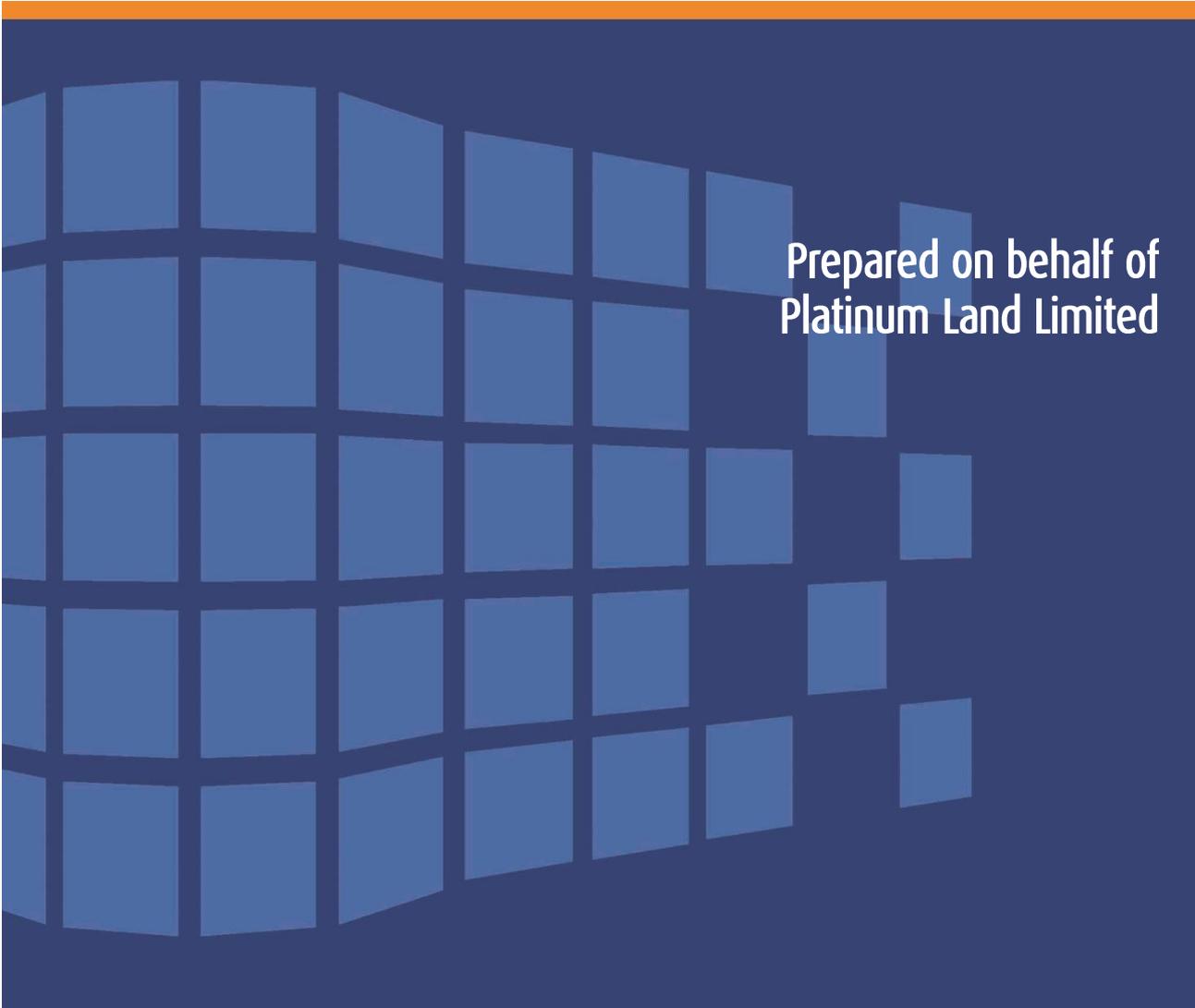


# Material Contravention Statement

Proposed Development on the Former Chivers Factory Site, Coolock Drive, Coolock, Dublin 17

April 2019



Prepared on behalf of  
Platinum Land Limited

## Document Control Sheet

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## 1.0 Introduction

- 1.1 This Material Contravention Statement sets out the justification for the proposed development of lands at the Former Chivers Factory Site, Coolock Drive, Coolock, Dublin. The report has been prepared by Nathan Smith of McCutcheon Halley Chartered Planning Consultants.
- 1.2 Nathan holds an BA Hons in Planning Studies, a Diploma in Planning Studies, is a member of the Royal Town Planning Institute and Irish Planning Institute. He has practised as a planning consultant in Ireland and the UK for over 20 years and has directed the preparation of planning applications for a range of development types including residential, mixed use, highways, flood defence and waste.
- 1.3 Prior to submitting this application, the Applicant had to consider whether the proposed development materially contravened the Dublin City Development Plan (2016-2012) (DCDP) in order to comply with the requirement under Section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016 ('the 2016 Act') that the statutory newspaper notice state:  
  
*"where the proposed development materially contravenes the said plan other than in relation to 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..."*
- 1.4 The DCDP sets out a maximum building height of 16m within the subject location.
- 1.5 It is a matter for the competent authority, i.e. An Bord Pleanála, to determine whether the proposed development materially contravenes the relevant Development Plan. Nevertheless, for the purposes of this planning application, the Applicant has identified one aspect of the proposed development that raises the issue of material contravention which is that:
  1. The proposed height for Blocks A1 and A2, B and C exceed the 16m height referred to in the DCDP, and therefore it is considered that this materially contravenes the provisions of Policy SC16, Section 4.5.4.1 and Section 16.7.2 of the DCDP.
- 1.6 This report sets out the justification for the proposed Build to Rent development at Coolock Drive, which materially contravenes the Dublin City Development Plan 2016-2022 in terms of building height.

## 2.0 Planning Context

### Development Plan Context

- 2.1 Policy SC16 states that “to recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA)”.
- 2.2 Section 4.5.4.1 (Approach to Taller Buildings) refers that “it is policy to retain the remaining areas of the city to a maximum height of between 16m to 28m depending on location, as set out in Chapter 16 (Development Standards).
- 2.3 Paragraph 1 of Section 16.7.2 (Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development (See Building Height in Dublin)) of the DCDP states that all areas outlined in the table on page 320 of the DCDP are considered to be in the low-rise category unless the provisions of a LAP/SDZ/SDRA indicate otherwise.

| Category  | Area              | Height (m)                             |
|---|-------------------|--|
| Low-rise (relates to the prevailing local height and context) | Inner City        | Up to 28m (commercial)                 |
|   |                   | Up to 24m (residential)                |
|   | Rail hubs (see 3) | Up to 24m (commercial and residential) |
|   | Outer City        | Up to 16m (Commercial and residential) |

- 2.4 In this case the 16m height limit for the Outer City area applies. Section 16.7.2 (Assessment Criteria for Higher Buildings) states that all proposals for mid-rise (up to 50m) and taller buildings (50m +), must have regard to the assessment criteria for high buildings.
- 2.5 The assessment criteria are as follows:
- Relationship to context including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
  - Effect on the historic environment at a city-wide and local level
  - Relationship to transport, particularly public transport provision
  - Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
  - Contribution to public spaces and facilities, including the mix of uses
  - Effect on the local environment, including micro-climate and general amenity considerations
  - Contribution to permeability and eligibility of the site and wider area
  - Sufficient accompanying material to enable a proper assessment, including urban design study / masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
  - Adoption of best practice guidance related to the sustainable design and construction of tall buildings
  - Evaluation of providing a similar density in an alternative urban form

### National Context

- 2.6 The Department of the Environment, Heritage and Local Government *Development Management Guidelines for Planning Authorities* (2007) states;

*"In deciding whether any development would materially contravene the plan, the authority should consider whether there would be a departure from a fundamental provision of the plan or whether the development, alone or in conjunction with others, would seriously prejudice an objective of the plan."*

2.7 Section 9(6)(c) of the 2016 Act, sets out the circumstances in which permission may be granted for a proposed Strategic Housing Development (SHD) proposal where there is a material contravention of a provision of the Development Plan, other than land use zoning objective;

*"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."*

2.8 Section 37(2)(b) of the Planning and Development Act 2000 states that:

*"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 planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or***
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan".*

2.9 Recognising the role of An Bord Pleanála, as the Competent Authority, deciding on this matter, and adopting a conservative approach, we have provided a justification in the context of the provisions of section 37(2)(b) for the proposed height.

2.10 It is respectfully requested that An Bord Pleanála have regard to the justification for a material contravention of the development plan in terms of height on the basis that the policies and objectives stated in the Section 28 guidelines and Section 29 policy directives, particularly the:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009);
- National Planning Framework;
- Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities); and
- Urban Development and Building Heights (Guidelines for Planning Authorities).

2.11 These seek to introduce the provision for increased building height and residential densities on sites adjacent to quality public transport routes and within existing urban areas.

## 3.0 Justification for the material contravention

3.1 The proposal to bring forward this planning application for 495 Build to Rent residential units, which includes heights that exceed the 16m height restriction for “outer city” areas as set out in the Dublin City Development Plan is a material contravention to the DCDP.

3.2 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 planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or***
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan".*

3.3 In this case it is considered that there is justification on those grounds outlined in section 37 (2)(b)(iii) as the proposal is in accordance with Section 28 (Ministerial Guidelines) and Section 29 (Policy Directives).

3.4 Therefore the case for materially contravening the height of the DCDP is considered against the following matters:

- Location Policy Context; and
- Performance Based Criteria Assessment.

### Location Policy Context

3.5 The role of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas is to ensure the sustainable delivery of new development throughout the country.

3.6 The Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality design in their policy documents and in their development management process.

3.7 In this regard, the Guidelines are accompanied by a Design Manual which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings. The accompanying Design Statement prepared by Plus Architecture has demonstrated how the proposal is in accordance with the 12 criteria in the Urban Design Manual.

3.8 These Guidelines support a plan-led approach to development as provided for in the Planning and Development Act 2000. Section 2.1 of the Guidelines note that *'the scale, location and nature of major*

*new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy'.*

- 3.9 The Guidelines also reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 and *“the sequential approach as set out in the Departments Development Plan Guidelines (DoEHLG, 2007) specifies that zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities...”*
- 3.10 Having regard to the above, this infill vacant brownfield site is zoned Z1 (residential) and Z9 (open space) within the Dublin City Development Plan 2016-2022. The residential development is proposed only on the Z1 lands, whilst other uses proposed on the Z9 lands, have been considered to be acceptable when assessed against the criteria set out in the DCDP. Further details on these points are set out in the Planning and Statement of Consistency report.
- 3.11 The zoning of the Z1 lands, follows the variation of the plan (no.5), with further details for the justification of this variation enclosed in the Planning and Statement of Consistency Report.
- 3.12 The site is located within a 'Public Transport Corridor' in the context of the densities required under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). These areas are defined as being located within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.
- 3.13 Section 5.8 of the Guidelines recommends that *'in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations, bus stops, and decreasing with distance away from such nodes'.*
- 3.14 The National Planning Framework (NPF) Ireland 2040 Our Plan includes a National Strategic Outcome to achieve effective density and consolidation, by delivering a greater proportion of residential development within existing built-up areas, rather than more sprawl. Specifically, it highlights that Dublin must achieve a more compact urban form, facilitated by well-designed higher density development. To effectively address the challenge of meeting the housing needs of a growing population in urban areas, building upwards rather than outwards is required, and apartments need to become a more prevalent housing form.
- 3.15 Crucially, the NPF promotes flexibility when applying planning standards relating to height to well-designed development proposals that can achieve urban infill objectives. This, it states, is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas.
- 3.16 The NPF states that:
- "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".*
- 3.17 National Planning Objective (NPO) 11 of the NPF also states that:

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

3.18 NPO 35 of the NPF continues to underline the importance of increased building heights by stating:

*"Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area of site-based regeneration and **increased building heights**". (our emphasis)*

3.19 In addition, the site is defined as an intermediate urban location as part of the Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities). These are defined as follows:

*"Such locations are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprises apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) including:*

- *Sites within or close to i.e. within reasonable walking distance (i.e up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;*
- *Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,5000m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;*
- *Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services.*

3.20 Within 1,000m of the proposed development site is the Colaiste Dhulaig College, which is defined as a third level institution, which with Northside Shopping Centre collectively employ c. 600 people.

3.21 The subject site is also located within 500m walking distance of a bus stop at Coolock Drive and c. 500m walk from the proposed BRT route at Malahide Road to the east. Further details of the proximity to public transport are set out in the TTA and later in this section.

3.22 It is therefore clear that at a national level, there is a significant emphasis towards increased building heights in appropriate locations which are located within existing urban centres and along public transport corridors.

3.23 However, the restricting of the height of the development at such a well-served location under the Dublin City Development Plan 2016-2022 is a contravention of adopted national policy and urban height guidelines, which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as this site.

## Performance Based Criteria Assessment

3.24 Section 2 of the Urban Development and Building Height Guidelines states that the implementation of the NPF requires increased density, scale and height of development in town and city cores, including an appropriate mix of both the living, working, social and recreational space we need in our urban areas.

- 3.25 Paragraph 2.3 states that whilst achieving high density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Paragraph 2.11 states that areas, particularly those in excess of 2 hectares should be accompanied by an appropriate master-planning exercise
- 3.26 The Urban Development and Building Height Guidelines contain 4no. Specific Planning Policy Requirement's (SPPR), 2no. (SPPR1 and SPPR3) are relevant in the consideration of this planning application.
- 3.27 SPPR1 seeks to support increased building height and density in locations with good public transport accessibility to secure the objectives of the NPF and RSES and shall not provide for blanket numerical limitations on building height.

### Development Management Principles

- 3.28 Section 3 of the Building Height Guidelines contains guidance on the assessment of individual planning application, and it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility.
- 3.29 It also states that planning authorities must apply 3No. principles during the consideration of proposals that incorporate buildings taller than prevailing building heights;

***Does the proposal positively assist in securing National Planning Framework objectives of focussing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres.***

- 3.30 The Chivers Factory site is an infill site located to the east of Coolock Drive and notably the Council varied the zoning of the employment part of the site (Z6) in March 2018, to residential use (Z1). The location of the site is also close to a range of employment centres, as well as other supporting facilities, as demonstrated in the Social Infrastructure Audit and Planning and Statement of Consistency report which accompany this planning application.
- 3.31 The site is also located near transport corridors, including the proposed Quality Bus Corridor (QBC) on Malahide Road, which is within 500m of the site.
- 3.32 It is also an under-utilised vacant site and activating it for the delivery of 495 no. Build to Rent residential units and achieving effective density and consolidation is consistent with the National Strategic Objectives of the NPF to achieve a targeted pattern of growth, specifically;
- NPO 3a - *Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements;* and
  - NPO 3b - *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*

***Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?***

- 3.33 The Dublin City Development Plan (2016-2022) was adopted prior to the publication of the:
- National Planning Framework;
  - Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities); and
  - Urban Development and Building Heights (Guidelines for Planning Authorities).

3.34 Following the adoption of the Eastern and Midlands Spatial and Economic Strategy, it is expected that the Development Plan will be reviewed to meet the Specific Planning Policy Requirement (SPPR) of the Guidelines, specifically SPPR 1 and SPPR 2.

3.35 Notwithstanding this, it is our professional planning opinion, the development as proposed, is in line with the Dublin City Development Plan 2016-2022 as it meets the assessment criteria for taller buildings (as demonstrated later in this section).

***Where the relevant development plan, local area plan or planning scheme pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?***

3.36 The Dublin City Development Plan (2016-2022) pre-dates these guidelines and the objectives and policies contained within the NPF. The key national targets for structuring overall national growth, promoting regional parity, building accessible centres of scale and securing compact and sustainable growth was not available at the time of adopting the Development Plan. It is a matter for the planning authority to critically evaluate the existing written statement and development objectives for consistency of approach and to undertake the necessary variations or amendments, if necessary, to ensure that it is aligned with national and regional policies.

3.37 SPPR3 (A)(1) states that an applicant for planning permission should set out how a development proposal complies with the criteria outlined on pages 13 to 15 (inclusive) of the Urban Development and Building Heights (Guidelines for Planning Authorities). SPPR (A)(2) states that where the assessment of the planning authority concurs taking account of the wider strategic and national policy parameters set out in the NPF 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.

3.38 Due to the overlapping nature between Section 16.7.2 and the criteria set out in the Urban Development and Building Heights Guidelines, this application has been assessed against those set out in the Urban Development and Building Height Guidelines.

At the scale of the relevant city / town

The site is well served by public transport

3.39 The site is well served by public transport, which is demonstrated in Table 3.1 which is an extract from the Transport and Transportation Assessment by Aecom.

| Service Number / Bus Stop Location               | Route / Destination                            | Proximity to / from the Site                 | Mon – Fri Peak Hour Frequency (approx.) | Saturday Frequency (approx.) | Sunday Frequency (approx.) |
|--|--|--|---|------------------------------|----------------------------|
| 43 – Malahide Rd                                 | Artane roundabout towards Swords Business Park | 500m from northeastern boundary              | Every 15 Minutes                        | Every Hour                   | Every Hour                 |
| 15 – Malahide Rd                                 | Clongriffin to Ballycullen Road                | 540m from northeastern boundary              | Every 12 Minutes                        | Half Hourly                  | Every 20 Minutes           |
| 17a – Malahide Rd                                | Clare Hall to Jobstown                         | 430m from the southwestern pedestrian access | Every 10 Minutes                        | Every 10 Minutes             | Every 15 Minutes           |
| 42– Malahide Rd                                  | Talbot St to Sands Hotl                        | 500m from northeastern boundary              | Every 30 Minutes                        | Every 30 Minutes             | Every 30 Minutes           |
| 27x – Greencastle Rd, Coolock Drive, Malahide Rd | Clare Hall to Jobstown                         | 190m from northeastern boundary              | Every 10 Minutes                        | Every 10 Minutes             | Every 15 Minutes           |

**Table 3.1 – Bus Services**

Character and public realm of the area

3.40 The EIAR includes a Landscape and Visual Impact Assessment. A summary of the impact of each view point is provided as follows:

| View Point Number | Visual Effect  |
|-------------------|--|
| 1                 | There is no visual impact.   |
| 2                 | There is no visual impact.   |
| 3                 | There is no visual impact.   |
| 4                 | The visual effect is significant and moderate, positive and long term. |
| 5                 | The visual effect is significant and moderate, positive and long term. |
| 6                 | The visual effect is significant to moderate, neutral and long term.   |
| 7                 | There is no visual impact.   |
| 8                 | The visual effect is not significant and neutral.                      |
| 9                 | There is no visual impact.   |
| 10                | The visual effect is moderate, neutral to positive and long term.      |
| 11                | The visual impact is not significant and neutral                       |
| 12                | There is no visual impact.   |
| 13                | There is no visual impact.   |
| 14                | There is no visual impact.   |
| 15                | There is no visual impact.   |
| 16                | The visual effect is moderate, neutral and long term.                  |
| 17                | The visual effect is moderate, neutral and long term.                  |
| 18                | The visual effect is moderate, neutral and long term.                  |
| 19                | The visual effect is slight, neutral and long term.                    |

**Table 3.2 – Summary of LVIA**

3.41 The LVIA demonstrates that of the 19no.viewpoints assessed:

- In 9no. of cases there is no visual impact;
- In 3no. cases the visual effect is significant and moderate, positive and long term;

- In 3no. cases the visual effect is moderate, neutral and long term;
- In 1no. case the visual impact is not significant and neutral
- In 1no. case the visual effect is slight, neutral and long term;
- In 1no. case the visual effect is significant to moderate, neutral and long term
- In 1no. case the the visual effect is moderate, neutral to positive and long term.

3.42 The LVIA concludes that in the context of re-zoning from industrial to residential use, the proposed development revitalises a derelict site. The density and height of the scheme, when seen in the context of the urban consolidation of local environs and in the context emerging baseline for sustainable housing at national policy level is nevertheless a challenge for a low-rise suburban landscape character.

3.43 However, the visual impact images range widely in the area, and demonstrate a surprising lack of visibility except when close by. The close effects are mitigated by the architectural planning, form, proportion and finishes. This visual impact is further considered in the landscape context as a positive contribution of public open space, connectivity of the Santry river corridor and permeability across the site with its associated amenities.

3.44 The degree of impact is seen as **moderate** in the context of a baseline of an inactive industrial site and a landscape character that is not particularly sensitive. The design of the scheme produces a **neutral** to positive quality in this context.

#### Positive contribution to place making

3.45 The proposed development incorporates a variety of scales, with Blocks A1 and A2 varying between 6no. and 10no. storeys, whilst Blocks B and C vary between 3no. and 7no. storeys.

3.46 The schemes urban design and architecture will have a role in helping an area to form a strong character. The scheme provides a positive opportunity to create identity through density and height as well as providing quality amenities that will serve the local community. Quality materials and thoughtful attention to details provide a sense of place at the street level.

3.47 Consideration has been given to elevations to ensure buildings are coherent while having distinctive characteristics. The proposed development has its own distinct identity while making a positive contribution to the local area.

3.48 The **Architectural Design Statement** prepared by Plus Architecture and the **Landscape Design Report and Outline Specification** prepared by Mitchell + Associates that accompany this application set out the proposed scheme's contribution to place making in detail.

#### At the scale of district neighbourhood / street

##### Responds to its overall natural and built environment

3.49 The proposed developments public and semi-public areas are well defined and overlooked, whilst the ground floor units present an active frontage to the streetscape and provide a sense of security. The scheme provides a generosity of dimension to streets and courtyards in keeping with a sub-urban character, whilst the layout also allows for visual connections to a public park through the use of axial route that bisect the site and through leaving strategic 'gaps' in the massing of buildings.

3.50 The layout is designed around creating a permeable network of direct routes, where pedestrian, cycle and vehicular facilities are integrated. The proposed scheme will be predominantly brick-based which

will be varied in finish to avoid monotony. The elevations will be broken with the insertion of white stone on taller elements of the buildings to provide visual relief within the scheme

- 3.51 The large scale rhythm of the taller vertical elements will present an immediately recognisable place-marker within the local area. These apartments overlooking the park will enjoy a high quality aspect and will enjoy a sense of ownership over the green space.
- 3.52 The public open space north of the proposed development will act as a green link to the existing Stardust Memorial Park. The existing Stardust Park which is directly adjacent to the site currently offers numerous amenities such as a designated play area with play items for a range of age groups, exercise equipment, an astroturf 7 aside pitch, sculptural elements and numerous walking/running routes around and along the existing water course.
- 3.53 The scheme makes connections to the neighbouring landscape specifically the public park. Public spaces are easily accessible and identified to all residents and have been designed with a user-centred approach, particularly for the needs of pedestrians.
- 3.54 The apartment mix adds choice to the local area which is predominantly suburban houses. The proposal will include 2 and 3 bed duplex units and apartments ranging in size from studio to 3 bed. Mixed communities are best created by providing a range of unit types.
- 3.55 The **Water Services and Flood Risk Assessment** prepared by Cora and included with this application establishes that the proposed development is acceptable from a flood risk perspective and will not give rise to off-site flood related issues. The design incorporates a comprehensive surface water management plan, including sustainable urban drainage systems and is fully compliant with the requirements of the Greater Dublin Strategic Drainage Strategy.

#### At the scale of the site / building

##### Massing, height and assessment

- 3.56 The proposed apartment buildings are carefully designed with all apartments provided with ample private outdoor space and balconies overlook the shared amenity spaces. The maximisation of natural light was a key consideration in the design and 65% of the proposed apartments are dual aspect apartments.
- 3.57 A **Sunlight, Daylight and Overshadowing Assessment** has been prepared by Metec. In terms of Daylight, 97% of the 580 rooms assessed in the 202 apartments analysed achieve the BRE Guidelines. This assessment primarily focused on apartments that would be considered “worst case” in terms of receiving obstructions to daylight (i.e. the lower floors). If all apartments were analysed, i.e. with the inclusion of more of the upper floors, the percentage pass rate would increase further because the Average Daylight Factor of the upper floors are even less obstructed
- 3.58 In those apartments that do not fully meet these criteria, the following compensatory measures are proposed:
- Units have an apartment floor area that is  $\geq 10\%$  larger than the design standards for new apartments;
  - A high proportion of glazing is provided to all units. Specification of glazing with a high glazing transmittance value to ensure maximum light penetration into apartments
  - Balcony space exceeds the design standards referenced in the March 2018 apartment guidelines; and
  - 27% of the units noted as being short of the target daylight values are dual aspect.

- 3.59 With reference Sunlight (Amenity Spaces – Gardens & Open Spaces), sunlight in amenity spaces is achieved for this proposed development, as all central courtyards exceed the recommended sunlight levels.
- 3.60 With reference solar shading of existing adjacent properties, whilst additional shade was identified (please refer to the Sunlight, Daylight and Overshadowing Assessment) the results of the VSC and sunlight simulation have demonstrated that the guidelines for maintaining light received by existing buildings with the proposed development in place have been achieved
- 3.61 Therefore, proposed development provides a comprehensive urban regeneration and effective urban design and streetscape solution.

#### Specific Assessments

- 3.62 This application is supported by a comprehensive suite of reports that demonstrate that the proposed scheme is acceptable and will not significantly affect surrounding land uses or the environment. The Board's attention is drawn in particular to the following supporting reports;

| Document Title                                     | Author   |
|--|--|
| Environmental Impact Assessment Report             | All consultants                                  |
| Planning & Statement of Consistency Report         | McCutcheon Halley Chartered Planning Consultants |
| Design Statement                                   | Plus Architecture                                |
| Daylight, Sunlight and Overshadowing Assessment    | Metec Consulting Engineers                       |
| Microclimate Wind Assessment                       | Metec Consulting Engineers                       |
| Lighting Statement                                 | Metec Consulting Engineers                       |
| Sustainability Report / Energy Statement           | Metec Consulting Engineers                       |
| Traffic and Transportation Assessment              | Aecom  |
| Water Services and Flood Risk Assessment Report    | CORA   |
| Landscape Design Report and Outline Specification  | Mitchell & Associates                            |
| Outline Construction Environmental Management Plan | Altamar Marine & Environmental Consultancy       |
| Natural Impact Statement                           | Altamar Marine & Environmental Consultancy       |
| Arboricultural Assessment                          | CMK Hort + Arb Ltd                               |
| Arboricultural Impact Report                       | CMK Hort + Arb Ltd                               |
| Tree Protection Strategy                           | CMK Hort + Arb Ltd                               |

- 3.63 Of note is the **Micro-climate Wind Assessment**, prepared by Metec Consulting Engineers and submitted with this application which demonstrates that:

- Pedestrian comfort is achieved in all areas of the site in summer;
- In winter, the site is subject to higher and more frequent winds from the southwest which means pedestrian areas in-between Block B and Block C, in-between Block A1 and Block A2, and areas at the west corner of the service building have higher than desirable wind speeds;
- A limited number of areas of the site were identified as being uncomfortable for pedestrians in the **worst-case** winter season. These were identified to be south of the pedestrian spaces in-between Block B and Block C, and the southern corner of Block C;
- No areas of the site exceed the Lawson distress threshold for able-bodied pedestrians;
- There are areas that receive less frequent winds that exceed the 15m/s distress threshold for vulnerable pedestrians:

- South of the pedestrian areas in-between Block B and Block C;
  - The pedestrian areas in-between Block A1 and Block A2;
  - West corner of the service building; and
  - Small areas at the southernmost corner of the site.
- The distress threshold wind speed of 15m/s for vulnerable pedestrians was found to occur for no more than 5 hours annually in the worst case area i.e. South area in-between Block B and Block C.

3.64 However, with the introduction of the proposed landscape masterplan, it is expected all pedestrian spaces outlined above to be safe for their purpose of use.

3.65 Having regard to the foregoing, it is therefore our professional opinion that the proposed development meets all of the relevant Development Management Criteria set out under the *Urban Development and Building Heights Guidelines for Planning Authorities*. It is also consistent with the policies in relation to height under the *National Planning Framework (NPF) Ireland 2040*, the Residential Density Guidelines and government policy.

### Conclusion on Height

3.66 This application clearly demonstrates that the proposal for the Chivers Factory site is a well-considered design within a vacant brownfield urban infill site, that is cognisant of surrounding land uses, that maximises the site's natural attributes and that ensures a high-level of environmental protection.

3.67 The suite of supporting reports demonstrate that the proposed development will not give rise to significant effects and if permitted would represent a high-quality, sustainable infill development that would;

- ✓ Achieve densification;
- ✓ Deliver homes that are of high quality, meeting the space standards as set out in the NPF;
- ✓ Promote a modal shift; and
- ✓ Protect and enhance the surrounding land uses and environment.

3.68 In the event that An Bord Pleanála is otherwise minded to grant permission for the proposed development, it is respectfully submitted that the justification set out in this report would enable the Board to grant permission in accordance with section 37(2)(b) (iii) of the Planning and Development Act, 2000 (as amended) and that any such decision would be legally robust.

3.69 In our opinion, the proposed development is consistent with the policies in relation to height under the National Planning Framework (NPF) Ireland 2040, the Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities). It also meets all of the relevant Development Management Criteria set out under the Urban Development and Building Heights Guidelines for Planning Authorities.

## 4.0 Conclusion

- 4.1 In preparing this report, we have followed the advice provided in the *Development Management Guidelines for Planning Authorities (2007)* i.e. to consider whether the development would represent a fundamental departure from a provision contained within the plan or would alone or in conjunction with others, seriously prejudice an objective of the plan.
- 4.2 We recognise the role of the competent authority in deciding on this matter and have therefore prepared this report to assist An Bord Pleanála with their determination in that regard. In the event, that An Bord Pleanála conclude that the proposed development represents a material contravention of the Development Plan, it is submitted, for the reasons set out in this report, that the Board can grant permission under Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).
- 4.3 Regarding the proposed height, it is our professional planning opinion that the Board has power to grant permission having regard to the following provisions:
  - i. Section 37(2)(b)(iii) i.e. permission should be granted for the proposed development on the basis that the proposal is consistent with national planning policy to significantly increase the delivery of housing is consistent with existing and emerging policy regarding compact growth and the realisation of this through increased building height.
- 4.4 In the event that An Bord Pleanála is otherwise minded to grant permission for the proposed development, it is respectfully submitted that the justification set out in this report would enable the Board to grant permission in accordance with section 37(2)(b) (iii) of the Planning and Development Act, 2000 (as amended).