
Statement of Material Contravention

‘Build-To-Rent’ Housing Development

**Units 66 & 67 Fourth Avenue, Cookstown Industrial Estate,
Tallaght, Dublin 24**

Steelworks Property Developments Limited

October 2020



Hughes Planning & Development Consultants

70 Pearse Street, Dublin 2
+353 (0)1 539 0710 – info@hpdc.ie – www.hpdc.ie

Application Preface

The Applicant, Steelworks Property Developments Limited, has acquired the subject site (Units 66 & 67 Fourth Avenue) and the adjacent site to the east (Units 69 and 70 Cookstown Road) with the intention of securing the optimum land use on these underutilised sites within the Cookstown Industrial Estate. The Cookstown Industrial Estate is an area identified for 'regeneration' in the South Dublin County Development Plan 2016-2022. It is expected to be the subject of extensive urban renewal in the coming years, with existing industrial buildings being replaced with higher density development and multi-national corporations, such as Amazon, commencing operation in the area. Re-development of these sites will occur in 2 no. phases, this application comprising the first phase of re-development.

A 'Build-to-Rent' residential development has been identified as the preferred land use option for the subject site having regard to the employment opportunities existing in the surrounding area, including the Tallaght University Hospital, TU Dublin (Tallaght Campus) and Amazon, and the sites proximity to multiple public transport services linking the Tallaght area with Dublin City Centre. In addition, the Cookstown Road Extension provides the site with a direct connection to the Tallaght Town Centre, which features an array of established services and facilities for residents of the surrounding area, and the proposed public open space area immediately south-east.

Extensive market analysis, including a review of national and local demographic information and adjacent land uses, was undertaken to inform the optimum mix of units within the development which would meet market and demographic demand. Further to this, LIV Consulting, who have extensive experience regarding the management of such schemes, were consulted with regards to amenity space provision and layout. The Inspectors Report, pertaining to ABP Ref. ABP-305725-19, was also consulted in advancing the layout of the proposed development, including the proposed amenity spaces.

Despite involving a variation to the unit/tenure mix sought by the Tallaght Town Centre Local Area Plan 2020-2026, the proposed development is consistent with the provisions of the Specific Planning Policy Requirements 7 & 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018), which relate specifically to Build-to-Rent developments, and national plans and guidance more broadly.

The proposed development fully accords with national plans and guidance documents; has had regard to housing market needs of the area and is consistent with a range of Strategic Housing Development developments previously granted by An Board Pleanala in the immediately surrounding area and Dublin more broadly.

The subject proposal has also been designed having regard to the refusal reasons outlined in relation to ABP Ref. ABP-305725-19; the feedback received from An Board Pleanala and South Dublin Council during pre-planning consultations; the policies and objectives outlined in the Tallaght Town Centre Local Area Plan 2020-2026 South Dublin County Development Plan 2016-2022; the South Dublin County Council Part VIII housing development and associated road currently being advanced immediately south; and road upgrades/construction projects taking place in the surrounding area including the extension of the Cookstown Road and the Airton Link Road.

1.0 Introduction

Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2, have prepared this Statement of Material Contravention on behalf of our client, Steelworks Property Developments Limited, to accompany a planning application to An Bord Pleanála for a proposed Strategic Housing Development at Units 66 & 67 Fourth Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24.

The subject application involves a parcel of land located to the south-west of the intersection of Fourth Avenue and Cookstown Road, Cookstown Industrial Estate, Tallaght, Dublin 24. The subject site comprises an area of approximately 1.1 Ha (2.72 acres). It is made up of Units 66 & 67 Fourth Avenue and also includes 0.39 Ha of South Dublin County Council owned land (a consent letter from South Dublin County Council accompanies this application under a separate cover).

The proposed development, as designed by C+W O'Brien Architects, involves the demolition of the existing industrial buildings on site, construction of 252 no. no. 'build-to-rent' apartments, 2 no. commercial units and a crèche in a two to nine storey development and road, junction and streetscape upgrade works along Fourth Avenue and Cookstown Road, including the installation a signalized junction at the intersection of Fourth Avenue and Cookstown Road.

We note that the report prepared by South Dublin County Council in relation to the previous SHD application lodged for the subject site (under ABP Ref. ABP-305725-19) states inter alia that, having regard to the proposed plot ratio and building height, that the proposed development would materially contravene the provisions of the Draft Tallaght Town Centre Local Area Plan 2020-2026 (which has since been adopted in June 2020). The subject proposal maintains a similar plot ratio (2.95) to that proposed under ABP Ref. ABP-305725-19. In addition to this, in early S247 Pre-planning meetings with South Dublin County Council, the no. of 3-bedroom apartments and Build-to Rent apartments proposed were raised as a contravention of the Draft Tallaght Town Centre Local Area Plan 2020-2026 (which has since been adopted).

Prior to submitting this application, the Applicant had to consider whether the proposed development materially contravened the Tallaght Town Centre Local Area Plan 2020-2026 in order to comply with the requirement under Section 8 of the Planning and Development (Housing) and Residential Tenancies 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,...

While the Applicant does not consider the proposed plot ratio, housing mix proposed tenure type to be a material contravention of the Tallaght Town Centre Local Area Plan 2020-2026 in this regard, it is a matter for An Bord Pleanála to determine if the proposed development (with a plot ratio of 2.95, 2% 3-bedroom apartments and comprising entirely Build-to-Rent apartments) in fact materially contravenes the Tallaght Town Centre Local Area Plan 2020-2026. Therefore, the Applicant has taken a conservative approach to compliance with the above requirement regarding the statutory newspaper notice and the provision of a justification for the proposed plot ratio and housing mix in the context of the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

It is respectfully requested therefore that An Bord Pleanála have regard to the following justification for a potential material contravention of the Tallaght Town Centre Local Area Plan 2020-2026 (as it relates to plot ratio, housing mix and housing tenure mix), having regard to the fact that the proposed development is by definition 'of strategic importance', the pattern of development approved in the area and having regard to the compliance of the proposed development with national planning policy and section 28 Guidelines as outlined herein. These include the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, which fully support and reinforce the need for urban infill residential development at appropriate densities on sites in close proximity to public transport and within existing urban areas.

2.0 Legislative Context

Pursuant to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (2016 Act), where a proposed development is considered to materially contravene the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), the Board can determine that permission should, nonetheless, be granted, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000 as amended (the Act). Section 9(6)(c) of the 2016 Act stating that:

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

Section 37(2)(b) of the Act states that where a proposed development materially contravenes the development plan, the Board may grant permission 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.*

It is respectfully requested that An Bord Pleanála, should they determine the proposal materially contravenes the Tallaght Town Centre Local Area Plan 2020-2026, have regard to the justification for the proposed plot ratio and housing mix provided in the subsequent sections. It is considered that the policies and objectives stated in the Section 28 Government Guidelines, including the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, provide justification for the proposed plot ratio and unit mix. These policies, among others, are discussed in the below justification section. Further to this, the proposal can also be justified having regard to the strategic importance of Strategic Housing Developments and the permissions granted in the area since the making of the Local Area Plan.

3.0 Potential Material Contraventions

3.1 Plot Ratio

Table 2.0 included in Section 2.6.1 of the Tallaght Town Centre Local Area Plan 2020-2026 sets out a range of appropriate plot ratios across the plan lands. A plot ratio range of 1.5-2.0 was set in relation to the Centre Neighbourhood, as illustrated in the plan excerpt below:

Neighbourhood	Min - Max Plot Ratio	
Centre	1.5 - 2.0	
Cookstown	Parcel	Range
	CT - A	1.5 - 2.0
	CT - B	1.5 - 2.0

Figure 1.0 Plot ratio ranges outlined Table 2.0 in Section 2.6.1 of the Tallaght Town Centre Local Area Plan 2020-2026

The Tallaght Town Centre Local Area Plan 2020-2026 goes on to state the following:

Flexibility in relation to the gross floor area of up to 20% of the plot ratio ranges may generally be applicable where there is a strong design rationale for an increase in density/height and the development will result in a significant public gain. A significant public gain includes:

- *The dedication of part of the site for public open space including parks and plazas;*
- *The creation of streets and links that provide access through and access to a site;*
- *Major upgrades to streets surrounding the site including works such as street widening, new enhanced junctions and crossing points and realignments;*
- *Provision of community and/or cultural amenities that will significantly contribute to the social infrastructure in the area; and*
- *Other public domain works or improvements to be agreed with the Council.*

The subject proposal includes road, junction and streetscape upgrades along Fourth Avenue and Cookstown Road (which includes the provision of a signalised junction at the intersection of Fourth Avenue and Cookstown Road) and a public plaza in the north-eastern corner of the site, as well as the provision of a new route adjacent to the subject sites southern boundary in line with the street network and route structure outlined in Section 2.2.1 of the Tallaght Town Centre Local Area Plan 2020-2026. Therefore, it is considered that the subject scheme can benefit from this 20% allowable increase to gross floor area (resulting in an allowable plot ratio range of 1.8-2.4).

The proposed development equates to a plot ratio of 2.95 which exceeds the specified plot ratio range inclusive of the 20% allowable increase to gross floor area (which allows for a plot ratio of 2.4).

3.2 Housing Mix

Section 5.2.1 of the Tallaght Town Centre Local Area Plan 2020-2026, includes the following policy in relation to housing mix:

It is policy of the Council to ensure an appropriate housing mix is provided within the LAP lands, therefore a minimum of 30% of units within any new residential development (in the form of either apartments or houses, but excluding student accommodation schemes) shall have a minimum of 3 bedrooms.

The proposed development comprises of 19.8% studios, 38.1% 1-bedroom apartments, 39.7% 2-bedroom apartments and 2% 3-bedroom apartments.

3.3 Housing Tenure Mix

Section 5.2.2 of the Tallaght Town Centre Local Area Plan 2020-2026, includes the following policy in relation to housing tenure mix:

In the interest of providing an appropriate housing tenure mix it is policy of the Council that all residential development proposals shall state the proposed tenure mix and provide justification for the proposed mix having regard to the socio economic and demographic context of the area. It is an ambition of the LAP to encourage the provision of at least 30% owner occupied units across the LAP area.

The proposed development comprises of 10% units for social housing (Part V) and 90% Built-to-Rent units.

4.0 Justification having regard to the Tallaght Town Centre Local Area Plan 2020-2026

Justification for the proposed plot ratio, housing mix and housing tenure mix having regard to the Tallaght Town Centre Local Area Plan 2020-2026 is set out below.

4.1 Plot Ratio

With regards to plot ratio, we think it prudent to firstly note that the plot ratio has been calculated conservatively using the developable site area in the ownership of the Applicants as opposed to the application site boundary. If the entire site boundary inclusive of road/footpaths etc. (which equates to 10,358sqm) was to be used in its calculation, the resultant plot ratio would be 2.0 which would comply with the Local Area Plan Requirement. Please see the Schedule of Accommodation, prepared by C+W O'Brien Architects, for further information on the plot ratio calculation for the scheme.

Secondly, Section 2.6.1 of the Tallaght Town Centre Local Area Plan 2020-2026 states that *'plot ratio, height and built form will be used to determine and assess the intensity, scale and bulk of development in the Plan lands. This approach promotes an urban design quality-led approach to achieving sustainable urban densities where the focus will be on achieving a high-quality urban environment.'* While the proposed plot ratio (of 2.95) is in excess of the plot ratio range set out in relation to the Centre Neighbourhood, we would contend that this is appropriate in this instance as the subject proposal complies with the height and built form requirements and will create a high-quality urban environment as sought by the Tallaght Town Centre Local Area Plan 2020-2026.

With regards to height and built form, as discussed in detail in Section 7.15.3 of the Statement of Consistency and Planning Report, prepared by Hughes Planning and Development Consultants, the subject proposal is consistent the guidance regarding height and built form set out in the Tallaght Town Centre Local Area Plan 2020-2026. In summary, the subject site is designated for buildings of 6 to 7 storeys in height and is identified as a suitable location for a landmark building (a 2–4 storey increase on the above typical levels) due to it being located within 100m walking distance of the proposed 'New Urban Square' north of Belgard Square North in the Centre neighbourhood. The subject proposal involves blocks varying in height from 2-9 storeys, rising to nine-storeys in the north-eastern corner. The higher built form element in the north-eastern corner of the subject site presenting as a landmark building.

From a built form perspective, the proposed development is consistent with this guidance set out in Section 2.6.2 of the Tallaght Town Centre Local Area Plan 2020-2026 as it creates active ground floor frontages due to the inclusion of commercial/retail and own-door access residential units along its frontages and the building has been designed to clearly express the ground floor and features distinctive main façade and a strong parapet.

In addition to complying with the guidance regarding height and built form, the subject proposal achieves a high level of residential amenity for future residents. As discussed in detail in Section 7.9 of the Statement of Consistency and Planning Report, prepared by Hughes Planning and Development Consultants, the subject proposal complies with the residential amenity minimum design standards required under Design Standards for New Apartments (2018). Further to this, the application is accompanied by a Daylight and Sunlight Analysis, prepared by 3D Design Bureau, which confirms that the building proposed does not result in inappropriate levels of amenity to residents of the proposed apartments or users of the proposed central courtyards.

We would contend that the slight exceedance of the maximum plot ratio set out in Section 2.6.1 of the Tallaght Town Centre Local Area Plan 2020-2026 is appropriate in this instance as a high-quality urban environment is created irrespective of the plot ratio proposed. This high-quality urban environment comes as a result of the following:

- The proposed building is of a high quality architectural design and uses high quality materials and finishes;
- The subject proposal incorporates road, junction and streetscape upgrade works along Cookstown Road and Fourth Avenue which will create a more urban/residential feel which improves upon the existing industrial street network currently featuring in the Cookstown Industrial Estate; and

- The proposed building appropriately responds to the signalised junction being created at the intersection of Cookstown Road and Fourth Avenue and the public plaza being introduced to the north-east of the site by incorporating commercial/retail uses and active internal amenity spaces adjacent as well as incorporating a landmark building component adjacent to the proposed signalised junction. The proposed building also appropriately responds to the South Dublin County Council's development proposed immediately south by adopting generous setbacks from the site's southern boundary, tying in with their proposed road off Cookstown Road and including residential uses along the building's southern boundary.

4.2 Housing Mix

With regards to housing mix, we would firstly note that Section 5.2.1 of the Tallaght Town Centre Local Area Plan 2020-2026 acknowledges that the population statistics from Census 2016 reveal that the population in the LAP area is young and includes a high proportion of families at the early stages of forming a family.

The subject site is located within the settlement of Tallaght and the Electoral Division of Tallaght Springfield. We consider there to be ample justification for the proposed housing mix, in particular the no. of 3-bedroom apartments proposed, having regard to the demographic context of the area.

The below table illustrates the significant population growth that the settlement of Tallaght has experienced in comparison to Ireland in recent years. The CSO data outlines that Ireland has seen a 3.8% increase in population from 2006 to 2016, whilst during the same period, Tallaght has experienced a 16.8% growth. The electoral division of Tallaght Springfield has grown by an incredible 39.8% in the same period.

Settlement/Province	2006	2011	2016	Percentage Change		
				06-11	11-16	06-16
Ireland - State	4,239,848	4,588,252	4,761,865	8.2	8.2	3.8
South Dublin County	246,935	265,205	278,767	7.4	5.1	12.9
Tallaght	65,167	69,454	76,119	6.6	9.6	16.8
Electoral Division of Tallaght Springfield	7,876	9,123	11,012	15.8	20.7	39.8

Table 1.0 Population Trends 2006-2016

The 2016 census data revealed that 55.3% of the population of the Electoral Division of Tallaght Springfield was made up of people between the age of 0-34. This is 15.8% greater than the national figure, which is 39.5%. The 2016 census data also revealed that 75.7% of families living in the Electoral Division of Tallaght Springfield were 1, 2 and 3 person households/families. This is 10% above the national figure, which is 65.7%. We would contend that the proposed housing mix appropriately responds to the age demographic and family sizes in the Electoral Division of Tallaght Springfield.

4.3 Housing Tenure Mix

With regards to housing tenure mix, we would firstly note that the policy outlined in Section 5.2.2 of the Tallaght Town Centre Local Area Plan 2020-2026 is aspirational rather than a mandatory requirement. The encouragement to provide at least 30% owner occupied units across the LAP area is described as '*an ambition of the LAP*'.

Secondly, it looks to achieve 30% owner occupied units across the LAP area rather than on each site within the LAP area. This gives flexibility regarding the housing tenure mix adopted for a particular development. The proposed unit type/mix can be justified having regard to the existing and recently permitted developments in the immediately surrounding area and the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026 more broadly.

In the immediate context, this part of the Cookstown Industrial Estate will benefit from a localised mix of housing tenure types with the subject Build-to-Rent scheme being located proximate to an affordable housing scheme being developed by South Dublin County Council immediately south and The Exchange Hall Apartments, which is traditional apartment development, further south.

In the context of the broader Tallaght Town Centre Local Area Plan area, traditionally the housing stock provided in the applicable area has been build-to-sell. The concept of build-to-rent being a relatively new one. To date, only 196 no. 'Build-to-Rent' units have been granted planning permission through the Strategic Housing Development process (under Case Reference: ABP-303803-19) in the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026. This approval was for a development at Units 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24, comprising the following:

Demolition of the existing 2,590sq.m industrial building and the construction of a 'build-to-rent' housing development providing a total of 196 no. residential apartments (comprising 45 no. studio units, 48 no. one-bed units, 8 no. two-bed (3-person) units and 95 no. two-bed (4-person) units) in 4 no. six-nine storey blocks over basement. The development will include 1 no. commercial unit (248sqm, accommodating Class 1, 2 and 8 uses as per the Planning and Development Regulations, 2001 – 2018) at ground floor level, 1 no. office unit (111sqm) at ground floor level; a crèche (192sqm) at ground floor level; a gym (18sqm) at ground floor level; 6 no. communal amenity spaces provided at ground and first floor levels across the development (totalling 286sqm); a communal hot desk room (25sqm) at ground floor level; and 3 no. communal secure storage areas (totalling 31sqm) at ground floor level; along with a ground floor level landscaped courtyard, 408 no. bicycle spaces (308 no. resident spaces at basement level and 100 no. visitor spaces at ground floor level); an underground carpark (accessed from Second Avenue, providing a total of 67 parking spaces (including 61 no. standard spaces and 6 no. mobility impaired user parking spaces)) and refuse/waste/recycling stores. Associated site and infrastructural works are also proposed which include: foul and surface water drainage; attenuation tanks; lighting; landscaping; boundary fences; plant areas; ESB Substations; internal hard landscaping, including footpaths and street furniture; and all associated site development works.

2 no. other Strategic Housing Development proposals involving Build-to-Rent units submitted in the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026 were refused permission. The original SHD application for the subject site being one of them and the second relating to Unit 21 First Avenue, Cookstown Industrial Estate, Dublin 24, with a proposal for the following (under ABP Reference: ABP-303911-19) being refused on 19th June 2019:

The demolition of 5,500 square metres of existing one and two-storey industrial buildings (including a small operating café) and associated site clearance works, and the construction of 150 number 'Build-to-Rent' apartments in three number, five to six storey blocks and 222 number Shared Living units in a fourth, six to eight storey (parapet level) block.

The other Strategic Housing Developments considered by the Board in the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026, included a different housing tenure mix of residential units to that proposed on the subject site. These applications include the following:

- On 15th April 2019, a development was approved at Belgard Gardens, Belgard Square North and Belgard Road, Tallaght, Dublin 24, (under ABP Ref. ABP-303306-18) involving the following (in summary):

Demolition of all existing buildings and construction of a mixed use residential development (total GFA 55,180 sqm) comprising a new urban quarter and streets with 5 no. blocks to provide 438 no. apartment units (including live/work units) and associated amenity facilities, a 403 no. bedspace student accommodation scheme and associated amenity facilities, childcare facility (c.380 sqm), 6 no. retail / commercial units (c.632 sqm in total) and a security room (c.52 sqm).

- On 20th February 2020, a development was approved at the corner of Airton Road and Belgard Road, Tallaght, Dublin 24, (under Case Ref. ABP-305763-19) involving the following (in summary):

Demolition of the existing industrial buildings on site (4,800sq.m) and the construction of 2 no. blocks comprising 328 no. apartments, ancillary residential support facilities and commercial floorspace measuring 31,147sq.m gross floor space above a single basement level.

- On 16th June 2020, a development was approved at the Former Gallaher's cigarette factory site at the junction of Airton Road & Greenhills Road, Tallaght, Dublin 24, (under ABP Ref. ABP-306705-20 involving the following (in summary):

Demolition of existing factory/warehouse buildings on site; construction of 502 no. apartments, 3 no. retail units and a creche, within 6 no. blocks ranging in height from 4 to 8 storeys; provision of road improvements and pedestrian crossings; and all associated site development works and services provision.

A review of the South Dublin County Council planning register revealed no planning applications involving 'Build-to-Rent' units currently being considered or having been recently decided in the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026. In light of the above, we consider that the proposed scheme will not result in an overconcentration of Build-to-Rent units in the area forming the subject of the Tallaght Town Centre Local Area Plan 2020-2026 and given the no. of the owner occupied units featuring in the above SHD approvals, the 30% owner occupied units sought across the LAP area will be achieved.

Thirdly, we consider there to be justification for the proposed mix having regard to the socio economic and demographic context of the area. As discussed previously in Section 4.2, the age profile is younger and in the family/household sizes smaller in the Electoral Division of Tallaght Springfield than the equivalent national figure. We would contend that the proposed housing tenancy mix appropriately responds to the age demographic and family sizes featuring in the Electoral Division of Tallaght Springfield as the Build-to-Rent model is most appealing to young professionals and small families due to the level of on-site amenities offered, including a creche and children's play area, as well as the majority of maintenance responsibility falling to the management companies. The proposed development offers younger people/small families in the area a suitable accommodation option during the transitional period between vacating their family home and purchasing their first home.

Finally, the subject application is accompanied by a Commentary on the Private Rented Sector / Market Demand, prepared by Cushman Wakefield, and a Build to Rent Market Justification Report, prepared by LIV Consulting, which provide an economic and market rationale for this housing typology/mix at this location. Cushman Wakefield's report concludes that *'in short, there is a compelling economic and planning rationale for this housing typology at this location. The site enjoys a number of key locational advantages including its position relative to major employment centres in the surrounding area including the Tallaght Hospital, TUD Tallaght, the Square and the Civic Offices.'* LIV Consulting's report concludes that *'the wider socio-economic context in which this scheme is being proposed is characterise by a continued decline in home ownership and an increase of rental tenure across Dublin. This is an established regional and national trend that provides a strong justification for the Build to Rent proposition in emerging urban hubs such as Tallaght, which are at the forefront of the growing shift from home ownership to rental tenures. This trend is being seen among younger residents who are keen to have the flexibility of a rental tenure or perhaps, due to financial constraints, are unable to enter the housing markets. Hence, the BTR proposition is primarily targeted at younger demographic, particularly mid-level and established professional, services workers and couples. Cookstown Cross is therefore appropriate in matching the demographics associated with the local employment and education context.'*

5.0 Justification for Potential Material Contraventions pursuant to Section 37(2)(b) of the 2000 Act.

A justification for the potential material contraventions of the Tallaght Town Centre Local Area Plan 2020-2026 is set out below, under the relevant parts of Section 37(2)(b) of the 2000 Act.

5.1 Part (i) - Proposed Development is of Strategic or National Importance

The proposed development comprises of inter alia the provision of 252 no. build-to-rent apartments on a site of c. 1.1 hectares. The proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. On this basis it is submitted that the proposed development is, of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland.

5.2 Part (ii) - There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned

As discussed in Section 3.2 of this report, Section 5.2.1 of the Tallaght Town Centre Local Area Plan 2020-2026 establishes a quantitative requirement in relation to housing mix, more specifically in relation to 3-bedroom apartment provision. The Tallaght Town Centre Local Area Plan 2020-2026 goes on to state the following in Section 5.2.2 of the Tallaght Town Centre Local Area Plan 2020-2026 in relation to Build-to-Rent (BTR): Security of Tenure:

It is the policy of the Council to support Build to Rent developments that comply with the housing/occupancy mix requirement specified in this Section and national policy, in particular with the policies and objectives set out in 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)' (Objective RE 5).

The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)' will be discussed in greater detail subsequently in Section 5.3.3 of this report. However, at this stage of the report, we would like to highlight part (i) of Specific Planning Policy Requirement 8 which specifically removes restriction on dwelling mix in the context of Build-to-Rent developments. Part (i) of Specific Planning Policy Requirement 8 reads as follows:

For proposals that qualify as specific BTR development in accordance with SPPR 7:

- i. No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;*

Therefore, the objectives outlined in Sections 5.2.1 of the Tallaght Town Centre Local Area Plan 2020-2026 regarding housing mix directly contradicts Objective RE 5 subsequently set out in Section 5.2.2 of the Tallaght Town Centre Local Area Plan 2020-2026. Further to this, the requirements contained within Objective RE 5 to comply with the housing/occupancy mix requirement specified and with the policies and objectives set out in 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)' also contradicts itself.

We would contend that the proposed housing mix can be justified having regard to the above mentioned conflicting objectives in the Tallaght Town Centre Local Area Plan 2020-2026.

5.3 Part (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

The following section shall demonstrate how the proposed plot ratio, housing mix and housing tenure mix are justified in the context of recent National Planning Policy and Section 28 Government Guidelines.

5.3.1 Project Ireland: National Planning Framework 2040

The National Planning Framework 2040 (NPF) seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl, increase the sustainability of public transport networks and meet the housing needs of our growing population. The NPF seeks to influence the location of new housing development and future population growth and targets the location of 40% of new housing development within and close to the existing 'footprint' of built up areas over the lifetime of the framework.

The following objectives and guidance regarding brownfield development in the NPF are of particular relevance:

National Policy Obj. 3a *Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.*

National Policy Obj. 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.*

National Policy Obj. 35 *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*

To enable brownfield development, planning policies and standards need to be flexible, focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases. 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 cannot account for the evolved layers of complexity in existing built-up areas.

The proposed plot ratio is considered appropriate given the brownfield nature of the subject site and the location of the site, in close proximity to Tallaght Town Centre and multiple public transport services. More specifically, the subject site is approximately 800 metres from the Tallaght Hospital and Tallaght Town Centre LUAS stops and is in close proximity to Bus Route Nos. 27, 49-N, 54a, 65, 75, 76, 76a, 77-N, 77a, 126 and 132 which run along Belgard Square North.

The proposed development is therefore in accordance with the objectives of the NPF in this regard. Restricting development plot ratios at such a location, well served by public transport, under the Tallaght Town Centre Local Area Plan 2020-2026 is a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

National Planning Framework states the following in relation to changing family size:

Currently, 7 out of 10 households in the State consist of three people or less, with an average household size of 2.75 people. This is expected to decline to around 2.5 people per household by 2040. Household sizes in urban areas tend to be smaller than in the suburbs or rural parts of

the country. In Dublin city, one, two and three person households comprise 80 percent of all households. Yet, the stock of housing in Ireland is largely comprised of detached and semi-detached houses with three to four bedrooms.

Having regard to the above, the proposed unit mix responds to the identified strategic need for smaller units in the housing stock in urban areas. The proposed development will include studio, one-bedroom and two-bedroom apartments which will improve the variety of house types in the area consistent with national policy guidance.

5.3.2 Urban Development and Building Heights Guidelines for Planning Authorities, 2018

The Urban Development and Building Height Guidelines, 2018, are intended to set out national planning policy guidelines on building heights and development intensity in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040. Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function.

The Height Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and to 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.

The Height Guidelines state 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'*.

As discussed previously, the subject site is in close proximity to 2 no. LUAS stops and multiple bus services running along Belgard Square North. The proposed development therefore represents an opportunity to provide for increased densities in accordance with national planning policy.

The plot ratios set out in the Tallaght Town Centre Local Area Plan 2020-2026 are considered to be conservative and an inefficient use of zoned land and is considered to be contrary to the objectives of the Urban Development and Building Height Guidelines, 2018.

5.3.3 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018

The following guidance is provided in regards to Central and/or Accessible Urban Locations in the Apartment Guidelines:

'In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.'

The subject site is located within 10 minutes walking distance of the Tallaght Hospital and Tallaght Town Centre LUAS stops and within 5 minutes walking distance of Bus Route Nos. 27, 49-N, 54a, 65, 75, 76, 76a, 77-N, 77a, 126 and 132. The subject site therefore constitutes a 'central and / or accessible urban location' as defined within the 2018 Apartments Guidelines. The site is also in close proximity to a number of existing employment providers, with additional employment opportunities earmarked for the

Cookstown Industrial Estate area and the Tallaght area more broadly. Therefore, the subject site is considered appropriate to accommodate higher density development and a suitable location for a build-to-rent scheme.

The Apartment Guidelines includes the following specific planning policy requirements (SPPRs) pertaining to unit mix:

Specific Planning Policy Requirement 1

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

Specific Planning Policy Requirement 8

For proposals that qualify as specific BTR development in accordance with SPPR 7:

- ii. No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;*
- iii. Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;*
- iv. There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;*
- v. The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*
- vi. The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.*

The prescriptive requirement regarding minimum 3-bedroom unit provision included in the Tallaght Town Centre Local Area Plan 2020-2026 is in conflict with SPPR 1 of the Apartment Guidelines which set no minimum requirement for the number of 3+ bedroom units in any apartment development and SPPR 7 which requires no restriction on dwelling mix in the context of Build-to-Rent developments.

The plot ratio limitations and housing mix specified in the Tallaght Town Centre Local Area Plan 2020-2026 conflict with the provisions set out in the Apartment Guidelines and are therefore a direct contravention of National policy.

5.3.4 Rebuilding Ireland – Action Plan for Housing and Homelessness

Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 no. homes and deliver 47,000 no. units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.

Rebuilding Ireland is set around 5 no. pillars of proposed actions. Pillar 3 seeks to – Build More Homes: Increase the output of private housing to meet demand at affordable prices and Pillar 4, ‘Improving the Rental Sector’, includes build-to-rent and encourages “build-to-rent” as a key action.

The increased plot ratio and unit mix put forward in the proposal will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Rebuilding Ireland, and in particular Pillars 3 and 4.

5.4 Part (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

We would contend that permission for the proposed development should be granted having regard to the pattern of development approved in the immediately surrounding area. A number of Strategic Housing Developments have been approved in the Cookstown Industrial Estate which involve a similar plot ratio as the subject proposal. These include the following:

Site at the corner of Airton Road and Belgard Road, Tallaght, Dublin 24

ABP Ref. ABP-305763-19 Permission was granted by An Bord Pleanála on 20th February 2020 for a Strategic Housing Development on a site at the corner of Airton Road and Belgard Road, Tallaght, Dublin 24. In summary, the proposed Strategic Housing Development involves demolition of the existing industrial buildings on site and the construction of 2 no. blocks comprising 328 no. apartments (93 no. 1 bed, 222 no. 2 bed and 13 no. 3 bed), ancillary residential support facilities and commercial floorspace measuring 31,147sq.m gross floor space above a single basement level measuring 5,861sq.m.

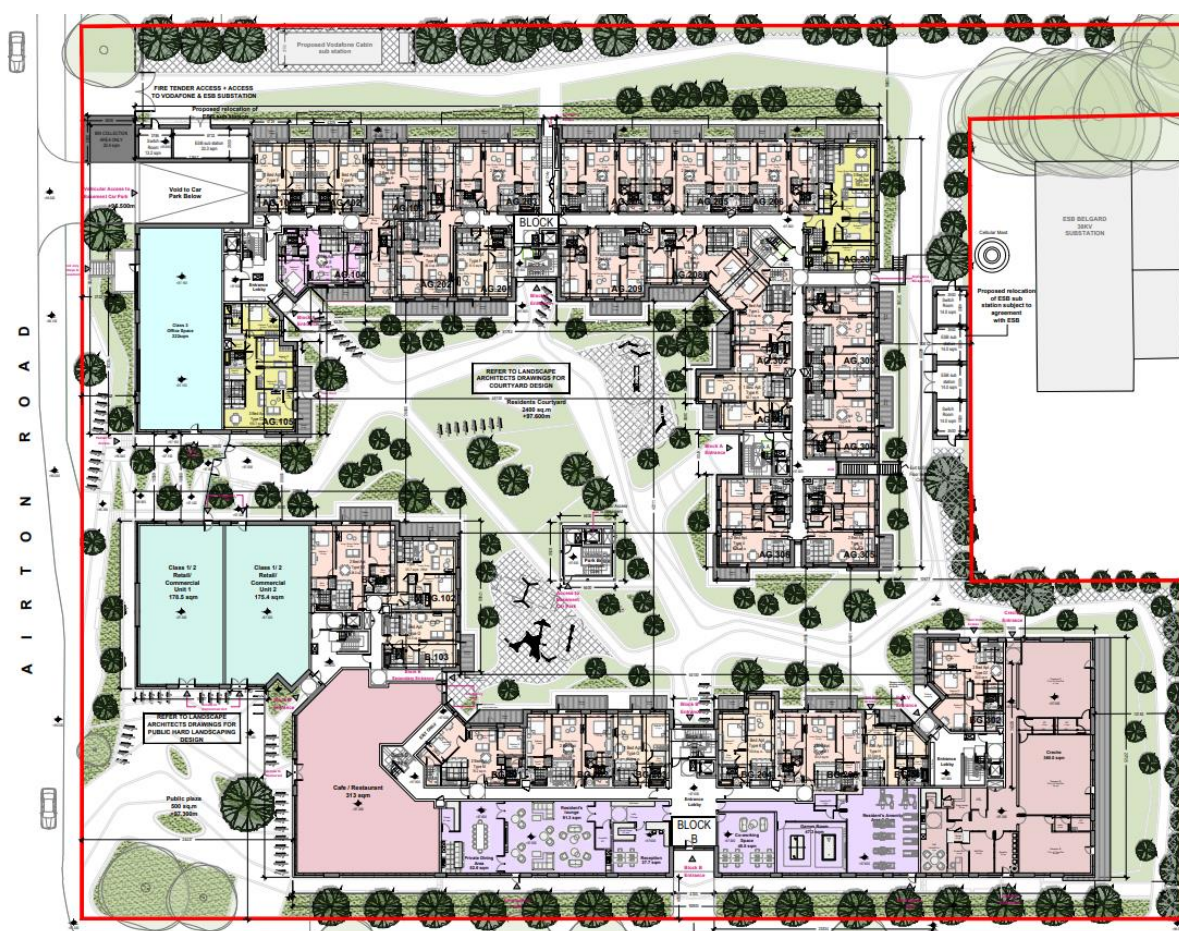


Figure 1.0 Ground floor layout plan approved under ABP Ref. ABP-305763-19



Figure 2.0 Northern elevation (fronting Airtion Road) approved under ABP Ref. ABP-305763-19



Figure 3.0 Western elevation (fronting Belgard Road) approved under ABP Ref. ABP-305763-19

This planning permission remains in force until 2025 and sets a precedent for the construction of suitably designed residential developments in this area. This development proposes a plot ratio of 2.62 which exceeds the 0.75-1.0 plot ratio range specified in the Tallaght Town Centre Local Area Plan 2020-2026 for this part of Cookstown (the Broomhill Area).

Former Gallaher's cigarette factory site at the junction of Airtion Road & Greenhills Road, Tallaght, Dublin 24

ABP Ref. ABP-306705-20 Permission was granted by An Bord Pleanála on 16th June 2020 for a Strategic Housing Development at the Former Gallaher's cigarette factory site at the junction of Airtion Road & Greenhills Road, Tallaght, Dublin 24. In summary, the proposed Strategic Housing Development involves: demolition of existing factory/warehouse buildings on site; construction of 502 no. apartments (comprising 197 no. 1-bed; 257 no. 2-bed; and 48 no. 3-bed units) within 6 no. blocks ranging in height from 4 to 8 storeys, 3 no. retail units, creche, and provision of road improvements and pedestrian crossings; and all associated site development works and services provision.



Figure 4.0 Ground floor layout plan approved under ABP Ref. ABP-306705-20



Figure 5.0 First floor layout plan approved under ABP Ref. ABP-306705-20



Figure 6.0 Contextual Site Elevation (Greenhills Road) approved under ABP Ref. ABP-306705-20



Figure 7.0 Contextual Site Elevation (Airton Road) approved under ABP Ref. ABP-306705-20

This planning permission remains in force until 2025 and sets a precedent for the construction of suitably designed residential developments in this area. This development proposes a plot ratio of 1.8 which exceeds the 0.75-1.0 plot ratio range specified in the Tallaght Town Centre Local Area Plan 2020-2026 for this part of Cookstown (the Broomhill Area).

Unit 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24

ABP Ref. ABP-303803-19 Permission was granted by An Bord Pleanála on 25th July 2019 for a Strategic Housing Development Unit 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24. In summary, the proposed Strategic Housing Development involves demolition of the existing industrial building and construction of a 'build-to-rent' housing development providing a total of 196 no. residential apartments (comprising 45 no. studio units, 48 no. one-bed units, 8 no. two-bed (3-person) units and 95 no. two-bed (4-person) units) in 4 no. six-nine storey blocks over basement. The development also includes 1 no. commercial unit (248sqm), 1 no. office unit (111sqm), a crèche (192sqm) and a gym (18sqm).



Figure 8.0 Western elevation (fronting onto Cookstown Way) of development approved under ABP Ref. ABP-303803-19



Figure 9.0 Northern elevation (fronting onto Second Avenue) of development approved under ABP Ref. ABP-303803-19

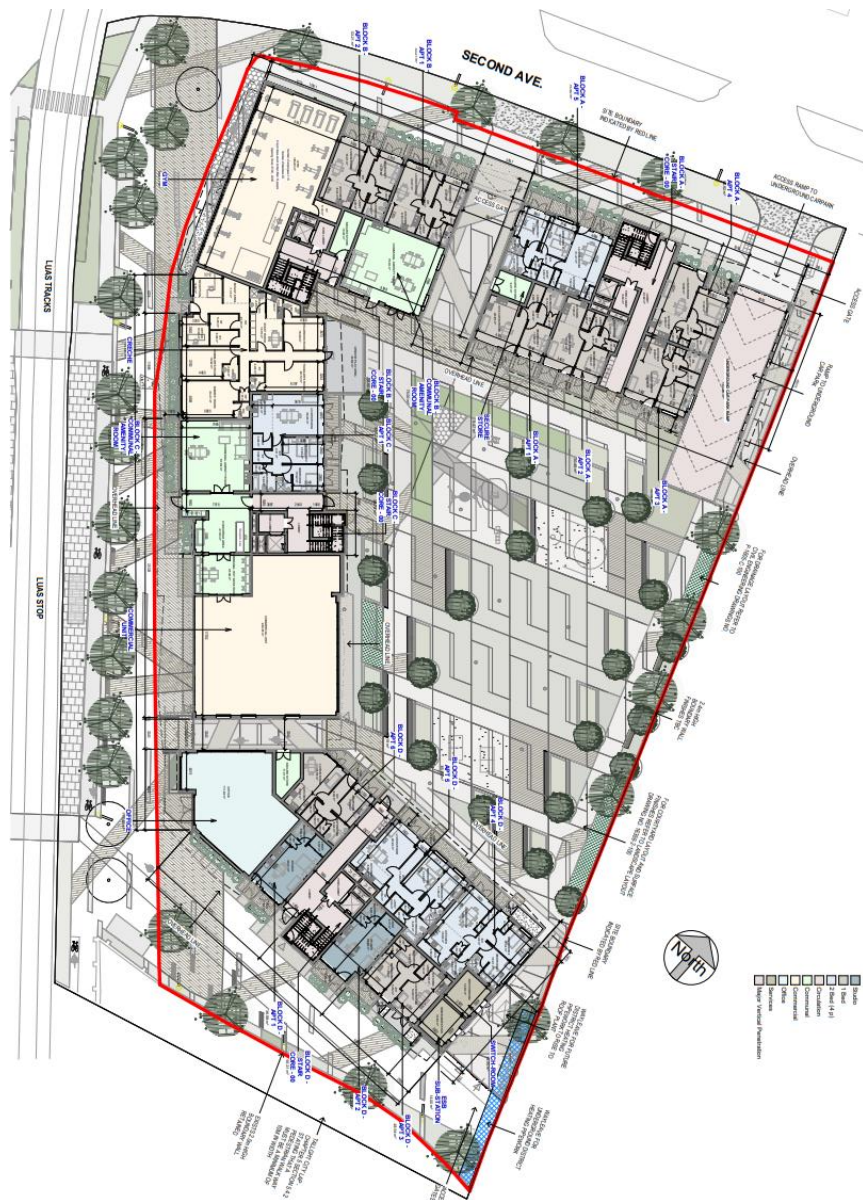


Figure 10.0 Ground floor plan of development approved under ABP Ref. ABP-303803-19

This planning permission remains in force until July 2024 and sets a precedent for the construction of suitably designed residential developments in this area. It is worth noting that this development had a plot ratio of 3.41.

Although the above permissions were granted in advance of the adoption of the local area plan, they illustrate the emerging pattern of development surrounding the subject site and provide a rationale for the current Strategic Housing Development proposal.

Further to the above, we note the following South Dublin County Council are proposing to redevelop a site immediately south of the subject site. The proposed scheme went on public consultation on 6th August 2020 and will be advanced under Part VIII of the Planning and Development Regulations, 2001 (as amended). As illustrated in the plan excerpts below and overleaf, the proposed development will comprise of a 6-7 storey residential development immediately south of the subject site, comprising of 133 no. affordable rental apartments and a community facility. The proposed apartment development will be served by a podium level car park, featuring 39 no. car parking spaces and 246 no. secure bicycle spaces, accessible via a newly created road proposed along their site's northern boundary.

The South Dublin County Council development exceeds the recommended plot ratio for the Centre Neighbourhood as outlined in the below report excerpt, taken from the Architectural Design Statement prepared by Coady Architects, which was included in the public consultation material:

The floor area of the development is 12,918m². Excluding the plant, stores, car, and bicycle storage areas beneath the podium, the gross internal floor area is 11,045m². With a site area of 4,930m² the proposed plot ratio is 11,045/4,930 = 2.24. This plot ratio higher than 2.0 is reflective of the additional building height permissible for this location and is compliant with the LAP.

In addition to illustrating the plot ratio that will feature in a development immediately adjacent to the subject site, this variation is also illustrative of the Council's position regarding the flexibility that exists in relation to plot ratio in instances where additional building height is permissible, as illustrated in the final line of the above excerpt.

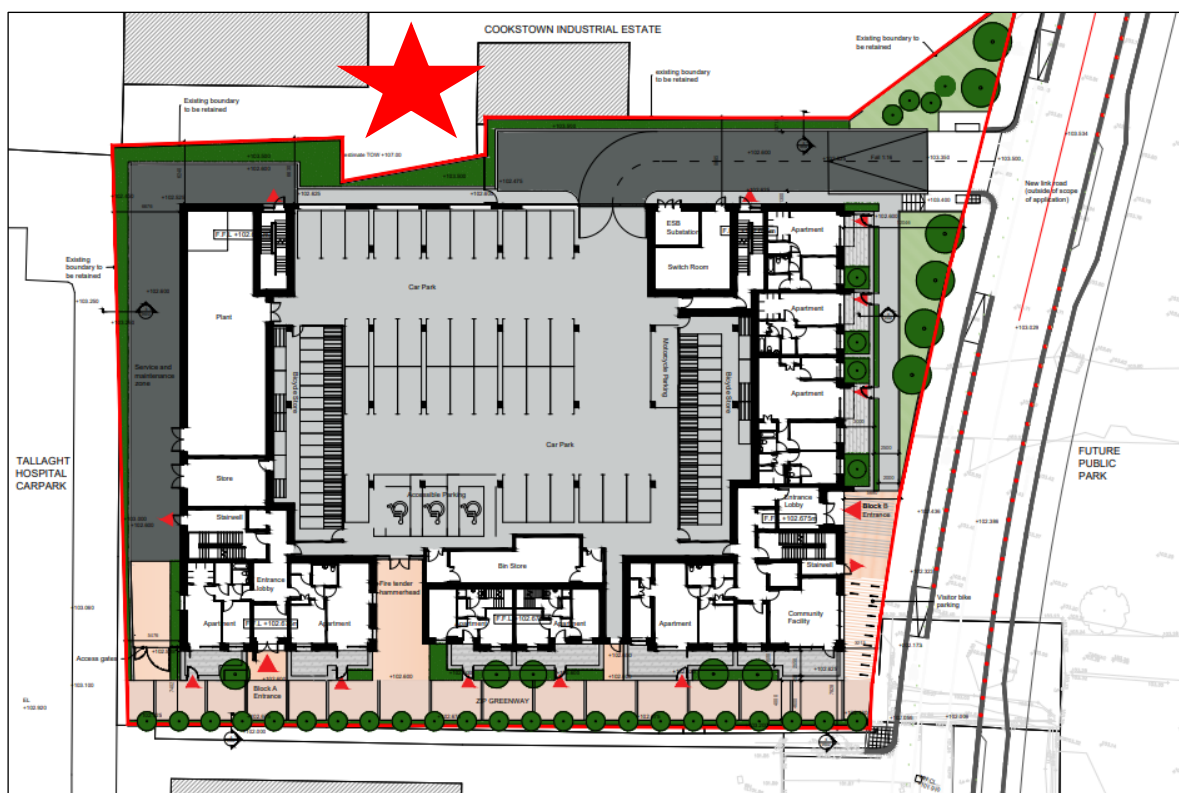


Figure 11.0 Site layout plan of proposed residential development on South Dublin County Council Site (subject site indicated with red star)

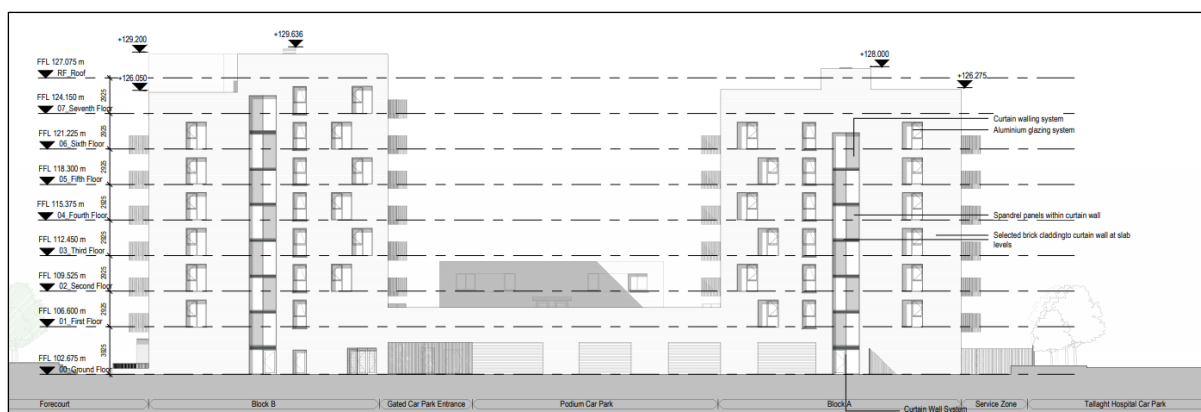


Figure 12.0 Northern elevation of proposed residential development on South Dublin County Council Site, which fronts onto the subject site



Figure 13.0 Eastern elevation of proposed residential development on South Dublin County Council Site, which fronts Cookstown Road

The pattern of permitted development in the wider Dublin area also favour the proposed development. We note that the Board considered it appropriate to grant permission for the following Strategic Housing Development (in summary), under ABP Ref. ABP-305176-19, at Stillorgan Leisureplex, Old Dublin Road, Stillorgan, Co. Dublin:

Demolition of existing structures, construction of a mixed use development to include 232 no. Build to Rent apartments and associated site works

The development approved under ABP Ref. ABP-305176-19 had a plot ratio of 3.8 in comparison to the indicative plot ratio of 2.5 outlined in the Stillorgan Local Area Plan 2018-2024. The Inspectors Report included the following commentary in relation to the exceedance of the plot ratio specified in the applicable Local Area Plan:

11.17. *The development framework for the site, as per the LAP, includes the larger site encompassing DLRCC lands to the east and the commercial units at Nimble Fingers on the corner of St Laurence Park and Old Dublin Road. The indicative plot ratio of 1:2.5 is provided for redevelopment of the KDS site. Schedule of Accommodation quotes the plot ratio as 1:3.85. The submission from the PA considers the proposed plot ratio excessive and a material contravention of the LAP. It is of particular relevance that the plot ratio of 1:2.5 referenced in the LAP is for the entire "Leisureplex, Library and Environs Key Development Site" which includes those other lands in the vicinity of the application site.*

11.18. *The applicant states that whilst the plot ratio is in excess of the indicative 2.5 at 3.85, the overall development is in line with the NPF and building height guidelines and a density of c. 294 is appropriate at this location. The Statement of Material Contravention also refers to the "indicative" plot ratio in the development framework from the LAP.*

11.19. *The proposed development is predominantly residential with 7% of the floorspace allocated for retail and café restaurant. The national guidance for residential development*

promotes high density development for urban infill sites and those served by good public transport. Having regard to the location of the site close to the N11, along a QBC and within a designated District Centre, and the recently permitted SHD on the opposite side of the Lower Kilmacud Road at Blake & Esmond Motors Site (ABP 300520-17) (which has a similar density 210 dwelling/ha), I consider the density proposed, c. 294 dwelling/ha, is in line with the national guidance, pattern of development in the vicinity and as such the plot ratio and density is acceptable, subject to the protection of residential amenity, as further discussed below.

We would contend that similar merits exist in relation to the subject proposals exceedance of the recommended plot ratio.

6.0 Conclusion

Having regard to the foregoing, including the SHD precedent development referenced above, it is considered that the proposed plot ratio, housing mix and housing tenure mix is justified in this instance. It is submitted that the proposed development is consistent with the proper planning and sustainable development of the area, and is consistent with all relevant national and regional planning policies and guidelines.

It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the Tallaght Town Centre Local Area Plan 2020-2026 that an appropriate justification is set out within this statement demonstrating that the proposed plot ratio, housing mix and housing tenure mix is appropriate having regard to the contents of the Tallaght Town Centre Local Area Plan 2020-2026, the policies and objectives set out within the Section 28 Guidelines, as well as the strategic nature of the development and the pattern of development approved in the surrounding area.



Kevin Hughes MIPI MRTPI
Director
for HPDC.