

**Statement of Material Contravention with
the Dun Laoghaire-Rathdown County Development Plan
2016-2022**

In respect of

**Proposed Student Accommodation on lands at
The Former Victor Motors Site, Goatstown Road,
Dublin 14**

Prepared by

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On behalf of

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1.0 INTRODUCTION

- 1.1. This statement outlines the justification for the proposed residential development at the car sales premises currently known as Vector Motors (formerly known as Victor Motors), Goatstown Road, Dublin 14. It should be noted that the proposed development ranges in height from 4 to 6 no. storeys. This statement provides a justification for a potential material contravention of the Dun Laoghaire Rathdown County Development Plan and the Goatstown Local Area Plan 2012 in relation to building height and Part V provision.
- 1.2. It is noted that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 and if minded to do so, grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).
- 1.3. Section 9 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, is as follows:

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

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

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

- 1.4. Section 37(2)(b) of the Planning and Development Act 2000 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’.

- 1.5. In the event that the Board were to grant permission, the Board’s “reasons and considerations” would have to reference the matters under Section 37 (2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Development Plan. It is apparent from section 10 (1)(3)(b) of the SHD Act that such reasons and considerations must appear in the Board decision itself. Section 10 (3) provides as follows:

“3 A decision of the Board to grant a permission under 9 (4) shall state-

*(b) where the Board grants a permission in accordance with section 9(6)(a), **the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be**” (our emphasis)*

- 1.6. We would also respectfully suggest that, if the Board does not accept the Inspector’s recommendations in full, the reasons for not doing so should be set out in the Board Order.
- 1.7. It is submitted that recent national planning policy, as set out in the Statement of Consistency, provides for increased building heights on appropriately zoned and serviced lands adjacent to high quality public transport.
- 1.8. It is also submitted that Part V provisions only apply to development for a ‘house’ as defined under the Planning and Development Act 2000 (as amended). The provisions do not apply to student accommodation which is clearly defined as a land use in the Planning and Development (Housing) and Residential Tenancies Act 2016, separate and distinct from the definition of a “house”.
- 1.9. Having regard to the analysis set out below of the compliance with the proposed development with national planning policy and guidelines and having considered the pattern of development, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Local Area Plan and County Development Plan, by reference to sub-paragraphs (iii) and (iv) of Section 37(2)(b) for the reasons set out below.

2.0 JUSTIFICATION OF BUILDING HEIGHT PROPOSED

- 2.1. Policy UD6 of the Dun Laoghaire Rathdown County Development Plan (the CDP) states that it is the Council's objective to adhere to the recommendations and guidance set out within the Building Height Strategy for the County. This is provided by Appendix 9 of the County Development Plan and includes 'modifiers' which should be complied with to allow increased building heights within any proposed development.
- 2.2. The Appendix notes that in relation to apartment developments, a maximum of 3-4 storeys may be permitted in appropriate locations e.g. on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. It is noted that the proposed scheme is not an apartment development, however, it is similar in built form and nature and therefore considered relevant in this instance in the absence of specific requirements for purpose built student accommodation.
- 2.3. The Strategy goes on to state that *"this maximum height (3-4 storeys) for certain developments clearly cannot apply in every circumstance. There will be situations where a minor modification up or down in height could be considered. The factors that may allow for this are known as 'Upward or Downward Modifiers' "*.
- 2.4. The Goatstown Local Area Plan 2012 is the applicable local area plan, containing specific objectives relating to the site and therefore there are no downward or upward modifiers applicable to the subject site. Development guidance contained within the LAP nominates a;

'Benchmark height of three storeys (with possible setback floor or occupied roofspace depending on site levels)'
- 2.5. The Board may consider that the proposed development materially contravenes the above objective of the Building Heights Strategy of the County Development Plan and the Goatstown LAP in relation to the proposed height.
- 2.6. The Architectural Design Statement sets out in detail the development of the massing and design of the proposed development. A Townscape and Visual Impact Assessment has been prepared by Parkhood Landscape Architects. Photomontages illustrate the full visual extent of the proposed scheme from a selection of positions nearby. Each projected view is accompanied by a commentary on the perceived visual impact of the development. The impact assessment range is from none to moderate to significant.
- 2.7. Elements of the proposed development are up to 2 storeys higher than provided for in the local area plan that applies to the site. However, An Bord Pleanála may still grant planning permission for the proposed development, should it consider that a material contravention of the Local Area Plan and the County Development Plan arises.
- 2.8. It is considered that permission for the proposed development should be granted having regard to national and regional planning guidelines for the area, Ministerial Guidelines under section 28 and policy directives as outlined in the following justification.
- 2.9. Section 37(2)(b) of the Act sets out four distinct criteria which allows the Board to materially contravene a development plan. This statement of material contravention addresses each of the items and it is our considered opinion that the current proposal satisfies the criteria as follows:

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

Response: The proposed development is submitted under the provisions of the SHD Act, which by very name and intent has been enacted to provide strategic housing to address critical housing shortages. It is therefore reasonable to conclude that the proposal is of strategic 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

Response: This is not relevant to the proposed statement.

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

2.10. The following section shall demonstrate how the proposed height and quantum of development is justified in the context of recent National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned services lands adjacent to public transport corridors. These include:

- Project Ireland: National Planning Framework 2040;
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);

National Planning Framework (NPF) 2040

- 2.11. The National Planning Framework is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 2.12. As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 2.13. National investment planning, the sectoral investment and policy frameworks of departments, agencies and the local government process will be guided by these strategic outcomes in relation to the practical implementation of Ireland 2040. The NPF sets out the importance of development within existing urban areas by "*making better use of under-utilised land including 'infill' and 'brownfield' and publicly owned sites together with higher housing and job densities, better services by existing facilities and public transport*".
- 2.14. Objective 3a of the NPF states that it is a national policy objective to "*deliver at least 40% of all new homes nationally within the built up envelope of existing urban settlements*". The proposed development is a strategically located underutilised site in the centre of an existing urban settlement adjacent UCD, Dundrum, Bus and Luas connections. The proposed development is therefore compliant with the objective of the NPF.

- 2.15. Objective 4 states “ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well being”. The proposed development will provide for a high quality purpose built student accommodation scheme in accordance with the County Development Plan and relevant national standards. The proposed materials and finishes will also be of a high quality standard (brick and glazed finishes) in order to create a unique quality urban place.
- 2.16. It is considered that the proposed development provides for the creation of an attractive, high quality, sustainable student housing development within an existing built up urban area, on a brownfield site. The provision of the new sustainable development is therefore consistent with the NPF objective.
- 2.17. Objective 11 of the National Planning Framework states that “there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth”.
- 2.18. The proposed development will provide for high quality student housing development in an existing urban area adjacent to existing public transport facilities.
- 2.19. The NPF continues to state that:
- “Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes.*
- This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and struggle to take account of evolved layers of complexity in existing built-up areas.*
- 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”.*
- 2.20. The proposed development is located within 800m of UCD campus. It is also located along a proposed Quality Bus Priority route as identified within the CDP and within 1.3km of the Dundrum Luas stop and green route. The site is frequently served by the No. 11 bus route (circa every 15 minutes at peak times at the nearest stop, 30m from the site).
- 2.21. The existing site is underutilised and presents a key opportunity site meeting the criteria identified in the NPF and providing for redevelopment for a student housing scheme. The scheme includes a variety of building heights stepping from 4 storeys at the southern boundary and 6 storeys at the northern boundary, cognisant of the existing adjoining built-form. The building rises to a maximum height of 6 storeys at the centre and north of the site, reflective of the slope of the site. The proposed density and height of the development is considered appropriate for the location of the site and the availability of public transport facilities. The proposed development is therefore in accordance with the objectives of the NPF in this regard.
- 2.22. Objective 13 of the National Planning Framework also states that:

- 2.23. *“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”.*
- 2.24. The NPF also states that 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”.* Objective 35 states that it 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”.*
- 2.25. The proposed student accommodation scheme is located on an underutilised motor sales premises. This represents an opportunity to provide for increased densities and increased heights in accordance with the NPF policies and objectives. The NPF includes a strong emphasis on increased building heights in appropriate locations within existing urban centres and along public transport corridors. The proposed development ranging in height from 4 no. storeys to 6 no. storeys is therefore considered appropriate in this location and in accordance with the NPF.
- 2.26. The National Planning Framework therefore provides an appropriate justification for granting permission for a building of up to 6 stories in height in this location as a material contravention of the County Development Plan and Goatstown LAP in terms of height. This is further reinforced by the Urban Development and Building Height Guidelines

Urban Development and Building Height Guidelines 2018

- 2.27. The Urban Development and Building Height Guidelines (‘Guidelines’) 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 and draft Regional Spatial and Economic Strategy.
- 2.28. The Guidelines in effect seek denser development at public transport nodes. The Guidelines state that it is Government policy to promote increased building height in locations with good public transport services.
- 2.29. 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.
- 2.30. 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.
- 2.31. Section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 provides as follows:

“(3)(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”

2.32. In relation to redevelopment and enhancement of the city core, the guidelines state that *“to meet the needs of a growing population without growing out urban areas outwards requires more focus in planning policy and implementation term on reusing previously developed “brownfield” land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements”.*

2.33. The Guidelines also place significant emphasis on promoting development within the existing urban footprint utilising the existing sustainable mobility corridors and networks.

“In order to optimise the effectiveness of this investment in terms of improved and more sustainable mobility choices and enhanced opportunities and choices in access to housing, jobs, community and social infrastructure, development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks”.

2.34. The Guidelines further states that *“the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights”.*

2.35. The proposed development is located on a key site along the Goatstown Road which is an existing bus corridor, includes dedicated cycle lanes, is in proximity to the Luas line and is within 800m of UCD Belfield Campus. The proposed development therefore represents an opportunity to provide for increased building heights and densities at this location.

2.36. SPPR3 of the Urban Development and Building Heights Guidelines 2018 provides:

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.*

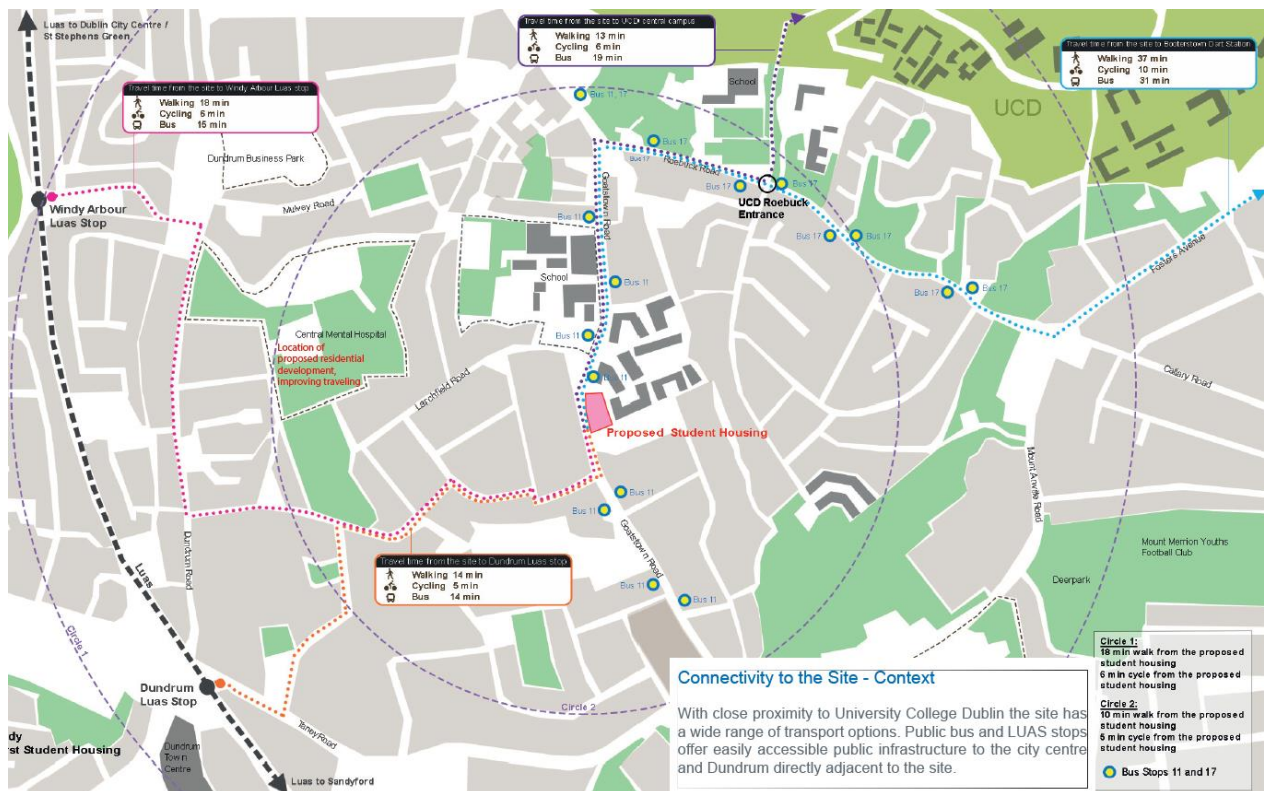
- 2.37. The following section demonstrates how the proposal complies with the relevant criteria as referred to in SPPR 3 above.

The criteria for assessment of developments 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.

- 2.38. The proposed student accommodation will be highly accessible to UCD by direct cycle lane and pedestrian path and is located adjacent to a bus route (no.11). The DLRCDP also includes an objective for a proposed future quality bus route on Goatstown Road. High frequency, high capacity Luas services are located within walking distance of the site at the Dundrum Luas stop, 1.3km (14 minute walk) from the site. The site is also within close proximity to UCD (800m) and Dundrum town centre (1.5km). See figure 1 below.

Figure 1 - Extract from map within the Urban Design Statement prepared by Reddy Architecture



Development proposals incorporating increased building height... 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.

- 2.39. A Townscape and Visual Impact Assessment has been undertaken by Parkhood Landscape Architects and accompanies the application. Photomontages from 14 no. view locations prepared by 3D Design Bureau have also been prepared. In relation to the receiving environment, the assessment notes;

'The Application Site comprises a set of functional buildings set aside a large car park. It does have a presentable and tidy character in commercial terms but such a land-use would be categorised as poor townscape of low sensitivity and very capable of accommodating change. This would have been a key factor in the Goatstown LAP designating this site as a notable redevelopment opportunity.

The site carries no environment, amenity, heritage, visual amenity or landscape designations and possesses nothing that would be categorised as sensitive in terms of townscape character, notable features or vegetation. The buildings are basic structures in design terms and parking areas are purely practical presenting a utilitarian landscape that would be rated as low quality and value in townscape and visual terms.'

The impact on Goatstown Road is assessed as follows;

'In broad terms, a proposal of this nature and scale will become part of the integrity, legibility and identity of this section of Goatstown Road....

The architecture and mass is compatible with the adjacent Trimbleston and nearby Grove developments which have both demonstrated that Goatstown Road is broad enough to be able to absorb higher buildings without causing detriment....

The road pattern and public realm areas towards Goatstown Road will be unaffected. The public realm is increased and enhanced allowing for the planting of approximately 12 no. street trees (at semi-mature size) and enhanced landscape works that will more than compensate for the loss of any existing vegetation as well as assisting in place-making. Further landscape works are proposed on courtyard areas and roof gardens and these will enhance the amenity, ecological worth and landscape vegetation cover comparative to the existing situation.'

- 2.40. The scale of the proposed development is considered to integrate appropriately with its surroundings. The proposed building height takes cognisance of the scale, height and proximity of neighbouring properties and maximises the topography of the site to ensure that the 6 no. storey building is not obtrusive in the surrounding features of the urban environment.
- 2.41. The existing car sales room and parking area is out of character with surrounding built form. The site contains a flat roofed building, located to the rear of the site, providing no street interaction or urban edge. This is in contrast to the adjoining Trimbleston scheme which fronts the street and addresses the public realm. The proposed development will continue and complement the existing established urban character as shown in the image below (see figure below).

Figure 2 - View of the proposed scheme adjacent to Trimbleston, looking south from Goatstown Road



- 2.42. In terms of the existing topography, the site slopes from south to north in a c. 2m fall across the site. The adjoining neighbourhood centre is therefore higher than the existing surface level of the site. The subject proposal will appear as a three storey development adjacent to the northern boundary due to the topography of the site with the ground level of the neighbourhood centre at 48.580 whilst ground floor level of the

proposed scheme will be at 44.590. The fourth floor level of the scheme reaches 57.590 whilst the roof of the adjoining neighbourhood centre reaches 55.883, a difference of 1.7m. It is therefore evident that a suitable transition is provided on this boundary, successfully integrating with existing built form and character of the area (see drawings prepared by Reddy Architecture).

- 2.43. The design approach is based on a need to protect the amenities of the surrounding residential developments. Trimbleston to the (north and east) comprises duplexes, terraced housing and apartments which range from 5 storeys (to the north) down to 2-3 storeys (to the east). The proposed development is in keeping with this density and scale of development, stepping down towards boundary where relevant (rear and south).
- 2.44. The building design ensures no overlooking to the east with brick façade provided on adjacent to the rear boundary of the site. The northern boundary fronts a blank façade on the Trimbleston apartment building and accordingly windows have been provided on this elevation. We also note the presence of existing mature screen planting on the adjoining property boundary.

Figure 3 - View from the subject site to the brick elevation of Trimbleston on the northern boundary of the site



- 2.45. Angled windows are provided on the southern elevation of the building to mitigate any potential for overlooking of the adjoining neighbourhood centre.
- 2.46. A Landscape Rationale and Drawings prepared by Ronan MacDermada and Associates Landscape Architects accompanies this submission and details how the proposed development will successfully integrate with and provide an improved landscaped setting for a site which is currently entirely paved. In this respect the proposal is considered to improve the overall landscaping setting of the neighbourhood.
- 2.47. A Visual Impact Statement concludes that;

'The proposal would effectively balance and visually correlate to the broad width of Goatstown Road and integrate with the architecture, form, scale and mass of the recent developments to the immediate north at Trimbleston and The Grove making a positive contribution to place-making. It will discernibly step down towards Willowfield Park. The collective will provide enhanced townscape sense of place and legibility while offering variation and relief from the prevailing similar and repetitive building type in Goatstown.'

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.

- 2.48. The proposed site is not considered to be a 'large redevelopment site' being c. 0.39ha. Notwithstanding, the scheme has a clear identity, being physically separate from adjoining development and will contribute positively to the streetscape. Access to the site is clearly identifiable to the average passer by with a concierge located at the front of the site at ground level. A clear pedestrian path is provided to this point, from Goatstown Road.
- 2.49. The height of the student accommodation building will signal the location of the site while providing passive surveillance of the street. The proposed development will contribute to the creation of a sense of place by the creation of high-quality landscaping which will serve to enhance the experience of residents and visitors. Lower heights are proposed where existing dwellings are closest to the site. The proposed treatment of the site frontage remains open to Goatstown Road, successfully integrating with and improving the existing public realm.

At the scale of district / neighbourhood / street

The proposal responds to its overall natural built environment and makes a positive contribution to the urban neighbourhood and streetscape

- 2.50. It is considered that the proposal introduces a high-quality development at an underutilised area of land within a suburban context which is zoned for residential development and will make a positive contribution to the receiving urban environment. The sensitive design and scale of development is considered to make a positive contribution to the urban neighbourhood through the re-establishment of a building line and streetscape. As detailed within the accompanying Photomontages and Townscape and Visual Impact Assessment (TVIA) by Parkhood Landscape Architects, the proposal visually integrates successfully with the surrounding suburban landscape.
- 2.51. The existing site conditions present a poor interface with the public realm and parking dominates the boundary with no active uses or building line at ground level. As noted in the VIA:

'Any assessment must be measured against that of the situation that pertains at present and the current site contributes little to local townscape and has limited aesthetic appeal. In broad terms, a proposal of this nature and scale will become part of the integrity, legibility and identity of this section of Goatstown Road.'

'The current site and setting contributes little to the character or quality of this part of the city. The principle of this type of townscape change at this location is specifically endorsed in the County Development Plan being Zoned 'A' with a stated objective 'To protect and/or improve residential amenity'. This development will signify a fresh phase or stage for this site which will have substantial effects on areas closer to the proposed development but the baseline setting ensures this can be successfully absorbed without causing any adverse townscape / landscape effects. The completed building will improve the quality and character of this part of Goatstown that would symbolise progress, rational townscape evolution and positivity in line with the Development Plan objective.'

- 2.52. The proposed scheme interacts with the public domain, includes landscaping and planting on the boundary and will include active uses in the form of student amenity spaces at ground floor.
- 2.53. The scheme encourages interaction with the public domain and will greatly improve the existing conditions on Goatstown Road.

The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered

- 2.54. The proposal specifically has taken account of the need to break up the mass of the building, including articulation and pop out elements on the Goatstown Road façade. The proposals incorporate a brick finish, with glazed elements and metal cladding in addition to high-quality external finishes and paving, in combination with soft landscaping.
- 2.55. The proposal could not be considered monolithic and avoids long uninterrupted walls as detailed in the Urban Design Report and An Bord Pleanála Response Report prepared by Reddy Architecture.
- 2.56. The Urban Design Report details the rationale for the scheme fronting Goatstown Road, ensuring the frontage is articulated and does not present a monolithic elevation;

'step-back facade on the upper floor introduced as a way to lessen the impact of the elevation to Goatstown Road. Extruded brick is added to the blank facade elevations to give them more texture and not seem too stark. Double height window frames are introduced to add vertical elements to the elevation.'

Figure 4 - CGI of proposed scheme fronting Goatstown Road



Figure 5 - Design evolution diagrams showing the break and built form and massing and built form of the building



Source: Reddy Architecture

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).

- 2.57. As noted above, the proposal introduces a development which is compatible with its land use zoning and adjacent development. The scheme will contribute to the creation of a sense of place translated through high quality landscaping proposals which serve to enhance the experience of residents and visitors. The VIA prepared by Parkhood states;

'In summary, the effects, while significant will be a positive statement in terms of the townscape development, legibility and future while tying effectively in with the ambitions and objectives of the Goatstown LDP and the County Development Plan in terms of compact, appropriate and sustainable development.'

- 2.58. In their assessment of the immediate site itself, Parkhood Landscape Architects conclude that;

'The public realm is increased and enhanced allowing for the planting of approximately 12 no. street trees (at semi-mature size) and enhanced landscape works that will more than compensate for the loss of any existing vegetation as well as assisting in place-making. Further landscape works are proposed on courtyard areas and roof gardens and these will enhance the amenity, ecological worth and landscape vegetation cover comparative to the existing situation.'

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.

- 2.59. The proposed development is logically laid out, having regard to the site's terrain and the context in which it sits, improving legibility of the street. Due to the nature of the subject brownfield site, adjacent to existing established and privately owned residential uses, the proposed development will provide a more appropriate use on the subject site when compared to its current use as a car sales premises.

- 2.60. The proposed development and site layout will integrate with and contribute to the legibility of the road from the public domain, when compared to the current car sales showroom and ancillary parking area.

The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood:

- 2.61. The proposal will provide 239 no. student accommodation bedspaces within (walking and cycling distance) 800m of UCD Belfield campus. This will significantly reduce rental pressure in the area, releasing houses for families in need in the local area. The purpose built student accommodation will provide a quality alternative housing solution to students who might typically have entered a share house in the locality.

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.

- 2.62. As demonstrated in the suite of documentation prepared by Reddy Architecture, the form and massing of the scheme has been carefully considered to maximise access to natural daylight and minimise overshadowing and loss of light.
- 2.63. The proposed designed is centred around a central courtyard, maximising light to the inner floor plate of the building. The same design technique ensure daylight access is maintain to adjoining properties to the rear of the site and overshadowing is reduced. The outlook from the rear will front the landscaped courtyard component of the scheme.
- 2.64. A Sunlight/Daylight Analysis Report has been prepared by Digital Dimensions and accompanies the application. The sunlight / daylight analysis assessed the level of light access within rear gardens and windows of neighbouring residential properties, particularly to the south and east of the site at Willowfield Road and Trimbleston.
- 2.65. In relation to the Vertical Sky Component for windows at adjacent dwellings, the report assessed dwellings on Willowfield Park and notes;
- 'No 4 Willowfield Park: There is a reduction in one of the windows below the recommended. This is less than 5% and any impact will be minor. This window is to a bedroom and has a lesser requirement for daylight.*
- No 8, 10 and 12 Willowfield Park: These windows meet the recommendations of the BRE Guidelines and there will be no perceivable impact'*
- 2.66. In relation to the Vertical Sky Component for windows at adjacent dwellings, the report assessed dwellings at Trimbleston and notes the following;
- 'No 166 Trimbelston: There is a minor impact to 2 windows in the ground floor living space. The windows are small and there is a third larger window which has a minimal reduction. When averaged the value is marginally below the recommendations of the guidelines but this does not take into account that window 15 is a very large window and the main source of Daylight. With the spacing and size of the room there will be no perceived loss of daylight and any loss of light will be minor.*
- No.165 Trimbelston: There is a minor reduction in available daylight below the recommended 20% to the windows facing the proposed development. The rooms at ground floor are a Kitchen /Dining and a Living room. These are dual aspect and on average they meet the recommendations of the guidelines. The Bedrooms have a lesser requirement for daylight.*
- No 157-164 Trimbelston: The ground floor of the three storey units are single apartments with a Living room facing the proposed development. The upper 2 stories are duplex units. There is a minor reduction to the window at test point ID30. This is marginally below 80% of the existing value at 78% and any loss of light may not be perceived.'*
- 2.67. The report concludes there will be negligible impact on adjoining properties with the proposal complying with BRE recommendations);

'The majority of the windows either retain a VSC in excess of 27% or are not reduced below 0.8 times their former value. There are a small number of windows with a minor reduction below 0.8 times their former value, but most are dual aspect, and all retain a high'

2.68. In relation to the ADF, the report also states;

'The assessment of the ADF in Table 2 indicates that all the rooms retain an ADF in excess of the recommendations of the BRE guidelines and all the rooms assessed should be well daylit'

2.69. In relation to sunlight access, it is noted that windows at test point 32 and 33 do not strictly meet the guidelines for the winter period. In this respect the assessment states;

'It should be noted they have a large projection to the side of the window for the entrance porch and this will block a large portion of the availability of sunlight especially low winter sun.'

2.70. The proposed development performs well in regard to daylight and sunlight within the site. The proposal meets the requirements in 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'* as demonstrated in the accompanying report.

Specific Assessments

2.71. SPPR 3 also states that specific assessments may be required to support developments *'at some or all of these scales'*. The specific assessments are outlined below with a comment included noting how each criteria is addressed, if relevant to the subject proposal;

- *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.*

2.72. **Comment:** A wind microclimate assessment is not considered appropriate in this case as the proposed building is 'low rise' and below 30m in height and the proposed tree planting, will mitigate any minor downdraft conditions. The proposed development is not considered to comprise tall buildings. The proposal is consistent with the adjoining 5 storey development to the north stepping to 4 storeys to the southern boundary. The building ranges in height from 4 storeys to 6 storeys and is not considered to be of such a scale that will impact the micro-climate.

2.73. A Sunlight/Daylight Analysis Report has been prepared by Digital Dimensions and accompanies the application. The sunlight / daylight analysis assessed the level of light access within rear gardens and windows of neighbouring residential properties, primarily to the south and east of the site at Willowfield Road and Trimbleston. The report concludes there will be negligible impact on adjoining properties with the proposal complying with BRE recommendations (available light is not reduced below 0.8 times the former value). The proposed development performs well in regard to daylight and sunlight within the site.

A Sustainable Energy Report is also submitted with the proposal. Overall, the proposal will have a positive impact on climate change, contributing a sustainable building design, on a brownfield site in close proximity to public transport.

- *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.*

2.74. **Comment:** The subject site is not in proximity to such a location. Notwithstanding, the application is accompanied by a Bat Assessment Prepared by Wildlife Surveys and concludes there are no bat roosts on the site. The report concludes;

'It is predicted that there will be no impact upon bats within the area of long-term to permanent duration.'

2.75. In relation to sensitive bird areas, the AA Screening report includes an ecological assessment of the site from this perspective and concludes;

'The subject site is located in a heavily urbanised environment close to significant noise and artificial light sources such as roads. This development cannot contribute to potential disturbance impacts to species or habitats of for which Natura 2000 areas have been designated.'

2.76. This report and the accompanying Ecological Impact Assessment demonstrate that the proposed building heights do not have the potential to adversely impact on the biodiversity of the area. As outlined in the AA Screening, the development will not increase disturbance effects to birds in Dublin Bay given its distance from these sensitive areas. The subject site and adjacent built-up/urban lands are not suitable for wetland birds and so cannot contribute to any ex-situ impacts

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

2.77. **Comment:** The subject site currently does not contain any telecommunication antennae or towers and is not of a significant height (less than 30m) that would impact on telecommunication channels. Notwithstanding, Ronan Meally Consulting Engineers have reviewed the proposal from this perspective and note the proposal is not likely to have any impact as follows;

'The height and scale of the proposed development should have no impact on any current microwave telecommunications channels within 2km of the proposed development.'

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

2.78. **Comment:** Similarly, the proposed buildings are not of such a height as to justify any specific assessment in relation to air navigation safety. The CDP does not include any policies or management standards in relation to air navigation safety and there are no known low flight paths near the site. The subject proposal (max. 6 storeys) is consistent with the height of the adjoining building (5 storeys) and will not impact on air safety.

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

- 2.79. **Comment:** An Urban Design Statement has been prepared by Reddy Architecture and Urbanism and accompanies the application. The site is not within a nominated conservation area, does not contain a protected structure nor is it in close proximity to a protected and accordingly a heritage impact assessment is not required.
- *Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.*
- 2.80. **Comment:** The application is accompanied by an AA Screening Report, Ecological Impact Assessment and EIA Screening report as required.
- 2.81. From the above analysis, it is considered that the proposal meets the criteria for higher buildings as set out within the Guidelines on Building Height Guidelines. The site is well placed to absorb a high-density development which is appropriately scaled and designed in the context of its urban surroundings, at a highly accessible location and in close proximity to high frequency public transport. The site also benefits from easy access to UCD as well as connections to Dundrum and other surrounding areas.
- 2.82. The proposals make optimum use of this underutilised area of land which is zoned for residential development (including student housing) and is therefore considered compatible with adjacent existing land uses. The scheme integrates appropriately with the suburban environment and enhances public open space provision.
- 2.83. It is respectfully submitted that the proposed development has had regard to the planning policy framework as set out in the Guidelines and the National Planning Framework. The provision of residential development at this location up to 6 no. storeys is supported by the Urban Development and Building Height Guidelines which encourages increased density and building heights. As such, the proposed development is considered to be in accordance with the provisions of national policy guidelines.
- 2.84. It is therefore reasonable to conclude, in accordance with Section 37(2)(b)(iii) that –
- (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*

3.0 Justification in relation to Part V

- 3.1. Appendix 2, Interim Housing Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 states;
- ‘No social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a Third Level Institution. In all other instances of student accommodation, the standard 20% social housing requirement will apply.’*
- 3.2. Policy RES2: Implementation of Interim Housing Strategy states;
- ‘Specific exemptions to Part V where a reduced social/ affordable element may be acceptable are:*

- *Third level student accommodation of the type that has/or would have otherwise qualified for tax relief under Section 50 of the Finance Act 1999 (Refer also to Policy RES12).'*

- 3.3. The Board may consider that the proposed development materially contravenes the above objective of the County Development Plan albeit objective RES2 which notes that specific exemptions or reductions may apply for third level student accommodation. However, Section 8.2.3.4 (xii) requires that;

'No social/affordable housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a recognised third level institution'

- 3.4. It is noted that the proposed scheme has been designed to meet the criteria outlined within *'The Guidelines of Residential Developments for 3rd Level Students, Section 50 of the Finance Act 1999'* as demonstrated in the accompanying Opinion Response Report prepared by John Spain Associates and the Housing Quality Assessment prepared by Reddy Architecture. The proposed scheme is considered a *purpose-built student accommodation* as defined under the Act and therefore and as outlined below, the proposal does not include Part V provision which is not appropriate or applicable in the managed context of the proposal.

- 3.5. The four distinct criteria set out in Section 37(2)(b) of the Act which allows the Board to materially contravene a development plan have been addressed in detail in the following sections of this statement. Section 37(2)(b) of the Planning and Development Act 2000 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'.*

- 3.6. Each of the relevant criteria is addressed as follows;

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

Response: The proposed development is submitted under the provisions of the SHD Act, which by very name and intent has been enacted to provide strategic housing to address critical housing shortages. It is therefore reasonable to conclude that the proposal is of strategic importance.

(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*

3.7. The following section demonstrates that the proposal complies with the definition of *student accommodation* as defined by the Planning and Development (Housing) and Residential Tenancies Act 2016 and Section 28 Government Guidelines, which seek to increase housing on zoned services lands in appropriately accessible locations. These include:

- Planning and Development Act 2000 (as amended);
- Planning and Development (Housing) and Residential Tenancies Act 2016;
- Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities;
- National Student Accommodation Strategy – Rebuilding Ireland (2017); and
- Guidelines issued by the Minister for Housing, Planning, Community and Local Government under section 28 of the Planning and Development Act 2000 (2017).

3.8. The Planning and Development Act 2000 (as amended) states that the provision of social and affordable housing applies to development of houses for residential use. Section 96 of the Planning and Development Act 2000 (as amended) states;

“Subject to subsection (14) and section 97, where a development plan objective requires that a specified percentage of any land zoned solely for residential use, or for a mixture of residential and other uses, be made available for housing referred to in section 94(4)(a), the provisions of this section shall apply to an application for permission for the development of houses on land to which such an objective applies, or where an application relates to a mixture of development, to that part of the application which related to the development of houses on such lands, in addition to the provision of section 34”. (our emphasis)

3.9. The Planning and Development Act 2000 (as amended) defines a house as:

“House” means a building or part of a building which is being or had been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;”.

3.10. The Planning and Development (Housing) and Residential Tenancies Act 2016 introduces a definition of “Student Accommodation” to the Planning and Development Act as follows:

“student accommodation – Means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualification and Quality Assurance (Education and Training) Act 2012), as that is not for use - as permanent residential accommodation, or subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation, And includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times”.

- 3.11. Therefore, student accommodation is a clearly defined land use in the Planning and Development (Housing) and Residential Tenancies Act 2016, separate and distinct from the definition of a “house”. The definition of student accommodation states explicitly that student accommodation excludes the use as permanent residential accommodation. Therefore, student accommodation is not a “dwelling”, does not fall under the definition of a “house” and is not subject to the provision of Part V of the Act.

Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities

- 3.12. Further this is clarified within the Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities which states:

“In addition to the above, as is the case with student accommodation projects, shared accommodation units will not normally be subject to Part V requirements in relation to the reservation of 10% of the units as social housing because shared accommodation would not be suitable for social housing given that they are not provided as individual self-contained residential units.”

- 3.13. The Guidelines include specific design criteria relating to apartments which do not apply to the proposed arrangement of student accommodation units and therefore, the proposal cannot meet the needs of Part V housing as typically required by the Council.

Guidelines issued by the Minister for Housing, Planning, Community and Local Government under section 28 of the Planning and Development Act 2000 (2017)

- 3.14. We also refer to the ‘*Guidelines issued by the Minister for Housing, Planning, Community and Local Government under section 28 of the Planning and Development Act 2000 (2017)*’. The Guidelines state;

‘This current Guideline deals with specific issues, largely in relation to the making of the Part V agreement, having regard to the 2015 legislative changes, which have been raised in discussions with local authorities, developers and other stakeholders. These Guidelines are issued under section 28 of the Planning and Development Act 2000 and planning authorities are required to have regard to them in carrying out their functions under the Act.’

- 3.15. The Guidelines include specific guidance on the Application of Part V. The Part V guidelines state:

“2.1 Application of Part V

The first issue to be addressed is whether Part V actually applies.”

It is set out above, why Part V does not apply does not apply to student accommodation, as the application is not for ‘houses’ as referenced in S.96(1) of the Planning and Development act 200 as amended, and is for a different use i.e. ‘student accommodation’ as defined in the legislation. Therefore, under the approach set out in the Part V S.28 guidelines s, Part v does not apply to this proposed development.,

- 3.16. The guidelines also state that the design and layout of the housing must meet design standards. The proposed scheme includes is for a purpose built student accommodation development and are not designed to be used in any other manner.

National Student Accommodation Strategy – Rebuilding Ireland (2017)

- 3.17. We also refer to the National Student Accommodation Strategy – Rebuilding Ireland (2017) which is designed to ensure that there is an increased level of supply of purpose-built student accommodation (PBSA) to reduce the demand for accommodation in the private rental sector by both domestic and international students attending our Higher Education Institutions (HEIs). It is noted that it is not feasible or reasonable to include Part V accommodation within a purpose-built scheme such as that proposed. The scheme is not built to accommodate families or non-student residents and is designed to specifically cater for the needs of university and higher education students.
- 3.18. We also refer the Board to Section 37(2)(b)(iv) and note that permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan as follows;
- 3.19. The below student accommodation schemes within Dun Laoghaire Rathdown Council area have been approved by An Bord Pleanála, none of which included Part V provision;
- ABP300520-17 – Former Blakes and Esmond Motors Site, Lower Kilmacud Road, Stillorgan Road (N11) and The Hill, Stillorgan, Co. Dublin;
 - ABP303467-19 – Avid Technology International, Carmanhall Road, Sandyford Industrial Estate, Dublin 18.
- 3.20. We refer to the inspector’s report in the recent Board approval of 706 no. student bedspaces in Sandyford (ABP303467-19). In relation to Part V, the inspector concluded;

*‘I note that the Board did not apply Part V requirements to the recent permission for off campus student accommodation at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan, ref. ABP300520-18. The Inspector’s Report in that instance referred to the absence of clear guidance at a local and national level in relation to student accommodation and Part V and to the technical difficulties that might arise in terms of ownership and the management of units within a student block (term time and non-term time use) and to the **configuration of the student units, which would not comply with the floorspace and amenity requirements for a conventional house/apartment. I am therefore satisfied that Part V requirements should not be applied to the proposed development.**’*

4.0 CONCLUSION

- 4.1. As set out in Section 37(2)(b) and Section 28(1)(C) of the Planning and Development Act 2018 (as amended), An Bord Pleanála may materially contravene a development plan where national planning policy objectives take precedence. In particular, under Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan or Local Area Plans, the provisions of SPPRs must be applied instead. In the present context the most relevant of these requirements SPPR 3A of the Building Height Guidelines which applies to the assessment of this application to the Board. It is submitted that the performance criteria under Section 3.1 and 3.2 have been satisfied in this regard by the development as proposed.
- 4.2. It is respectfully submitted that should An Bord Pleanála consider the proposed development is a material contravention of the Dun Laoghaire Rathdown County development Plan 2016-2022 and the Goatstown Local Area Plan 2012, an

appropriate justification is set out within this statement demonstrating that the proposed development should be considered for increased building heights due to the location of the subject site, the overall context of the wider development at 6 no. storeys, adjacent to quality public transport corridors and UCD Belfield campus, and the policies and objectives set out within the Urban Development and Building Heights Guidelines 2018.

- 4.3. It is also submitted that Part V does not apply to the use by definition of the Planning and Development Act 2000 (as amended) and should this be considered a material contravention of the Interim Housing Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022, appropriate justification is included.
- 4.4. In particular, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Local Area Plan and County Development Plan, by reference to sub-paragraphs (i) (iii) and (iv) of Section 37(2)(b) of the 2000 Act, as amended, for the reasons set out above.
- 4.5. Having regard to the justification set out within this statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the proposed development in accordance with national policy and guidelines.