity of the site, the development would not obscure their elevations and would not compromise their setting or special interest. There would be a very moderate and neutral impact on the wider setting of the Crumlin ACA. The proposed development would have a positive impact on the visual environment in the vicinity of the site, by replacing a vacant house and derelict site with a high quality residential development.

There are a number of existing two 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 considered that the subject development enhances the quality and visual amenity of the area.

- *“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.”*

The proposed development will provide for a high-quality architectural design, that will respond to and reflect the existing and permitted development in the area. The proposals make a positive contribution to placemaking by following the existing set back building line of Glebe House and providing improved public realm to the front of the house. The proposed development will add variety to the roof line, creating visual interest in the streetscape. The proposed heights respond in different ways to all site boundaries to ensure the development makes a positive contribution to place making. The proposed development will create a sense of place that is inviting to the wider community and future residents.



The proposed development, will improve the quality of the street frontage along this stretch of St Agnes Road, and will provide for a quality public realm area, as the current appearance of the site detracts from the character of the area. The proposed development will provide for new controlled public connectivity from Somerville Drive and the landscaped public open space in front of Glebe House will add to the sense of place and make a positive contribution to the overall structure, form and connectivity of the development.

**6.2.2 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;”*

The two main apartment buildings A and B range in height from 4 to 6 storeys and these building heights take account of the surrounding context of development including adjoining two storey houses at Somerville Drive and Somerville Green, Glebe House a protected structure and the adjoining Crumlin ACA. The reduced height of the two pavilion buildings either side of Glebe House and the stepping down of Block B to the rear together with the setting back of Building A where it abuts the site boundary with Somerville Green and faces Somerville Drive responds to the existing properties in the area and provides for an appropriate transition in heights from the existing two storey residential and commercial buildings in the vicinity.

- *“The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered;”*

The proposed development is set out in two main apartment blocks which frame the central podium courtyard. The design offers variety and interest in the elevations by providing varying height and features to enhance the architectural quality of the building. The materials and finishes of the proposed blocks have been designed to a high architectural standard. The proposed development ranges in building height along each boundary in response to the existing features surrounding the subject site. The variation in the building heights provides for visual interest to the development and avoids a monolithic visual appearance.

The materials and finishes have also been considered with regard to the surrounding existing pattern of development and material pallet in the locality.

- *“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;”*

The proposed development provides for appropriate urban edge to Crumlin village whilst respecting the setting of Glebe House and the Crumlin ACA. The proposed height and scale of the development represents good quality urban design principles and provides for a quality street frontages in Crumlin. New public spaces are provided in the development to enhance the amenity of the area.

- *“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.”*

The heights of the blocks respond to the site context with the taller elements located at appropriate locations and stepped back to reduce the visual impact where they directly adjoin other buildings. The site is set back from adjoining houses by reason of the distance to the front of the houses at Somerville Drive and the garden space at Somerville Green. Where the building interacts with Somerville Drive, the building steps up from 5 to 6 storeys on this boundary, but the distance to the houses across this road is sufficiently great that this block will not negatively impact on the amenity of these houses. The 6 storey block is set back on all sides and has been adapted to take account of the houses at Somerville Green and Somerville Drive.

The elevations facing Somerville Green provide visual screening for the apartments and balconies facing west overlooking Somerville Green. This will prevent overlooking of the fronts of the houses on Somerville Green and preserve the amenity of these houses. The elevation facing Somerville Green is 5 storeys stepping up to 6 storeys at its highest where it looks over the area of open space at Somerville Green.

The proposed block to the rear of Glebe House is 4 storeys stepping up to 5 storeys away from the protected structure. The design has been modulated in terms of height to respect the site boundaries with adjoining properties and to respect its location within the Crumlin ACA.

The proposed development enhances the public realm and street frontage at this location. The provision of ground residential floor units creates a strong urban design character and will animate the site.

The proposed development considerably improves the pedestrian permeability of the area and creates an appropriate use of the subject site by providing high quality active residential, café and creche uses at ground level with residential accommodation on the upper levels.

### **6.2.3 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.”*

The buildings have evolved to allow light penetration into the podium communal space and avoid north facing single aspect apartments.

- *“Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.*

A daylight, sunlight and overshadowing study was carried out by IES consulting in support of this application.

This report details the analysis undertaken to quantify the Sunlight and Daylight impact of the proposed residential development at the site of Glebe House including lands to the rear and the Coruba lands, Crumlin, Dublin 12. The report focuses on measuring the daylight impact to the surrounding dwellings when compared to the existing situation. It also considers the impact to daylight and sunlight when considering the proposed design itself.

The following can be concluded based on the preliminary studies undertaken at this interim stage of the design process:

The daylight/ sunlight assessment prepared by IES Consulting demonstrates that the proposed development including the open spaces serving the residential units, meet with the relevant requirements of the BRE Guidelines and do not adversely impact the amenity of adjacent residential properties. The report assesses all the units within the development and the impact of the development on surrounding properties and amenity spaces.

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 high quality best amenity value is obtained for the residents.

Across the proposed development, 95% of the tested rooms are achieving ADF values above the BRE and BS 8206-2:2008 guidelines when Living/Kitchen/Dining spaces are assessed as whole rooms against a 2% ADF target and 1% for bedrooms. With regard to those units that don't meet the ADF targets, compensatory design measures have been incorporated into the development to help to balance off and compensate the lower levels of daylight measured in the applicable spaces and are summarised as follows:

69% of the apartment units have a floor area 10% greater than the minimum floor area requirements as required by the Design Standards. Note that larger floor areas make it more difficult to achieve the recommended daylight levels, 59% of the apartment units are dual aspect which is above the 50% minimum requirement. As a result, more apartment units than the recommended minimum will achieve quality daylight from dual-aspect orientations. An additional 94% of communal open space above the minimum requirements (838 sq m) required by the Design Standards (Dec 2020) is proposed across the development for the residents.

An additional 3% of public open space (905 sq m) above the minimum requirements (10% = 878 sq m) required by the Dublin City Development Plan 2016-2022 is also proposed across the development which provides additional residential amenity.

The communal areas have also been assessed as part of this application, which achieve adequate levels of light which comply with the BRE Guidelines, to enable active use throughout the year.

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.

Overall, the results demonstrate that the proposed development performance generally exceeds BRE recommendations in the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' by Paul Littlefair, 2011, sometimes referred to as BRE Digest 209.

#### **6.2.4 Specific Assessments**

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

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

The development, whilst higher than surrounding buildings, is modest in height being 3 storey adjoining Glebe house a two storey over basement property, stepping up to 4/ 5 storey and, to the rear at Block A, up to 6 storey and therefore does not have any impacts on the micro- climate. Having regard to the height, scale and surrounding context the design team established at an early stage in the design development process that no significant micro climate impacts will arise, i.e. the proposal will not lead to elevated wind speeds, as demonstrated in the *Wind Study* carried out by AWN consulting.

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

This application is accompanied by a *Bat Assessment* and *Ecological Impact Assessment* which demonstrates that the proposed building heights do not have the potential to adversely impact on the biodiversity of the area, primarily as there are no sensitive bird or bat areas impacted by the proposed apartment blocks, subject to the mitigation incorporated into the scheme design.

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

Given the urban location of the site, there are a number of telecommunications equipment sites in the region. There is therefore potential for the taller elements of this development to impact on certain microwave links. We refer to the report prepared by ISM Ireland and the mitigation measures proposed in the design to provide 4 microwave dishes to allow for retention of microwave links.

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

The application site is not located in proximity to any airports or airfields and as the development is modest in scale, ranging in height up to 6 storeys, it is considered that the proposed development does not have the potential to impact on air navigation as a result of the height increase proposed on site.

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

As set out above, the application is accompanied by the following documentation of relevance to this requirement:

- 1) Reddy A+U *Design Statement*
- 2) *Planning Report and Statement of Consistency*
- 3) *Architectural Heritage Impact Assessment*
- 4) *Landscape and Visual Impact Assessment*
- 5) Photomontages and Verified Views
- 6) *Archaeological Impact Assessment*

As outlined in the Design Statement and in the Planning Report and Statement of Consistency, the surrounding area is characterised by the Crumlin ACA to the front portion of the site, with low density housing to the rear at Somerville Green and Somerville Drive. The site is prominently located in Crumlin and currently presents a poor response to its location at one of the main entrances to Crumlin. The proposed development has been designed to

respect and enhance the surrounding character of the area. The proposed design and layout respond to the site's context and character and will enhance the streetscape. The *Landscape and Visual Impact Assessment* prepared by Áit Landscape and Urbanism sets out in detail the strategy for the open spaces which will enhance the overall character of the development.

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

An Ecological Impact Assessment, an Appropriate Assessment Screening Report and an EIA Screening Report are submitted with the application for permission

### 6.3 Building Heights Guidelines: Specific Planning Policy Requirement SPPR 3

The *Urban Development and Building Heights: Guidelines for Planning Authorities, 2018*, 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".*

As set out above and in the related documents submitted with this application, we have demonstrated how the proposed development complies with the development management criteria set out in section 3.2 of the *Building Heights Guidelines*. We have also demonstrated that the proposed development accords with the wider strategic national parameters set out in the *Building Heights Guidelines*. We have also shown that the development accords with the *wider strategic national policy parameters set out in the National Planning Framework* and also the strategic policy in the Eastern and Midland Region RSES.

As such the Board can grant permission under section 37(2)(b)(iii) on the basis that the proposed development complies with the NPF and the Building Height Guidelines, in particular SPPR3A.

## 7 Justification for Unit Mix as a Material Contravention

### **Potential Material Contravention in Relation to Unit Mix**

*Section 16.10.1 of the Development Plan states that in proposals of 15 units or more each development shall contain a maximum 25-30% one bedroom units and a minimum of 15% three or more bedroom units. The proposed development includes 50% one beds and 50% two beds. This materially contravenes section 16.10.1 of the Development*

However, the proposed development complies with SPPR 1 of the Apartments Guidelines, which states that: *"Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing*

*Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)."*

It is noted that the Development Plan does not include an evidence-based Housing Need and Demand Assessment. Therefore, on the basis of the Development Plan, the proposed housing mix is not justified on evidence-based need for the area.

The Apartment Guidelines identify the need for apartments with a variation in mix and sizes appropriate to meet the existing housing need in Ireland. The Guidelines also recognise in section 1.13 that there is a long term move towards smaller average household size. Section 2.6 refers to the 2016 Census data that *"if the number of 1-2 person dwellings is compared to the number of 1-2 person households, there is a deficit of approximately 150%, i.e. there are approximately two and half times as many 1-2 person households as there are 1-2 person homes. The 2016 Census indicates that 1-2 person households now comprise a majority of households and this trend is set continue, yet Ireland has only one-quarter the EU average of apartments as a proportion of housing stock."*

This demand is reinforced by the NPF which identifies that *'while apartments made up 12% of all occupied households in Ireland and 35% of occupied households in the Dublin City Council area in 2016 (Census data), we are a long way behind European averages in terms of the numbers and proportion of households living in apartments, especially in our cities and larger towns. In many European countries, it is normal to see 40%-60% of households living in apartments.'*

To address this identified need the NPF requires *"between 2018 and 2040, an average output of at least 25,000 new homes will need to be provided in Ireland every year to meet the needs for well-located and affordable housing, with increasing demand to cater for one and two-person households"*.

It is noted that the area surrounding the site is predominantly larger traditional two storey housing with few apartments in the immediate vicinity. The proposed development and unit mix is therefore in line with national policy along with the identified need for the area.

As such the proposed housing mix complies with SPPR 1 of the Apartment Guidelines.

## **8 Justification of Car Parking Provision as a Material Contravention**

### ***Potential Material Contravention in Relation to Car Parking as the Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)***

Table 16.1 of the Development Plan outlines car parking standards for city. The application site is located within Parking Zone 3 and has a maximum residential parking provision requirement of 1.5 space per unit. Section 16.38 of the Plan reiterates that the parking standard is a maximum standard.

*Policy MT18 aims To encourage new ways of addressing the parking needs of residents (such as car clubs) to reduce the requirement for car parking.*

The current proposal includes a parking provision of 75 spaces, which is a ratio of 0.5 space per unit. We submit that this is in accordance with the Apartment Guidelines, which clearly state that parking should be reduced in central and accessible locations. To provide parking to the maximum set out in the Development Plan would require 225 spaces. We submit that in a development of 150 residential units, this would be excessive and contrary to good planning in an urban area.

The *Transportation Assessment Report*, by NRB Consulting Engineers, accompanying this application sets out the justification for the proposed approach to transportation, including car parking, in detail. This shows, based on evidence regarding car ownership in the general area of Crumlin and the existing and planned provision of public transport, that there is adequate parking proposed for the development. This is supported by the evidence from Circle Housing (see letters attached) based on managing a number of housing developments in Dublin.

Supplementing the *Transportation Assessment Report*, a Bus Capacity and Demand Report is included which sets out the availability of high quality public transport within walking distance of the site. A Residential Travel Plan is also submitted with this application. These will enable the modal shift away from reliance on cars for this location. This meets the requirements of the Apartment Guidelines and the intention of the Development Plan.

Further, it should be also noted that two car club spaces are proposed as part of this development and a letter of support has been received from a provider in this regard. Additional bicycle parking is provided, above that required by the Development Plan standards. As such, this approach of providing increased access to bicycle parking facilities, is considered to address this policy, by providing an alternative to cars in the form of bicycles. This will also reduce the need and requirement for bicycle parking. This is in line with section 4.23 of the Apartment Guidelines which states that:

*“For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided.”*

Section 4.24 of the Apartment Guidelines also states that *“it is important that access to a car sharing club or other non-car based modes of transport are available and/or can be provided to meet the needs of residents, whether as part of the proposed development, or otherwise. ‘Car free’ development is permissible and if developed, must be fully communicated as part of subsequent apartment sales and marketing processes.”*

#### Material Contravention

Section 16.38 of the Dublin City Development sets out policy in respect of parking provision, but is not entirely clearly stated. On the one hand, it states that the parking standards set out in Table 16.1 are *“maximum”*. On the other, it implies that these levels of parking provision should be provided except in certain circumstances:

*“Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.”*

Having regard to the foregoing, the Board may consider the proposed development materially contravenes the Development Plan in respect of Section 16.38 of the said Development Plan. As set out above and in the NRB report and appendices, the proposed parking provision is entirely in accordance with national policy and good planning.

We respectfully submit that the Board may grant permission notwithstanding any breach of the *“maximum”* parking standards, having regard to the provisions of Section 37 (2)(b)(ii) and (iii) of the Planning and Development Act, 2000.



## 9 CONCLUSION

This Material Contravention Statement addresses the issues relating to the proposed height, unit mix and parking provision. The justification for these proposed deviations from the Development Plan is based on national planning policy and recently permitted developments within the surrounding area, in line with sections 9 and Section 37 of the 2000 Act (as referred in Section 9(6) of the 2016 Act).

The proposed development is in compliance with the policies and provisions of the area including the land use zoning, density, design standards for residential schemes, streets and open spaces. In conclusion, it is respectfully submitted that the proposed development is consistent with the proper planning and sustainable development of the area, and with all relevant national, regional and local planning policies and guidelines.

The proposed development will also bring a number of benefits to the area, in particular the redevelopment of a vacant brownfield site, the reuse of a Protected Structure for residential purposes and the provision of new public open space and a better mix of housing types and unit sizes to the area.

We have demonstrated that the proposed development complies with national and regional policy, as expressed in the NPF, the Regional Spatial and Economic Strategy and relevant Ministerial guidelines, in particular the *Sustainable Urban Housing: Design Standards for New Apartments, 2020*, and the *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*. It also complies with the policies of the Dublin City Development Plan, 2016-2022, though not in respect of building height.

The current limitation of building height, as set out in the Dublin City Development Plan, 2016-2022, is inconsistent with the NPF and the *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*, which *Guidelines* indicate that to achieve higher density, development of taller buildings is required at appropriate urban locations. The provision of residential development at the Glebe House site, of the height proposed, is accordingly supported by national planning policy as set out in the said *Guidelines*.

This *Material Contravention Statement* demonstrates that the building heights proposed are appropriate for the subject site and comply with the relevant development management criteria set out under Section 3.2 of the *Building Heights Guidelines 2018*. The unit mix is also appropriate in this location where the predominant housing typology is two storey family units and can be justified on the basis of the current demand for *1-2 person homes*. The development is appropriate in terms of parking provision and is justifiable notwithstanding some lack of clarity in this regard in the Development Plan.

The foregoing are matters of relevance referred to in Section 37 (2)(b)(iii) and (iv) of the Planning and Development Act, 2000, and Section 37(2)(b)(ii) in respect of parking provision. We respectfully submit that in respect of the relevant provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended), there is sufficient authority for the Board to permit a material contravention of the Dublin City Development Plan, 2016-2022.