

Material Contravention Statement

For Development at Kilmoney (Townland), Kilmoney
Road, Carrigaline, Co. Cork

May 2022



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1. Introduction

This Material Contravention Statement accompanies a Strategic Housing Development (SHD) application by Reside Investments Ltd. for 224 no. residential units, creche/childcare facility, commercial units and all ancillary development at Kilmoney (Townland), Kilmoney Road, Carrigaline, Co. Cork.

The Planning and Development (Housing) and Residential Tenancies Act, 2016 makes provision for An Bord Pleanála to grant permission for a development which materially contravenes a Development Plan/Local Area Plan, other than in relation to the zoning of the lands, under Section 9(6) which states that:

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 a 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 a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the 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.

The proposed development lies within the boundary of Carrigaline Town and therefore the provisions of the 2014 Cork County Development Plan, the 2017 Ballincollig-Carrigaline Municipal District Local Area Plan and the 2022 Cork County Development Plan (due to take effect from June 7th 2022) are all relevant to the consideration of the proposed development and therefore any potential material contraventions of these plans is considered in this report.

The report will address where national guidelines and the Regional Spatial and Economic Strategy (RSES) for the area supersede the standards within the 2014 Cork County Development Plan, the 2017 Ballincollig Carrigaline Municipal District Local Area Plan and the 2022 Cork County Development Plan and, together with the supporting planning application documentation, will provide sufficient justification for An Bord Pleanála to grant permission for the proposed development.

2. Site Context

The proposed development site is located in the townland of Kilmoney within the town of Carrigaline which is identified as a 'Metropolitan Town' in the Ballincollig-Carrigaline Municipal District Local Area Plan 2017 and the 204/2022 Cork County Development Plans. The subject site is situated to the west of the Carrigaline main street and approximately 10km southeast of Cork City Centre.

The total site area comprises 3.7 hectares and has a flat topography. There is a net developable area of 1.9 hectares. The site is bounded on the west by the Carrigaline Inner Relief Road, to the north by Owenboy river (and further north/northeast by the Supervalu car park); to the east by the Dairygold Co-op Superstore and associated car park and to the south by a number of detached bungalows with the Kilmoney Road beyond.

The site is within easy walking distance of a number of commercial and community facilities including local shops, churches and schools. Access to the site is via the inner relief road (currently under construction) and the Kilmoney Road which runs to the south of the site. The site is served by the 220 bus route which stops 200m to the south east of the site. Further bus stops/services will be provided along the route of the inner relief road.

3. Legislative Context

Under Section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the application must include a statement:

“(I) setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and

(II) where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000”

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, 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 a 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 a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the 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. and demonstrate that the Board should support this SHD application, as the proposal addresses the matters specified in Section 37(2)(b)(iii) and (iv) of the Planning and Development Act 2000 (‘the Act’).”

In this regard, Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers:

(i) the proposed development is of strategic or national importance,

On determining that point (i) is applicable, it must be determined that **one** of the sub-sections set out below is relevant.

(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.

4. Context for Proposed Material Contravention

4.1 National Planning Framework

Project Ireland 2040 was published by the Government of Ireland in February 2018 with the objective to provide details for the new national planning and capital expenditure plans. These plans aim to achieve balanced regional development by outlining a clear hierarchy for the urban centres outside the greater Dublin area. National Policy Objective (NPO) 11 supports development that can encourage more people and activity within existing cities, towns and villages:

“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.”

The NPF explicitly endorses a more “dynamic approach” to land use and car parking in urban areas, particularly those that are undergoing change. This position is reflected in NPO 13, as follows:

*“In urban areas, planning and related standards, including in particular **building height and car parking** will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected” (emphasis added).*

The proposed SHD application is accompanied by a Planning and Design Statement, Statement of Consistency, Traffic & Transport Assessment and Mobility Management Plan which demonstrate that the proposed development is consistent with the approach endorsed by the NPF.

4.2 Regional Spatial and Economic Strategy for the Southern Region (RSES)

RSES is a strategic document, which identifies high-level requirements and policies for the Southern Region, setting out the high-level statutory framework to empower each local authority to develop CCDPs, Local Area Plans (LAPs) and LECs that are coordinated with regional and national objectives.

RSES identifies towns and villages as the local drivers for their surrounding areas. It is an objective of the RSES to ensure that development plans tailor

the appropriate planning response to the scale, nature and location of the settlement.

4.3 Urban Development and Building Heights - Guidelines for Planning Authorities (December 2018)

The *Urban Development and Building Heights - Guidelines for Planning Authorities* encourage increased building heights and densities. Section 3.2 of the Guidelines relate to development management criteria and state that in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the following criteria:

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.*
- 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.*
- 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.*

At the scale of district/ neighbourhood/ street

- The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape*
- The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.*
- The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management - Guidelines for Planning Authorities" (2009).*

- *The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.*
- *The proposal positively contributes to the mix of uses and/or building/ dwelling typologies available in the neighbourhood.*

At the scale of the site/building

- *The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*
- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.*
- *Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.*

Specific Assessments

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

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

- *An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.*
- *An assessment that the proposal maintains safe air navigation.*
- *An urban design statement including, as appropriate, impact on the historic built environment.*
- *Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.*

Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement (SPPR 3) under Section 28 (1C) of the Planning and Development Act 2000 (as amended):

SPPR 3

It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

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

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

4.4 Guidelines on Sustainable Residential Development in Urban Areas 2009

The Guidelines on Sustainable Residential Development in Urban Areas 2009 (SRDUA) Guidelines set out key planning principles for the local planning policy framework and for the assessment of residential development.

The Guidelines note that the 12 criteria set out in the companion Best Practice Urban Design Manual (UDM) should be used in both pre-application consultations and in assessing applications. These criteria are:

1. Context: How does the development respond to its surroundings.
2. Connections: How well connected is the new neighbourhood.
3. Inclusivity: How easily can people use and access the development.
4. Variety: How does the development promote a good mix of activities.
5. Efficiency: How does the development make appropriate use of resources, including land?
6. Distinctiveness: How does the proposal create a sense of place?
7. Layout: How does the proposal create people-friendly streets and spaces?
8. Public Realm: How safe, secure and enjoyable are the public areas?
9. Adaptability: How will the buildings cope with change?
10. Privacy and Amenity: How does the scheme provide a decent standard of amenity?
11. Parking: How will parking be secure and attractive?
12. Detail Design: How well thought through is the building and landscape design?

Section 5.11 of the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) states that for town centre sites there should, in principle, be no upper limit on the number of dwellings that may be provided, subject to the following safeguards:

-) compliance with the policies and standards of public and private open space adopted by development plans;
-) avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
-) good internal space standards of development;
-) conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
-) recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
-) compliance with plot ratio and site coverage standards adopted in development plans.

The accompanying Statement of Consistency and Planning and Design Statement provides an assessment of how the proposed development complies with the SRDUA Guidelines and the 12 criteria set out in the UDM.

4.5 Design Standards for New Apartments Guidelines for Planning Authorities, 2020

The Design Standards for New Apartments Guidelines were updated in 2020 to take account of recent evidence of projected future housing demand and the prevailing housing market, within the policy context of the National Planning Framework and Rebuilding Ireland. It focuses on locational criteria and planning standards for apartment developments generally.

It identifies apartment development as pivotal to the delivery of the ambitious growth targets set out in the NPF and key to increasing housing supply in cities and urban areas. Paragraph 2.2 of the Guidelines state:

“In general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.”

Section 1.11 of the Apartment Guidelines stipulates that:

The Guidelines apply to all housing developments that include apartments that may be available for sale, whether for owner occupation or for individual lease.

Section 1.21 of these Guidelines states that:

... where SPPRs are stated in this document, they 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 should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.

Section 4.18 which relates to car parking and states that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

In suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.¹ For

¹ Design Standards for New Apartments Guidelines for Planning Authorities (2020), Section 4.21.

'Peripheral and/or Less Accessible Urban Locations' section 4.22 of the Guidelines states that as a benchmark/guideline for apartments one car parking space per unit, together with an element of visitor parking, should generally be required.

Section 4.23 of the Guidelines 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/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.

The Cork County Development 2014 and 2017 Ballincollig Carrigaline Municipal District Local Area Plan were both adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the County Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines.

The proposed development complies with design standards as set out in New Apartment Guidelines 2020. The requirement to comply with these Guidelines in relation to car parking is the key justification for contravening the 2014 County Development Plan in relation to the standards set out in the Plan.

4.6 Cork County Development Plan 2014

In considering this SHD application, it is important to note that the Cork County Development Plan 2014 was adopted prior to publication of the following:

- National Planning Framework (2018);
- Regional Spatial and Economic Strategy for the Southern Region (RSES) (2020);
- Urban Development and Building Heights Guidelines (2018); and
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020).

The 2014 Cork County Development Plan (CDP) sets out the minimum standards in relation to car parking for residential development. Table 1a in Appendix D of the of the plan provides for the following standards for dwellings, apartments, retail and creches:

Residential (Rest of Cork County) (Max/Min Standards indicated in brackets)	
Apartments (Min)	<i>1.25 spaces per apartment</i>
Townhouse (Min)	<i>2 spaces per townhouse</i>
Creches (Max)	<i>1 space per 3 staff + 1 space per 10 children</i>
Retail (Max)	<i>1 space per 20sqm</i>

Note 2 which accompanies Table 1a states that *"the parking requirement for residential development is a minimum standard and can be exceeded at the discretion of the developer, based on house type, design and layout of the estate."*

Note 4 which accompanies Table 1a states that a reduction in the car parking requirement may be acceptable where the planning authority are satisfied that good public transport links are already available and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development.

Based on the CDP provisions, the minimum car parking spaces required for the residential component of the development is 297 spaces, while the maximum spaces required for the retail/creche 162 spaces.

The total number of parking spaces provided will be 255 spaces for the combined residential, retail and creche development including 245 internal and 10 external spaces. The car park layout will include 140 spaces dedicated for residential use at ground floor and first floor level. The residential spaces will be accessed via an electronic barrier system to prevent any unauthorised parking. The balance of 115 spaces will be allocated for retail use (as the creche is primarily for existing residents, it has not been given a car parking allocation).

The proposed development does not meet the minimum car parking standards specified in the CDP for the residential units. Section 5.1 of this Statement provides an assessment of this material contravention of the CDP and demonstrates why the Board should support this SHD application having regard to the criteria specified in Section 37(2)(b)(iii) of the Planning and Development Act 2000.

4.7 Cork County Development Plan 2022

The Cork County Development Plan 2022 is due to take effect from June 7th 2022 and will likely be the governing policy for the subject site at the time a

decision is to be made on this SHD application. The Cork County Development Plan 2022 takes account of the following:

- National Planning Framework (2018);
- Regional Spatial and Economic Strategy for the Southern Region (RSES) (2020);
- The Urban Development and Building Heights Guidelines (2018); and
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020).

The 2022 Cork County Development Plan (CDP) sets out Cork County Council's policies for the development of Cork County to 2028. In relation to Building Height and Mix and in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, town centres and major towns, the plan states that increased building heights of 6+ storeys may be appropriate, but as the building height of urban settlements in County Cork generally range from 2-4 storeys, any new applications for buildings greater than 4-storeys are required to address the development management criteria set out in paragraph 3.2 of the Urban Development and Building Heights Guidelines (2018) and that all proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces and that a minimum clearance distance of 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height.

Objective HOU 4-8 of the Plan (Building Height and Amenity) states that it is an objective of the Council to *"support the provision of increased building height and densities in appropriate locations within the County, subject to the avoidance of undue impacts on the existing residential amenities. In mixed use schemes, proposals will include details of the sequencing of uses to enable the activation of supporting services. New development greater than 4 storeys will be required to address the development management criteria, as set out in paragraph 3.2 of the Urban Development and Building Heights Guidelines (2018)."*

The proposed development ranges in height up to 6 and 7 storeys

Section 5.1 of this Statement provides an assessment of this material contravention of the CDP and demonstrates why the Board should support this SHD application having regard to the criteria specified in Section 37(2)(b)(iii) of the Planning and Development Act 2000.

5. Justification for Material Contravention

This section provides a justification of the areas where it is considered that the development will or may materially contravene a relevant plan(s) based on the following information:

- Details the objectives of the 2014 Cork County Development Plan and 2022 Cork County Development Plan, which will/may be materially contravened by the proposed development.
- Outlines the relevant proposals for the Carrigaline SHD Development, and
- Provides a justification for the proposed Material Contravention and demonstrates why the Board should support the proposal in the context of the matters specified in Section 37(2)(b)(iii) of the Act.
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5.1 Cork County Development Plan 2014 – Car Parking Standards

Details of how the development materially contravenes the 2014 Cork County Development Plan (CDP) in relation to car parking and the justification for same, is as follows:

Relevant Objective 2014 Cork County Development Table 1a	Table 1a (Appendix D) of the Cork Development Plan Sets out the following minimum car parking standards for Residential – ‘Rest of Cork County’: Apartments: 1.25 spaces per apartment (minimum requirement) Townhouse: 2 spaces per townhouse (minimum requirement) Retail: 1 space per 20sqm (maximum requirement)
Carrigaline SHD Proposal	Based on the standards set out in the CDP, the total car parking requirement for the apartments, townhouse and retail would be 253, 44 and 158 spaces respectively. The actual car parking provided for each of these elements is as follows: Townhouses / Apartment: 140 parking spaces has been provided Retail: 115 parking spaces has been provided
Material Contravention	The proposed Carrigaline SHD provides for car parking spaces, which is below the guidelines set in the Cork CDP in relation to the townhouses/apartments.
Justification for proposed	National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling.

<p>Material Contravention</p>	<p>The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) maximum rather than minimum parking standards should be detailed to reflect proximity to public transport facilities.</p> <p>Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking and states that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.</p> <p>Section 4.23 of the Guidelines 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/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.</p> <p>The proposed development at Carrigaline is located on a designated town centre site, within close proximity (within 200 metres) to a bus stop and is designed to accommodate pedestrian and cycle connectivity. A total of 503 bicycle parking spaces are provided within the development and will help to promote sustainable mobility. It is considered that car parking provision lower than the 2014 CDP standards is justified in this instance.</p>
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5.2 Cork County Development Plan 2022 – Building Height Standards

Details of how the development materially contravenes the 2022 Cork County Development Plan (CDP) in relation to building height and the justification for same, is as follows:

<p>Relevant Objective 2022 Cork County Development Objective</p>	<p>Objective HOU 4-8 of the Plan (Building Height and Amenity) states that it is an objective of the Council to <i>"support the provision of increased building height and densities in appropriate locations within the County, subject to the avoidance of undue impacts on the existing residential amenities. In mixed use schemes, proposals will include details of the sequencing of uses to enable the activation of supporting services. New development greater than 4 storeys will be required to address the development management criteria, as set out in paragraph 3.2 of the Urban Development and Building Heights Guidelines (2018)."</i></p>
<p>Carrigaline SHD Proposal</p>	<p>The proposed development includes 2 no. blocks which range in height from 6 to 7 storeys.</p>

Material Contravention	The proposed SHD provides for a building height includes 2 no. blocks, ranging in height from 6 to 7 storeys and is therefore required to address the development management criteria, as set out in paragraph 3.2 of the Urban Development and Building Heights Guidelines (2018).
Justification for proposed Material Contravention	<p>The height/scale of the proposed development is justified as it is:</p> <ul style="list-style-type: none">) The site/development is well served by public transport and modes of sustainable transport (walking and cycling);) Is located on a town centre zoned site and not within an architecturally sensitive area;) The scheme successfully integrates into and enhances the character and public realm of the area and makes a positive contribution to place-making by providing a town park and urban edge along the inner relief road;) The scheme has been designed to a very high standard and is not monolithic;) The proposal positively contributes to the mix of uses in this town centre location;) The form, massing and height of proposed developments has been carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light i.e. the height is reduced to the south adjoining the existing dwellings along Kilmoney Road;) A Sunlight/ Daylight assessment has been completed in accordance with BRE Guidelines;) The SHD application is also accompanied by an Environmental Impact Assessment Report (EIAR) which includes a wind/micro-climate assessment, Ecological Impact Assessment and other detailed assessments which demonstrates that the proposed development will not have an adverse impact on the area.

6. Conclusion and Material Contravention Statement

It is submitted that the proposed development is broadly compliant with the provisions of the Cork County Development Plan (CDP) 2014 and the Cork County Development Plan 2022, but is/may be a material contravention of the 2014 CDP in relation to car parking standards and the 2022 CDP in relation to building height.

In this regard, Section 37(2) of the Planning and Development Act 2000 (as amended) provides for the Board to grant permission where the proposed development materially contravenes the development plan, subject to paragraph (b) where it considers:

(i) the proposed development is of strategic or national importance,

The proposed development is at a scale which is to be considered under the Strategic Housing Development planning process which, in itself, confirms the strategic importance of the current application, in accordance with Section 372(b)(i). The proposal is for a residential development and the national importance of the proposal is confirmed in the Government's plan *Rebuilding Ireland* designed to accelerate housing supply to address the housing shortage.

The location of the site within an area identified for strategic growth within the Metropolitan Cork area in the 2014 Cork County Development Plan, 2022 Cork County Development Plan and 2017 Local Area Plan, further confirms that the proposed development is both of strategic and national importance.

On determining that point (i) is applicable, it must be determined that **one** of the sub-sections set out below is relevant.

(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.

It is respectfully submitted that permission should be granted in accordance with sub-sections (ii) and (iii) as there are conflicting objectives in the 2014 and 2022 development plans in relation to minimum and maximum car

parking and the proposed development is consistent with the relevant national and regional planning policies and Section 28 Ministerial Guidelines.

National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling. The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) that maximum (rather than minimum) parking standards should be detailed to reflect proximity to public transport facilities.

Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking, state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines 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/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.

The proposed development at Carrigaline is located on a town centre site within close proximity (within 200 metres) to a bus stop and is designed to accommodate pedestrian and cycle connectivity. A total of 503 bicycle parking spaces are provided within the development and will help to promote sustainable mobility.

The Cork County Development 2014 was both adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the County Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines which support reduced and/or maximum car parking provision.

It is considered that car parking provision lower than the 2014 CDP standards is justified in this instance and that having regard to the provisions of section 37(2)(b)(i), (ii) and (iii) of the Planning and Development Act 2000, as amended and a grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

-) the proposed development is considered to be of strategic or national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended; and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current

under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

It is respectfully submitted that permission should be granted in accordance with sub-sections (ii) and (iii) as follows:

(ii) In relation item (ii) above, while the car parking standards in the 2014 Cork County Development Plan are set out as “minimum” standards Note 4 which accompanies Table 1a in Appendix D states that a reduction in the car parking requirement may be acceptable where the planning authority is satisfied that good public transport links are already available and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development. In this instance, good public transport is available to the site/development and a Mobility Management Plan has been prepared as part of the proposed development which demonstrates a high percentage of modal shift in favour of the sustainable modes will be achieved through the development.

(iii) In relation to item (iii) (consistency with the relevant national and regional planning policies and Section 28 Ministerial Guidelines), National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling. The SRDUA Guidelines note that on public transport corridors (the site is within 200 metres of a bus stop) that maximum (rather than minimum) parking standards should be detailed to reflect proximity to public transport facilities.

Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, which relate to car parking, state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines 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/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.

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spaces are provided within the development and will help to promote sustainable mobility.

The Cork County Development 2014 was both adopted prior the publication of the Design Standards for New Apartments Guidelines for Planning Authorities, 2020. While the City Development Plan is currently under review and will be informed by new Guidelines which have been issued since the current plan was adopted, it is necessary from a strategic planning perspective to comply with the Special Planning Policy Requirements of the Ministerial Guidelines.

In relation to height, is submitted that the development is in accordance with the Development Management Criteria outlined in Section 3 of the 2018 Building Height Guidelines, in that it is:

- Well served by public transport and modes of sustainable transport (walking and cycling);
- Is located on a town centre zoned site and not within an architecturally sensitive area;
- The scheme successfully integrate into/ enhance the character and public realm of the area and makes a positive contribution to place-making by providing a town park and urban edge along the inner relief road;
- The scheme has been designed to a very high standard and is not monolithic;
- The proposal positively contributes to the mix of uses in this town centre location;
- The form, massing and height of proposed developments has been carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light i.e. the height is reduced to the south adjoining the existing dwellings along Kilmoney Road;
- A Sunlight/ Daylight assessment has been completed in accordance with BRE Guidelines;
- The SHD application is also accompanied by an Environmental Impact Assessment which includes a wind/micro-climate assessment, Ecological Impact Assessment and other detailed assessments which demonstrate that the proposed development will not have an adverse impact on the area.

It is considered that car parking provision lower than the 2014 Cork County Development Plan standard, and a building height greater than the 2022 Cork County Development Plan standard, is justified in this instance and that having regard to the provisions of section 37(2)(b)(i), (ii) and (iii) of the Planning and Development Act 2000, as amended a grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

-) the proposed development is considered to be of strategic or national importance having regard to the definition of 'strategic

housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended; and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

- J National and Regional Planning Policy and Guidelines call for the promotion of development that supports sustainable mobility including public transport, walking, and cycling. The SRDUA Guidelines note that on public transport corridors that maximum (rather than minimum) parking standards should be detailed to reflect proximity to public transport facilities.
- J Section 4.18 of the 2020 Design Standards for New Apartments Guidelines, state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria and that in suburban/urban locations served by public transport the Guidelines state that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Section 4.23 of the Guidelines 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/visitor parking spaces and that provision is also to be made for alternative mobility solutions such as cycle parking.
- J The building height, is in accordance with the Development Management Criteria outlined in Section 3 of the 2018 Building Height Guidelines.