



An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-309916-21

### **Strategic Housing Development**

Demolition of the existing buildings, construction of 170 no. Build to Rent apartments, creche and associated site works.

### **Location**

Glen Abbey Complex, Belgard Road,  
Cookstown Industrial Estate, Dublin  
24.

([www.glenabbeyshd.ie](http://www.glenabbeyshd.ie))

### **Planning Authority**

South Dublin County Council

### **Applicant**

Square Foot Property Services  
Limited

**Prescribed Bodies**

Irish Aviation Authority

Irish Water

TII

**Observers**

Health Service Executive

Belgard Area Residents Association

Colbert's Fort Residents

Print and Display Limited and

Downtree Investments Limited

Tallaght Community Council

**Date of Site Inspection**

04/06/2021

**Inspector**

Conor McGrath

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Appendix A Documentation accompanying the application.

Appendix B EIA Screening Determination Report.

## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The application site comprises a stated area of 0.91ha, located within the Glen Abbey industrial / commercial estate, off the Belgard Road (R113) in Tallaght. Existing structures on the application site comprise low-rise industrial / warehouse structures. A shared access from Belgard Road provides access to the overall estate and adjoining uses include a gym / fitness facility to the north and a drinks distribution business to the west, Comans. The site is set-back from the Belgard Road behind a vacant three-storey commercial / office building and associated landscaped area to the east, owned by the HSE. The application site includes the main access from Belgard Road, and surface car parking serving adjoining uses. To the south of the site Colbert's Fort, comprises an established residential area of generally single-storey houses. There are also a number of small-scale commercial units on the northern side of this road, at the Belgard Road end, to the south west of the application site.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development comprises the following elements:
- Demolition of existing industrial and commercial buildings (c.4,628sqm).
  - Construction of 170 no. Build-to-Rent Housing apartment units and crèche (163-sq.m.) in 2 no. blocks, ranging in height from 4 to 7 storeys over basement car park (total gfa c.13,880sqm excluding basement);
  - The residential development consists of:
    - 9 no. 1 bedroom studio apartments (c.37-38sqm each);
    - 94 no. 1 bedroom / 2-person apartments (c.45-58sqm each);
    - 2 no. 2 bedroom / 3-person apartments (c.69sqm each);
    - 34 no. 2 bedroom / 4-person apartments (c.73-83sqm each);

- 24 no. 2 bedroom / 4-person duplex apartments (c.93sqm each) and
- 7 no. 3 bedroom / 5-person apartments (c.91-98sqm each) with north, south, east and west facing terraces/balconies throughout;
- Internal communal amenity spaces at ground and fourth floor levels comprising reception, gym, lounge, cinema/tv room, events rooms and ancillary areas (totalling c.508sqm);
- External communal open space of c.1,005sqm including ground floor children’s play areas and informal amenity spaces, and roof garden at fourth floor level;
- Public open space to the east and south of Block B totalling c.1095sqm;
- 73 no. car parking spaces comprising 64 at basement level and 4 no. accessible parking spaces and 5 no. visitor spaces at surface level;
- 354 no. bicycle spaces (264 no. resident spaces and 90 no. visitor spaces);
- Reconfiguration / removal of existing car parking to the north of the site and access road resulting in a total of 28 no. car spaces serving the adjoining site;
- All associated plant including bin storage at basement level, ESB substation and switch room at ground level and circulation spaces and stair and lift cores;
- Vehicular / pedestrian access from Belgard Road to the east and maintenance of existing vehicular entrances serving adjoining sites.
- Fire / emergency and refuse vehicle access and pedestrian access to the south from Colbert’s Fort;
- All associated site development and infrastructural works.

Documentation accompanying the application are set out in Appendix A. Key development parameters include:

Site Area	0.91ha gross 0.66ha (excluding northern and western access roads)
No. of Units	170 units
Unit Mix	9 no. studio (5.3%) 94 no. 1 bed (55.3%) 36 no. 2 bed (21.1%)

	24 no. 2 bed (duplex) (14.1%) 7 no. 3 bed (4.1%)	
Density	187 / ha (gross) 256 / ha (net) (excl. northern & western access roads)	
Dual Aspect	51% / 87 Units	
Building Height	4-7 storeys (13.1m to 23m)	
Internal Amenity Area	508-sq.m.	Reception, Concierge Office, Resident's Gym, Resident's Lounge, Cinema/TV Room, Events Rooms, Ancillary Spaces
External Communal Area	1,005-sq.m.	
Car parking	73 (64 no. basement and 9 no. surface) 0.34 / unit	
Bicycle parking	354 (264 resident spaces at basement level and 90 visitor / short-term spaces at ground level)	

It is stated that the development of the adjoining lands are the subject of an agreed masterplan with the relevant landowners and this is accounted for in the design and layout of the proposed development.

The application refers to a number of pre-application consultation meetings with South Dublin County Council between March 2018 and May 2020. Reported key points of discussion included:

- Compliance with relevant (draft) LAP.
- Access arrangements.
- Relationship with adjoining structures and land uses.
- Design, quantum and layout of parking provision.
- Building heights.
- Open space provision.
- Drainage and district heating.
- Prematurity pending publication of a draft LAP.

## 4.0 Planning History

### 4.1. Subject site

- S99A/0362 – Permission was refused by the Board in 2000 for the retention and completion of a new palisade fence to replace the existing boundary wall and fence, including renewal of existing gates at Colbert’s Fort.
- SD16A/0145 – Permission granted in July 2016 for the change of use of the existing warehouse to gym use and associated works. Surface car parking spaces allocated to the permitted gym overlap with the application site boundary.

### 4.2. Wider Cookstown area:

- ABP- 309731-21: SHD Permission sought for the construction of 1,104 no. Build-to-Rent apartments, creche and all other associated site work, by Joseph Costello Absolute Limousines Ltd, to the northwest of the subject site (Cookstown Castle SHD). The application is due to be decided by July 8th 2021.
- ABP-308398-20: SHD Permission granted in January 2021 for 252 BTR apartments, 2 commercial units and a creche approx. 400m southwest of the application site at Fourth Avenue, Cookstown Industrial Estate.

The Board granted permission in material contravention of the plot ratio and housing mix provisions of the LAP. The Direction noted that the provisions of the Local Area Plan in relation to building height were appropriate for the site and conditions were attached to reduce building heights in line with the LAP.

- ABP-306705-20: SHD Permission granted in June 2020 for 502 no. apartments with a creche and all associated site works at the former Gallaher's cigarette factory site at the junction of Airton Road & Greenhills Road, approx. 800m southeast of the subject site.
- ABP-305763-19: SHD Permission granted in February 2020 for 328 no. apartments, ancillary residential support facilities and commercial floorspace at the corner of Airton Road and Belgard Road, approx. 300m southeast of the subject site on the Belgard Road.

- ABP-305725-20: SHD Permission refused in February 2020 for demolition of the existing industrial buildings (2,518sq.m) and construction of a 'build-to-rent' housing development comprising 245 apartments in a six to eleven storey building over basement at 66/67 Fourth Avenue, and Cooktown Estate Road.

The reasons for refusal related to prematurity due to the absence of a planning framework for the area, the extent of single aspect apartments and impact on the development potential of adjoining lands.

- ABP-303911-19: Permission refused to Bartra Property in June 2019 for SHD development comprising 150 Build to Rent units and 222 Shared-Living bed spaces at First Avenue, Cookstown, approx. 300m northwest of the subject site.

The reasons for refusal included reference to uncoordinated and haphazard development in the absence of an overall strategy for the re-development of the industrial estate, and in the absence of cyclist and pedestrian links, to the town centre and public transportation. The development and would not be in accordance with an appropriate sequential development of these Regeneration (REGEN) zoned lands as a whole. The proposal would, therefore, not represent a “plan-led” residential development, would be contrary to the provisions of the statutory Development Plan.

- ABP-303306-18: SHD Permission granted in April 2019 for 438 no. Apartments and 403 no. Student Bedspaces at Belgard Square North / Belgard Road, approx. 650m south of the subject site, south of Belgard Retail Park.
- PA ref. SD17A/0212 ABP-301204-18: Permission granted on appeal in August 2018 for demolition of industrial units and construction of 126 no. apartments, 2 commercial units, gym, creche, community room, at the junction of Second Avenue and Cookstown Way approx. 900m west of the subject site.  
ABP-303803-19, SHD permission was subsequently granted for 196 Build to Rent units on this site in July 2019.

Other sites the subject of S.5 pre-application consultations include:



ABP-306830-20: Construction of 205 no. Build to Rent apartments and associated site works at Unit 1 Cookstown Extension, Cookstown Industrial Estate,. The consultation required further consideration/amendment.

ABP-304419-19: 336 no. residential units, creche and associated site works at Cookstown Road, approx. 300m southwest of the application site. The consultation required further consideration/amendment.

I note also residential development proposals on a site at the western end of Colbert's Fort, refused permission under ref. PA ref. SD19A/0037, ABP ref. ABP-304329-19. A further application on these lands is currently active under PA ref. SD20A/0050, ABP-309943-21 in respect of a 3-storey apartment building containing six apartments & one end of terrace two storey house (two bed).

### **Part 8 Applications**

SD208/0007: Part VIII application by South Dublin County Council for the construction of 133 affordable rental apartments in three blocks, approx. 400m southwest of the application site. The application has not yet been approved.

SD188/0010: Approval for a new Heatnet energy centre to provide for a future district heating distribution network in Tallaght, at the junction of Airton Road and Belgard Road.

## **5.0 Section 5 Pre-Application Consultation - ABP-305535-19**

5.1. A Pre-application consultation meeting was held with An Bord Pleanála on 13th November 2019. The subsequent Opinion of the Board was issued on 2<sup>nd</sup> December 2019 under section 6(7) of the Act, which stated that the documents submitted with the request to enter into consultations required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development.

It was identified that the following information needed to be addressed:

1. An Bord Pleanála notes that a LAP for the area is currently at draft stage. The prospective applicant should satisfy themselves that the proposed development is not premature pending the adoption of a LAP for the area. Should an application

be submitted prior to the adoption of a statutory LAP, the documentation at application stage should seek to demonstrate that the proposal would not give rise to piecemeal, haphazard and non-integrated development given its current context and that any proposed development at this juncture would not compromise potential development of adjacent lands. The documentation should also seek to demonstrate how the proposed development provides a scheme of appropriate residential amenity given the proximity to, and interface with, existing light industrial/commercial development on adjoining lands.

2. In the event an application is made, the documentation shall address the following matters:
  - a. Further consideration/justification of height in relation to South Dublin Development Plan 2016- 2022, specifically objective UC6 Objective 3.
  - b. Number of north facing units and consideration of Sustainable Urban Housing: Design Standards for New Apartments (2018).
  - c. The requirement for a creche in light of guidelines on childcare facilities.
  - d. Demonstrate that the external finishes, materials and detailing, together with the landscaping and surface/boundary treatments of the outdoor spaces would be of a sufficient quality to ensure that the proposed development makes a positive contribution to the character of the area over the long term.

Furthermore the prospective applicant was notified that the following specific information should be submitted:

1. Examination of a greater number of apartments in terms of daylight/sunlight analysis to ensure adequate amenity for future residents.
2. Visual impact assessment in relation to the impact of the height of development, with specific reference to dwellings on Colbert's Fort.
3. Site layout plan to be considered in the context of DMURS and pedestrian movement from the proposed apartment blocks to the entrance of the site.

4. Certainty to be demonstrated over future of shared access road with neighbouring industrial development to the west and redesign of this road as a street.
5. Noise impact assessment to be undertaken given the adjoining industrial warehouse.
6. Response to issues raised in the reports issued by the Roads Department and Environmental Services Department, in the PA Opinion dated 29th October 2019.
7. A life cycle report shall be submitted in accordance with section 6.3 of the Apartment Design Guidelines. The proposed materials and finishes should provide high quality and sustainable finishes and details which seek to create a distinctive character for the development.
8. Mobility Management Plan.
9. Construction and Demolition Waste Management Plan.
10. A detailed schedule of accommodation which shall indicate compliance with the Sustainable Urban Housing: Design Standards for New Apartments.
11. A proposed covenant or legal agreement further to ensure that the development remains in use as Build-to-Rent accommodation.

## 5.2. Statement of Response

In accordance with article 298(3), the applicants have submitted a statement of response to this opinion under section 6(7), which makes the following points:

Item no. 1

- The application was lodged following adoption of the LAP. The statement of compliance addresses compliance with the LAP.
- The Architect's design statement describes the masterplan for the surrounding area. The Applicant has engaged in discussions with the landowners of the adjoining Comans site. The HSE lands to the east will be redeveloped in the near future.

- Particular attention has been paid to the interface and relationship with Colbert's Fort and the potential redevelopment of Coman site to the north and west. The development does not compromise the development of adjoining lands.
- There are proposals for the redevelopment of lands in this area and the proposed development will help to consolidate the north-eastern corner of Cookstown Industrial Estate.
- The active frontages create strong urban edges. The L-Shaped layout facilitates a mirrored block to the west of the site in keeping with the urban form principles of the LAP. Existing adjoining processes do not contribute to significant air pollution, general nuisance or loss of residential amenity. The proposal is accompanied by a noise assessment.
- The central courtyard has been designed with future resident's amenity at the core. The landscape masterplan encourages interaction with Colbert's Fort and will improve the visual and residential.

#### Item no. 2

The statement notes that the development has been revised since the pre-application consultation meeting. A Sunlight/Daylight Analysis and a DMRUS Statement has been prepared. The access road will no longer serve as access for HGVs to the Comans site. It will only be used by staff and deliveries travelling by car/light vans. HGV access will be diverted further north onto the Old Belgard Road and it is stated that a letter of consent outlining the shared access strategy accompanies the application.

- In response to Item 2 (a), the overall height, density and unit mix have been reduced and are more closely aligned with the proposed LAP. The number of storeys has been reduced from 4-10 storeys to 4-7 storeys, thus reducing the proposed height of Block A from 32.5m to 23m and Block B from 26.2m to 23m. The reduction in height steps down gradually to Colbert's Fort. The revisions reduce the height below that of previously approved developments in the vicinity at Airtown Road (TUD) and Belgard Gardens (Town Centre).

- In response to Item 2 (b), the number of north facing units has been reduced from 113 to 83 units. No single aspect north facing units are proposed on site. Own-door, ground floor dual aspect units provide a greater contribution to passive surveillance of the scheme and internal amenity of units, through increased sunlight/daylight penetration to living areas and bedrooms.
- In response to Item 2 (c), a creche catering to the childcare needs of up to 30 children is provided in Block A. The residential amenity spaces have been relocated to the south of Block B and activate frontage to the small plaza from Colbert's Fort. The residential amenities include a reception, gym, residents lounge and flexible event room.
- In response to Item 2 (d), it is stated that the external finishes, materials and detailing have been refined and contribute positively to the character of the area over a long term. The landscape strategy will improve visual amenity and enhance connectivity and legibility to the surrounding sites.

The open space opening onto Colbert's Fort encourages casual resident interaction. The eastern linear space provides for future expansion with the HSE site. The communal courtyard facilitates play and interaction. 1,095sq.m (12% of the site) of public open space is provided in accordance with the development plan. A permeable shared route to the west provides vehicular access to the basement. Fire/emergency and refuse access is from Colbert's Fort via a one-way route along the western access road.

In response to the specific information requested by the Board, the response makes the following points:

1. All apartments at ground and first floor level in Blocks A and B have been assessed in terms of daylight and sunlight analysis. The second floor of Block A was also assessed having regard to its orientation.
2. A visual impact assessment accompanies the application. Particular attention has been given to the visual impact on properties at Colbert's Fort.
3. Further consideration has been given to the principles of DMURS in relation to the Site Layout Plan and a DMRUS Statement has been prepared.

4. The access road has been redesigned to provide further clarity on the interaction of vehicles between the proposed development and nearby commercial units. The design has been updated to ensure that pedestrians are kept separate from vehicle movements.

The Applicant has engaged with the owners of Coman's site in relation to the shared access. It is agreed that the access road will no longer serve HGVs to the Comans' site. The road will instead be used by staff and deliveries travelling by car/light vans only. HGV access will be diverted further north onto the Old Belgard Road. A letter of consent outlining the shared access strategy accompanies this application.

5. A noise impact assessment taking the surrounding industrial uses into consideration has been prepared.
6. Roads and Environmental Services issues are addressed in the consulting engineers report, Response to SDCC and ABP Comments
7. A lifecycle report has been prepared which addresses the long-term management and maintenance of the BTR Development including proposed materials and finishes and a rationale for their selection
8. A Mobility Management Plan has been prepared.
9. A comprehensive Construction and Demolition Waste Management Plan has been prepared.
10. A detailed schedule of accommodation has been prepared demonstrating compliance with the Apartment Design.
11. A legal covenant committing to the use of the development as a Build-to-Rent scheme for at least 15 years has been prepared by the Applicant's Solicitor. The units will not be sold or rented separately for the duration of this period.

The statement confirms that the following prescribed bodies were notified prior to lodging the application.

1. Irish Water
2. Department of Defence

3. The Irish Aviation Authority
4. Transport Infrastructure Ireland
5. National Transport Authority
6. Coras Iompair Éireann
7. South Dublin County Childcare Committee

## **6.0 Relevant Planning Policy**

### **6.1. National and Regional Policy**

#### **6.1.1. National Planning Framework**

National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. The activation of these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and / or brownfield sites.

Objective 13 states that, in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes to achieve targeted growth.

Objective 35 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

#### **6.1.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

Pillar 4: Improve the Rental Sector. The key objective is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents.

Key actions include encouraging “build to rent”. Build-to-rent developments are designed with the occupants in mind – this might be equal sized bedrooms clustered around a central shared space, or the inclusion of amenities such as gyms and crèches and shared entertainment facilities.

### 6.1.3. **Regional Spatial and Economic Strategy for the Eastern and Midland Region**

RPO 4.3 seeks to “support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.”

Section 5.3 identifies guiding principles for development of the metropolitan area, which include:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

## 6.2. **Section 28 Ministerial Guidelines**

6.2.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority and observers, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Urban Development and Building Heights, Guidelines for Planning Authorities
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual
- Design Manual for Urban Roads and Streets (DMURS)
- The Planning System and Flood Risk Management (including the associated ‘Technical Appendices’) (2009)



- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

### 6.3. Local Planning Policy

#### 6.3.1. South Dublin Development Plan 2016-2022

Zoning Objective REGEN: to facilitate enterprise and/or residential-led regeneration.

Vision: 'REGEN' has been introduced to support and facilitate the regeneration of underutilised industrial lands that are proximate to town centres and/or public transport nodes for more intensive enterprise and residential led development.

Tallaght is identified as a Metropolitan Consolidation Town.

Core Strategy (CS) Policy 2 supports the sustainable long-term growth of Metropolitan Consolidation Towns through consolidation and urban expansion.

- Objective 4 –promote and support the regeneration of underutilised industrial areas within areas designated with zoning objective REGEN.
- Objective 6 – promote higher residential densities at appropriate locations, adjacent to town centres or high-capacity public transport nodes (Luas/Rail).
- HOUSING Policy H8 Residential Densities promotes higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.
- Objective 2: consider higher residential densities at appropriate locations close to Town, District and Local Centres and high-capacity public transport in accordance with the Sustainable Residential Development Guidelines.
- Objective 4: support proposals for more intensive enterprise and/or residential led development within areas designated for REGEN subject to design safeguards.

HOUSING Policy H 9 Residential Building Heights, supports varied building heights across residential and mixed use areas.

- Objective 1: encourage varied building heights to support compact urban form, sense of place, urban legibility and visual diversity.
- Objective 2: ensure that higher buildings in established areas respect the surrounding context.
- Objective 3: ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height.
- Objective 4: direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and SDZ's and subject to an approved Local Area Plan or Planning Scheme.

Section 5.1.5 of Dev Plan – Building heights in urban centres:

UC6 Objective 3: To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centre, Regeneration and Strategic Development Zones, and subject to an approved LAP or Planning Scheme.

Section 11.2.4 Regeneration Zone:

A Design Statement accompanying development proposals in Regeneration (REGEN) zones should also address the following criteria:

- Demonstrate a clear transition towards a more urban form of development and a traditional street network.
- Address connectivity and linkages and demonstrate that the development would not give rise to isolated piecemeal pockets of residential development disconnected from shops, amenities and/or other residences.
- Residential development should not be introduced at ground floor level adjacent to busy roads, and/or roads that are subject to significant movements by HGV's.
- Precautions to ensure that the potential for noise pollution, air pollution or other nuisance from established industrial uses will not exceed acceptable standards.

- It may be necessary to consider improvements to the surrounding road and street network, to calm traffic and improve pedestrian and cyclist access.

Section 11.2.7 notes that proposals for ‘tall buildings’, that exceed five storeys will only be considered at areas of strategic planning importance such as key nodes, along the main street network and along principal open spaces.

### 6.3.2. Tallaght Town Centre LAP 2020

Chapter 1 notes that within the lifetime of the plan the delivery of between 3,000 and 5,000 new homes will be sought. In the longer term, over a period of up to 20 years, the full regeneration of the LAP lands could deliver between 8,410 to 11,090 new homes, and achieve a population of up to 34,000 people within the LAP lands.

#### 2.3 Urban Framework:

The overall urban structure (Figure 2.4) provides the basic and larger scale layout of routes, spaces and features for the Plan. A strong urban structure ensures a coordinated approach over a longer time period. The proposed urban structure is a guide for future development in the area. Flexibility in relation to the proposed urban structure will be considered where it is demonstrated that the overarching objectives of the urban framework and key elements of the urban structure are achieved.

The subject site and surrounding lands are zoned REGEN: To facilitate enterprise and/or residential-led regeneration.

#### 2.6 Intensity of Development

A proposed development shall not normally exceed the maximum plot ratio and building height thresholds for any particular site, block or parcel of land, except where there is a compelling case of a significant public or economic benefit (as defined). Flexibility 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.

##### 2.6.2 Height and Built Form

Figure 2.4 identifies building heights, informed by best practice urban design principles as per the Urban Development and Building Height Guidelines (2018).

Throughout the Plan area, proposed building heights must be supported by design data and studies confirming compliance with established sunlight, daylight, overlooking and other residential amenity design standards.

To ensure that building heights respect the surrounding context, new developments immediately adjoining existing one and two storey housing, in particular Colberts Fort and at the edges of the Plan area, shall incorporate a gradual change in building height. In these instances, new development can be below the minimum range specified in the Height Strategy.

In general terms, the height strategy provides for the following:

1. Building height and scale greatest in the Centre, in proximity to Luas stops and along arterial and primary route frontages (up to 6–7 storeys residential, +1 recessed and up to 5–6 storeys non-residential, +1 recessed).
2. Building height and scale on secondary routes / frontages is lesser but still within an urban scale, (4–6 storeys residential, 3–5 storeys non-residential).
3. Building Height (3-4 storeys) is lower along tertiary routes, within the network of secondary streets). (This includes the subject site).

A new Urban Square / open space is identified to the northwest of the application site.

The site is located with the Cookstown neighbourhood, which is described in section 3.3 as an attractive mixed-use residential and employment led neighbourhood with distinctive urban qualities and high levels of access to public transport and the urban centre, which will support existing businesses and the expansion of further small to medium size businesses and will continue to provide support for higher intensity employment.

Land Use Mix / Urban Function is described as a residential-led area, with a greater mix of use around Luas stops. A focus on more intensive enterprise, employment and innovation uses associated with existing uses such as the Hospital and TUD

Tallaght. Community, social and other walk to services to provide for a growing residential population.

Key Objectives for Cookstown (CK):

CK1: Emergence of a vibrant mixed use residential-led neighbourhood.

CK2: Create new urban block structure.

CK3: Deliver a mix of new open spaces, including a new urban square or plaza at a central location at, or in close proximity to, the junction of Cookstown Road and Second Avenue. The exact location, design and delivery of this space to be progressed by SDCC in discussion with landowners in the area.

CK4: Improve legibility throughout the area and provision of new streets linking to nearby hubs and The Centre.

CK9: Encourage design proposals to provide appropriate space to accommodate non-residential uses, particularly for existing businesses, in a mixed-use development with a substantial residential component.

Physical Infrastructure to be delivered in tandem with development includes a New urban square ('Cookstown Urban Square') to be developed at, or in close proximity to, the junction of Cookstown Road and Second Avenue,.

The application site is located within Cookstown Land Parcel CT-G. The identified plot ratio for this parcel is 0.75 – 1.0. The site is located on *Other Frontage*, where building heights of 3–4 storeys (Res/Non-Res) are identified.

Area Specific Requirements within Cookstown Sub-Neighbourhoods: Area CT-G, to be delivered in tandem with development include:

- Upgrade / enhancements to Cookstown Road in order to facilitate development within CT-G, including public realm improvements, pedestrian, cyclist linkages and potential alternative routing for HGV traffic.
- Enhanced pedestrian and cyclist linkages to Belgard Luas Stop.
- New secondary route between Cookstown Road and Belgard Road.

- Pocket Park in CT-G (southwest of Colbert's Fort), to be delivered as part of proposals for residential development in CT-G and to be a condition of planning permission, unless otherwise agreed with the Planning Authority.
- Proposals for residential development in this area to provide for the delivery of Cookstown Urban Square, as per Section 8.4.2, unless otherwise agreed with the Planning Authority.

## Chapter 5 Residential and Community

### 5.2.1 Housing Mix

Proposals for a high proportion of one-bedroom dwellings shall demonstrate a need for such accommodation, based on local demand and demographic profile.

It is policy to ensure an appropriate housing mix is provided, therefore a minimum of 30% of units within any new residential development shall have a minimum of 3 bedrooms (Objective RE 2).

### 5.2.2 Housing Options

It is an objective to support new and innovative ways to meet housing demands while ensuring that there is an appropriate mix of tenure and dwelling types to meet the needs of the current and future population of Tallaght (Objective RE 3).

It is an objective to ensure that a mix of tenure is achieved to provide an appropriate balance which will promote social integration in Tallaght (Objective RE 4).

The LAP notes the high levels of rental accommodation in the LAP area and the number of BTR schemes in planning. To avoid an over-proliferation of a single housing tenure, new housing developments in the plan area must provide for a balanced mix of private, build to rent and social housing to accommodate the needs of a mixed and balanced community.

In the interest of providing an appropriate housing tenure mix it is policy 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.

This provision will be reviewed pending the completion of a Housing Need and Demand Assessment (HNDA) for the Dublin area.

#### Build-to-Rent (BTR): Security of Tenure

It is the policy 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 of the Apartment Design Guidelines (Objective RE5).

### Ch. 8 Implementation and sequencing

Objective IS 1: that development is undertaken in an orderly and sustainable manner. The development of the regeneration lands at Cookstown and Broomhill alongside the Town Centre lands should generally be phased in accordance with the sequential approach:

- Development should extend outwards from the town centre and high-quality public transport, 'leapfrogging' to stand alone or isolated areas should be avoided, &
- A strong emphasis will be placed on encouraging infill opportunities adjacent to compatible existing uses and ensuring better use of under-utilised lands.

#### 6.4. Applicant's Statement of Consistency

- 6.4.1. In accordance with the requirements of Section 8(1)(a)(iv) of the 2016 Act, a Statement of Consistency with local and national policy has been submitted with the application. Furthermore, a statement indicating why permission should be granted, notwithstanding that the proposed development materially contravenes the development plan other than in relation to the zoning of land, having regard to section 37(2)(b) of the Act of 2000, has been submitted.

The statement of consistency considers compliance with the following national, strategic planning policy and guidance documents:

- National Planning Framework – Project Ireland 2040
- Rebuilding Ireland: Action Plan for Housing and Homelessness

- Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031
- Regional Planning Guidelines for the Greater Dublin Area 2010–2022
- Design Manual for Urban Roads and Streets 2019
- Smarter Travel – A New Transport Policy for Ireland 2009-2020
- Transport Strategy for the Greater Dublin Area 2016-2035
- Sustainable Residential Development in Urban Areas (2009)
- Urban Design Manual - Best Practice Guidelines
- Delivering Homes, Sustaining Communities (2008)
- Best Practice Guidelines - Quality Housing for Sustainable Communities
- Guidelines for Planning Authorities on Childcare Facilities (2001)
- The Planning System and Flood Risk Management (2009)
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (2009)
- Sustainable Urban Housing - Design Standards for New Apartments (2018)
- Urban Development and Building Height Guidelines (2018)

6.4.2. The Statement makes the following points:

(i) National land Regional Planning Policy

- The proposed high-density residential development at this highly accessible location is consistent with the National Planning Framework Action Plan for Housing and Homelessness and the RSES in respect of the delivery of housing, particularly in the rental sector, and regeneration, consolidation and intensification of development.
- The development at this zoned and accessible location is consistent with the Regional Planning Guidelines for the GDA 2010-2022, Smarter Travel - A New Transport Policy for Ireland and the Transport Strategy for the GDA 2016-2035.
- The design, density, layout, height, residential amenities, parking and permeability aspects of the development accord with the Guidelines on Sustainable Residential Development in Urban Areas. The criteria set out in the Urban Design Manual are met.



- The proposal is supportive of the objectives of Delivering Homes Sustaining Communities (2007) and the associated Best Practice Guide. A Housing Quality Assessment has been submitted.
- Childcare facilities are provided in compliance with the Childcare Guidelines.
- A Flood Risk Assessment was undertaken in accordance with the Flood Risk Management guidelines.
- An Appropriate Assessment screening report is submitted with the application.
- The development complies with the Apartments Design Guidelines, particularly SPPR7 and SPPR 8 in relation to BTR.
- This high-density development at this highly accessible location is supportive of the objectives of DMURS in terms of connected networks and permeability, multi-function streets, pedestrian focus, and multi-disciplinary approach.
- The development materially contravenes the building height provisions of the LAP, which contradict the Building Height Guidelines, and the Board are requested to have regard to SPPR 1, 3A & 4.
- The development meets the criteria set out in section 3.2 of the Building Height Guidelines.

(ii) Local Planning Policy:

South Dublin County Development Plan 2016 – 2022

- The development accords with the policies and objectives for this land use zone.
- The proposal complies with the relevant design criteria, and detailed site analysis to provide a development that is appropriate to its surroundings and reflects the transitional nature of the area.
- In respect of the criteria for *Regen* lands:
  - Open space, transport links, employment, convenience shopping and leisure facilities are all within walking distance of the proposed development.
  - The development does not prejudice the development of adjoining lands.
  - The development is set-back from adjoining roads. Landscape buffers and amenity facilities are provided at ground level frontage where possible.

- Relationship with adjoining industrial uses is addressed through open space buffers and improved building envelope performance. A noise assessment has been carried out.
- The existing access road will be improved, and HGV traffic removed. The development will address urban blight and anti-social behaviour on the site.
- The development accords with national and ministerial guidance on housing.
- This location is appropriate for higher densities. The plot ratio of 1.52 materially contravenes the LAP but is acceptable with national policy.
- The mix of housing units provides variation in an area dominated by 3-bed semi-detached houses.
- Private open space is in accordance with relevant standards.
- Building heights respond to single-storey housing to the south but materially contravene the building height policies of the plan.
- The on-site amenities and childcare facilities meet the needs of residents in compliance with policies C7 and C8.
- The Transport Impact Assessment and Mobility Management Plan, and the lighting plans, demonstrate compliance with development plan transport policies.
- Sustainable and energy efficient measures are incorporated.
- The site has been designed having regard to the overall masterplan for the area.

#### Tallaght LAP 2020

- The development will help to establish a vibrant community, reinvigorating an underutilised commercial site in accordance with objective CK1.
- The L-Shaped layout with active frontage, create strong urban edges in accordance with objective CK2 as part of an overall masterplan.
- In accordance with objective CK3, a new public plaza onto Colbert's Fort is provided, with communal and private residential open spaces and future linkages to the east and west.
- In accordance with objective CK4 the layout facilitates connectivity to adjoining lands.
- Building design and heights are appropriate for a location within 500m of the LUAS, in accordance with objective CK5.

- In accordance with objective CK8 the development supports adjoining employment uses.
- Provision of a creche meets objective CK9.
- The proposed uses comply with objectives for the CT-G plot and will strengthen the residential cluster to the south.
- Adjoining uses do not contribute to air pollution or nuisance.
- The noise impact assessment concludes that adverse impacts are not expected and proposed dwelling units will achieve proper noise insulation.
- The LAP advocates higher densities at locations, including the Belgard Road.
- The plot ratio exceeds the development plan standard, but planning gain includes new public landscaped open spaces in excess of the 10% requirement, roads / streetscape upgrades, improved permeability.
- The location c. 100m from the proposed 'New Urban Square', a key urban space located within the Cookstown neighbourhood, provides for a 2-4 storey increase on typical height levels for commercial / residential development.
- Building heights step down to 4-storeys adjoining Colbert's Fort with generous separation behind a landscaped open space.
- The proposal is the first of its kind at this location and will act as a catalyst for change in the wider area.
- Recent Board decisions provide a precedent for increased heights in this area.
- The development materially contravenes the LAP in respect of building height.
- A high proportion of 1 bed units is proposed given the young population of Tallaght. The mix of 2 and 3 bed units provides an opportunity for upsizing.
- The Built-to-Rent arrangement facilitates long-term rental, creating a greater sense of community, and 10% social housing provides for mixed tenure.
- Objective RE2 which requires a minimum of 30% 3-bed units, is contrary to SPPR 8 (i) of the Apartment Guidelines.
- The LAP acknowledges the role of BTR in balanced housing supply. It is an ambition rather than a requirement to encourage the provision of at least 30% owner occupied units.
- The nature of BTR is such that 30% owner occupancy cannot be achieved.
- Having regard to the precedent in the area and national policy, the proposed housing and tenure mix is considered acceptable.

- In the context of the LAP Urban framework, the layout and masterplan for adjoining lands is an appropriate and realistic approach to future development.
- The scale and layout do not inhibit the use or development of adjoining site and meets the urban form objectives of the LAP.
- The upgraded access from Belgard Road has been designed in accordance with DMURS, the National Cycle Manual and the Guidelines for Setting and Managing Speed Limits in Ireland (2015).
- The development meets Objective AM2 to encourage filtered permeability at suitable locations throughout the LAP area.
- Parking provision accords with levels approved by the Board in previous applications.
- The nature and extent of open space meets the LAP requirements.
- There are no water or drainage constraints in the area.
- The development meets the childcare requirements of the LAP.
- In accordance with Section 5.3.7 of the LAP, the proposal is accompanied by a social infrastructure audit.
- The provisions of the LAP with regard to the phasing and sequencing of development are satisfied in respect of:
  - The development provides for the consolidation of urban form.
  - The development is part of a wider masterplan for the area and facilitates similar development on adjoining lands.
  - No significant HGV activity will traverse the site.
  - No significant noise impacts are identified.
  - This comprises the intensification of use of this accessible site.

## 6.5. Material Contravention Statement

- 6.5.1. The Material Contravention Statement submitted with the application states that the proposed development potentially materially contravenes the provisions of the County Development Plan and Local Area Plan in respect of the following:
- Building Height
  - Plot Ratio
  - Housing Mix

- Housing Tenure
- Urban Form/Block Configuration

6.5.2. The Statement makes the following points:

- In response to Section 32 (2)(b)(i), the development constitutes a Strategic Housing Development as defined in the Act of 2016 and as such is considered to be of “strategic” importance.
- In response to Section 32 (b)(ii), policies contained in the LAP conflict with national policy.
- In response to Section 32 (b)(iii), the development complies with the National Planning Framework and the Urban Development and Building Heights Guidelines, 2018. These guidelines demand higher densities and therefore increased heights in new development proposals designed in compact urban forms, on appropriately zoned and located lands. National policy also recognises and promotes housing mix and tenure having regard to emerging household formations in urban areas.
- It is submitted that sufficient justification is provided in this National Policy and framing documentation to allow the Board to grant permission for the subject proposal and thus materially contravene the Local Area Plan.

Building Height:

- The LAP provides for heights of 3-4-storeys on such *Other Frontage* sites. A 2-4 storey increase on typical levels may be considered on sites within 100m of a high-capacity public transport stop or new public space.
- The subject site is within 100m of the proposed New Urban Square in Cookstown and can benefit from such increase.
- The route to this square is not yet defined but is provided for in the proposed Masterplan.
- The scheme responds positively to its context and surrounding development.
- The proposal is the first of its kind at this location and will act as a catalyst for change in the wider area.
- The Building Height Guidelines allow increased building height providing an appropriate density for infill sites, well serviced by public transport and amenities.

- Notwithstanding the absence of a defined route to the new urban square allowing for increased building height, the SPPR takes precedence over conflicting provisions of a Development Plan.

#### Plot Ratio

- The LAP provides for a plot ratio of 0.75 - 1.0 on parcel CT-G, but provides for increases where there is a significant public gain.
- The proposed plot ratio is 1.52 but provides public open space of 12% of gross / 16% of net site area, road and streetscape works at Belgard Road and Colbert's Fort, upgrade works to the access road, new shared access road to the west.

#### Housing Mix

- The development provides 4% as 3-bed units. Objective RE2 seeks 30% of residential units as 3-bed units, which is contrary to SPPR8.
- SPPR 8 takes precedence over any conflicting policies and objectives of the LAP.

#### Housing Tenure

- Objective RE5 supports BTR development but seeks at least 30% owner occupied units and requires justification for more than 60% BTR.
- The nature of BTR schemes is that they cannot sell or lease individual units for a period of not less than 15 years, as outlined in the legal covenant. The scheme cannot fulfil a 30% owner occupancy.
- This is a general ambition relating to the overall LAP area as opposed to a requirement in relation to individual development sites.

#### Urban Form / Block Configuration

- The urban form and block layout identified in the LAP, identifies a tertiary route traversing the subject site from southeast to northwest.
- A new access road is provided along the western boundary from Colbert's Fort and the existing access road to the north of the site is retained.
- Adjoining lands in separate ownership will be subject to redevelopment. The proposed masterplan layout is an appropriate and realistic design approach to future development.
- Design is influenced by surrounding development including low-rise cottages fronting the tertiary street at Colbert's Fort.

- The shared internal access road facilitates increased height to the north.
- Active frontages are achieved with no featureless gables.
- Although the site does not front onto Belgard Road, the creche activates the streetscape to the north of the site.
- Own-door ground floor units contribute to vibrancy and character of this street.
- Pedestrian access is prioritised including mainly basement car parking provision.
- The design materials and finishes establish a high-quality residential environment that will be a benchmark for the development of the wider area.

### 6.5.3. Justification

#### (i) National Planning Framework

- The development meets the definition of a Strategic Housing Development and contributes to addressing the housing and homelessness crisis, and is of strategic importance for the purposes of section 37(2)(b).
- The proposal complies with policy objectives of the NPF, which recognises the need for increased building heights and densities, in order to facilitate more compact urban development.
- This underutilised brownfield site, proximate to public transport, is capable of creating a compact urban form with increased densities and heights.
- The site is also within easy reach of numerous centres of employment.
- The addition of 470 bed spaces is an appropriate level of development at this highly accessible, zoned and serviced site.
- The NPF promotes mixed tenure communities.
- The development can act as a catalyst for the wider redevelopment of the industrial estate and consolidation of same.
- Existing industrial and commercial properties will not materially impact on residential amenity due to visual impact, noise or sunlight / daylight impacts.
- The masterplan process ensures that the development of adjoining sites is not compromised and future residential amenity is protected.
- The numerical limitations on height and plot ratio, and policies relating to housing mix and tenure in the LAP contradict the national policy mandate identified within the National Planning Framework.

(ii) Urban Development and Building Heights Guidelines

SPPR 1

- The LAP contradicts policies and provisions in the Building Height Guidelines and the Apartment Guidelines Building Height Guidelines.
- The guidelines support additional height at appropriate locations and this brownfield location is appropriate for the level of development proposed.
- In terms of the development management criteria, the statement notes the following:

At the scale of the relevant city/town:

- The site is well served by public transport (bus and Luas).
- The scheme integrates with the existing character and topography of the area and does not prejudice the adjoining development or future strategic links.
- The proposal responds to and integrates with the single storey houses to the south and improves the existing environment.
- Drawings and a Visual Impact Assessment accompany this application. The public realm improvements form part of the wider strategy for transforming the industrial area to more residential friendly environment.
- The proposal contributes to placemaking by establishing a new distinctive residential development designed in response to its surroundings.
- Connectivity along the eastern and western boundaries links the site with Colbert's Fort and the upgraded street to the north of the site.
- The western access road is overlooked by the central communal open space. The layout maximises passive surveillance to all boundaries and open spaces.

At the scale of district/ neighbourhood/ street:

- The scheme responds to its surroundings, with an appropriate relationship with Colbert's Fort.
- The landscape masterplan enhances tree and shrub planting on site, creating an improved sylvan residential setting.
- The slender form of Blocks A and B, combined with the extensive glazing, recesses and materials create a visually appealing and lightweight structure.
- A Flood Risk Assessment Report confirms that there no flood risk arises.



- The scheme is permeable, well connected and legible. A quality new public realm improves the existing environment, inviting pedestrian and cycle interaction.
- Access from Colbert's Fort is limited.
- An appropriate mix of units provides accommodation for young professionals, small families and older people looking to downsize.

At the scale of the site/building:

- The scheme optimises natural daylight, ventilation and views while minimising overshadowing to adjoining properties.
- The Daylight & Sunlight Assessment Report concludes that all apartments achieve above the recommended daylight values.
- None of the lower level units assessed fall below minimum average daylight factor (ADF) standards of 1% for bedrooms and 1.5% for living areas.
- No compensatory design solutions are required in this instance.
- Open space will receive more than the reference sunlight values.
- The impact light to surrounding dwellings complies with BRE recommendations, and there will be no additional overshadowing of gardens and amenity areas.

#### Specific Assessments

- A Utility Audit was prepared, with engagement with telecoms providers. There will be no meaningful disruption to important telecommunication channels.
- An Aviation Report was prepared demonstrating no impact on Casement Aerodrome or helicopter operations to/from Tallaght Hospital. The Irish Aviation Authority and Department of Defence were consulted.
- The Architectural Design Statement outlines the design rationale.
- An EIAR Screening Statement concludes that an EIAR is not required.
- Full environmental assessments, such as an AA Screening Report and Bat Survey have been prepared by qualified ecologists.

SPPR 4: The 3-4 storey limit identified in the LAP is contrary to the Guidelines which support heights of at least six storeys at street level with scope for greater height. The proposed development contributes to the delivery of compact growth while maintaining adjoining amenities.

(iii) Sustainable Urban Housing: Design Standards for New Apartments

- This central and accessible site can accommodate higher density development.
- LAP Objective RE2 is contrary to SPPR 8 with regard to dwelling mix in BTR developments. SPPR 8 takes precedence over conflicting policy objectives.
- The development provides housing options for a variety of households in line with the BTR provisions of the guidelines.
- An ambition to achieve 30% private sale/owner occupation units is not achievable in a BTR scheme, where individual units cannot be sold or leased.
- The proposed unit type and mix is justified having regard to the existing and recently permitted SHD developments in the area and to national policy.
- The LAP restrictions do not reflect contemporary housing formation trends and the emerging build-to-rent sector.
- An Bord Pleanála can positively consider the current proposal on the basis that ministerial guidance allows for a more flexible approach to BTR schemes.

(iv) Regional Spatial and Economic Strategy for the Eastern and Midlands Region

- The development delivers consolidated development, maximising height and delivering appropriate site coverage and residential density along a key public transport corridor, in line with the strategy.
- Residential development is appropriate to this built-up area.
- The density and height has regard to national guidelines.
- The RSES recognises the role of specialised housing typologies and increased rental accommodation to meet housing demand.
- Restrictions on building heights, plot ratio, housing mix and tenure conflict with the objectives of the RSES.

(v) South Dublin County Development Plan 2016 - 2022

- The 'REGEN' zoning is supportive of such residential development.
- The site occupies a strategic and prominent entrance to the wider industrial estate and fulfils objectives H9 Objective 4 and UC6 Objective 3.

- It is intended to provide much needed housing, maximising the number of units and bedspaces, with a clear design rationale.
- The proposed 4-7 storeys can be absorbed into the regeneration area and emerging residential context and does not prejudice adjacent development.
- The LAP height and plot ratio restrictions for the site, conflict with policy objectives H8 and H9 of the Development Plan.
- The density and plot ratio are appropriate for this location with infrastructural capacity.
- The mix and type of housing provides variation in tenure in an area dominated by 3-bed semi-detached houses.
- Dwelling design accords with the Apartment Design Guidelines.

#### 6.5.4. Planning Precedent:

ABP Ref. ABP-308398-20: Notwithstanding the material contravention of the LAP in relation to plot ratio, housing mix and housing tenure, the Board granted permission for a Build-To-Rent SHD application at Units 66 and 67, Fourth Avenue Cookstown.

#### 6.5.5. Conclusion

Material contravention of the Tallaght Local Area Plan can be considered on the basis of the provisions of section 37(2)(b) (i) and (iii):

- The proposed development is of strategic importance, qualifying as a Strategic Housing Development.
- There are conflicting objectives in the LAP.
- Given the clear compliance of the proposed development with national policy and guidance on the matter of height.

## 7.0 Third Party Submissions

### 7.1. HSE:

- Queries raised regarding the validity of the application.
- The application red line boundary is incorrect and includes lands in the HSE ownership to the west of the 3-storey office building.

- An area between the applicants red-line boundary and the HSE lands to the east appears to be in the applicant's ownership and should be outlined in blue.
- The application would therefore appear to be contrary to Article 22(2)(b).

### 7.2. Belgard Area Residents Association:

- Concern regarding the level of residential development in the town centre area.
- The development is contrary to the County Development Plan and Tallaght Town Centre LAP in respect of housing mix and the level of 1-bed unit provision.
- The LAP requires that the need or demand for such provision be demonstrated.
- The demography of the area does not support the proposed housing mix.
- Provision of 3-bed / family housing units is required for a sustainable community.
- The density of development and resulting population in the wider town centre area will be excessive, having regard to the pattern of development already permitted in the area.
- Permission was refused under ABP-305725-19 due to the lack of a planning framework for the area. As there is no framework for the subject site, permission should be refused on the same basis.
- The development will not provide affordable housing for the community.

### 7.3. Colbert's Fort Residents

- The development address is inaccurately described as Cookstown Industrial Estate.
- The development will not facilitate affordable housing for purchase and there will be no benefit to the local community.
- An attractive replacement boundary should be provided to Colbert's Fort rather than being removed.
- The development will not blend or integrate with historic housing at Colbert's Fort.
- The Colbert's Fort access road is not suitable to serve this development. Construction traffic should not access from Colbert's Fort.
- Existing commercial traffic and parking on the road restricts access for residents.
- Is there capacity in schools in the area to serve the development?

- There will be negative impacts on the outlook and views of adjoining houses and separation from these properties is deficient.
- The low levels of car parking will result in spill-over parking on adjoining roads.
- A significant amount of BTR development has already been permitted in the area.
- The overall densities for the area are excessive.

#### 7.4. Print and Display Limited and Downtree Investments Limited and Others

(Owners / occupiers of properties to the west, on Cookstown Road.)

- There was no consultation by the applicants at any stage during the pre-application process.
- The application lacks detail regarding the delivery of the 'Cookstown Urban Square', which affects the observer's lands under the Tallaght LAP.
- The LAP requires that the square be delivered "in tandem with development.
- There has been no engagement with the observers in this regard and they are not aware of any agreement with the Council regarding its provision.
- In the absence of agreement, it is a requirement that the development, along with other parcels, provide for delivery of the Urban Square.
- Despite this clear contravention with the requirements of the LAP, this is not referenced in the applicant's Statement of Material Contravention

#### 7.5. Tallaght Community Council

- This is the ninth SHD application for the town centre area. The extent of BTR provision is impacting on the provision of housing for sale.
- The development fails to meet the justification test for BTR development, contrary to the provisions of the Tallaght Town Centre LAP.
- The application does not meet any of the requirement for higher density.
- Proposed densities are unsustainably high.
- The scheme breaches the provisions of LAP in respect of the housing mix.
- No regard is had to the cumulative impact of SHD development in the area.
- There is sufficient data available, and incorporated into the LAP, for the provisions of SPPR1 in relation to housing mix to be seen to be complied with.

- The population targets in the Tallaght LAP are unsustainable and excessive, and exceed targets for the County Development Plan, Eastern Region and in the National Development Plan.
- The population target of 34,000 in the plan area of 380 ha equates to a population density of 894 persons / ha (sic)
- The LAP growth rates are over dense and do not comprise “compact growth”.
- Reduced growth is required to maintain an industrial base and a reasonable life work balance, i.e. sustainability and a good environment.
- A significant fraction of houses and larger apartments should be provided.
- The application presents no reason for material contravention of the Development Plan and LAP.
- The draft Tallaght Town Centre LAP identifies population trends demonstrating the need for larger family units in this area, including larger apartments.
- The housing mix objectives of the plan are based on evidence-based HNDA, provided for under SPPR1.
- The development does not meet the criteria identified in the LAP for increased building height (+2-4-storeys), including proximity to public transport.
- The material contravention statement is invalid. Higher densities on the site are contrary to the requirements of the LAP.
- The BTR Justification report acknowledges that rental levels are not affordable. More BTR accommodation will not address this issue.
- The proposed densities are more than twice the highest in London, without the public transport services capable of supporting them.
- Of approx. 3,000 residential units are planned / approved in the LAP area, only 5% are three-bed units and only 44% are expected for release for sale.
- There is an oversupply of smaller units and Objective RE2 seeking more family sized units, should be supported.
- The extent of BTR development will inhibit the development of sustainable communities.
- No work on any permitted developments in the area has commenced, which will not address housing supply issues.

- The excessive LAP population targets will have significant effects on the environment. Suggested corrected population figures are provided in the observation.
- The application fails to comply with all relevant housing objectives for the area.
- The application includes 4.1% 3-bed units. The LAP requires 30% of units to be 3-bedroom to meet local housing demand.
- Demographic trends in Tallaght point to a need for larger family homes and apartments not smaller 1 beds and studios.
- The Justification Report to prove the market demand for BTR is flawed. There is no evidence of demand for more BTR development. It is lack of choice rather than demand that is driving the disproportionate level of BTR provision.
- The HNDA should be regarded as being in place.
- New working from home practices, requiring larger dwelling units.
- Does the fire services have the facilities to fight fires in building of such heights?
- Additional time and supports should be available to local community groups to engage in the planning process.

## 8.0 Planning Authority Submission

8.1. In accordance with Section 8(5)(a) and (b) of the Act, the Chief Executive's report was received on 4th June 2021, which includes:

- A summary of pre-application discussions.
- A summary of the main points raised in the submissions.
- A summary of the views of the relevant elected members.
- The Chief Executive's view on the effects of the proposed development.
- Opinion regarding consistency with the relevant objectives of the development plan or local area plan, including a recommendation as to whether permission should be granted or refused.
- Recommended conditions of permission.

8.2. Views of Elected Representatives:

- Concur with the observers' submissions.

- Concerns regarding impact on houses in Colbert's Fort.
- Excessive density leading to breach of the Tallaght core strategy targets.
- Extent of north facing properties in this development.
- Impact on adjoining businesses.
- Deficiencies in parking provision and access.
- Short-term residential solution.
- Displacement of employment uses by residential use.
- Impacts on emergency vehicle access to the south.
- Height concerns
- Tenure and housing mix raised as a concern.
- Lack of sun to apartments.

8.3. The CE's report makes the following points.

Site Ownership:

- The extent of Coman's land ownership is not clear.
- The HSE ownership claim appears to be valid and the disputed area is necessary for access to the north-eastern corner of the site. This is a validation issue.

Principle:

- The Planning Authority is committed to the residential and mixed-use development of sites, in order of suitability under the sequencing policy of the LAP.
- This site is not immediately adjacent to either the town centre or a Luas stop and the site is limited in size.
- Residential-led development is 'permitted in principle' in the REGEN zone. The uses are acceptable and this location is not identified for mixed use frontage.
- The applicant has not proposed any measure to assist in the delivery of the Cookstown Urban Square, which should be in tandem with appropriate development.
- Ultimately the responsibility for delivery of the square rests with developers collectively and with the Planning Authority.



- The site is not considered to comply with the LAP Objective IS 1 on phasing & sequencing, and a grant of permission is not recommended.
- Infill development is encouraged, however, and the site is located close to compatible uses at Colbert's Fort.
- HGV movements associated with adjoining uses, and the visual and physical interaction with buildings on adjoining sites, remain a concern.

#### Material Contravention

- The Planning Authority do not consider that criteria s.37(2)(b)(ii), (iii) and (iv) apply to this development. The LAP was adopted in July of 2020 with carefully considered provisions relating to building height, unit and tenure mix.
- Review by the OPR found the plan to be compliant with the relevant Ministerial guidelines (and SPPRs).
- In relation to s. 37(b)(i), the strategically and nationally important element deserving of the most care and consideration is the regeneration of Cookstown as per the land-use zoning objective and the LAP.
- Contravention of the plan at an early stage in its existence, would undermine the effectiveness of and confidence in the plan-led regeneration of the area.
- The LAP provides clear criteria and takes an urban design approach to height, as encouraged under the Building Heights Guidelines.
- Landmark design or scale at this location would be inappropriate.
- No clear argument for contravention of the plot ratio limits of the LAP is made.
- The unit mix limitations in Objective RE2 followed an assessment of housing demands and needs in the local area, as per the 'Apartment Design Guidelines.
- The Apartment Guidelines do not impose BTR on planning authorities but rather facilitate its provision. A Planning Authority can, through its statutory plans, permit or prevent build-to-rent development.
- The LAP permits such development conditional upon a unit mix standard. There is no contradiction with the Apartment Design Guidelines.

#### Intensity of development

- A plot ratio of 1.93 and site coverage of 33% more correctly reflect the proposed development site than the standards cited in the application.

- The development capacity of the LAP is based on identified building heights and plot ratios.
- The corrected residential density (256/ha) is excessive and contrary to the planned regeneration of the area, evidenced by a limited mix of units and predominance of smaller units, the quantum of residential floorspace, and the physical and visual interaction with adjoining sites.
- A more sustainable mix of unit sizes, with reduced floorspace in line with the plot ratio and height standards of the LAP, would address concerns on over-development.
- The capacity for growth at the site, from a land-use & transport perspective, is reflected in policies of the Local Area Plan.

#### Local Area Plan Basic Standards on Height and Plot Ratio

- Proposed building heights are contrary to the LAP which provides for 3-4-storeys at this location, identified as other / tertiary frontage.
- The proposed net plot ratio of 1.93 exceeds the identified limits of 1:1.
- This land parcel is envisaged as part of the lowest intensity area of Cookstown, albeit still attaining and providing reasonable mid-density development.

#### Justification for Additional Provision

- The development does not satisfy LAP criteria for additional height or plot ratio in terms of its location or function. No significant public gain is delivered.
- The breach of building height policy is significant for such tertiary frontage and the plot ratio is almost double that provided for in the plan.
- This material contravention of the LAP would undermine the plan-led regeneration of Tallaght Town Centre, and in particular Cookstown.
- Compliance with the LAP would require significant alterations.

#### Settlement Strategy

- The intensity of development and the precedent it would set in the area would undermine the core strategy and delivery of national and regional strategies.
- The intensity of the proposal warrants a decision to refuse permission.

#### Mix

- The provision of 3-bed units is significantly below the level required by the LAP and fails to respond to local housing need.
- The housing mix inflates the density / ha and is not a sustainable approach to regeneration or the creation of sustainable residential communities.
- Non-compliance with LAP objectives RE2 and RE5 with regard to the proportion of 3-bed units warrants refusal.
- The proportion of 1-bed units is contrary to SPPR1 of the Apartment Design Guidelines. Notwithstanding SPPR7, the requirements of SPPR1 apply to all schemes, including BTR.
- The Development Plan does not provide for 2-bed units of less than 73-sq.m. and the proposed 3-person 2-bed units should be revised by condition.
- The tenure mix of 100% build-to-rent, is not supported under Objective RE5, as the proposed unit mix does not comply with Objective RE2.
- Part V conditions should be attached.

#### Urban Design

- The urban, perimeter block typology conforms with the provisions of the LAP.
- The main open space is regarded as communal rather than public.
- Separation distances to adjoining sites are low but generally acceptable.
- The relationship with the HSE building would not be attractive.
- Ownership issues are noted and the proposed development may prejudice the development of the adjoining site.
- Boundary treatment with the HSE site is appropriate.
- The proposed southern roof terrace on Block B is inappropriate given its proximity to the adjoining residential properties.
- There will be overbearing impacts on Colbert's Fort without greater setback of taller elements from the southern boundary.
- There are positive aspects to the treatment of the southern area of the site.
- Future interaction with adjoining lands to the west is uncertain and concerns arise regarding the relationship with the existing warehouse.
- A good network of open spaces is provided.

#### Residential Amenity and Facilities

- The basic standards of the 2018 guidelines are met.

- The public area and interface with Colbert's Fort is welcome.
- The eastern linear open space is communal rather than public open space.
- The LAP and Development Plan provide for levies in lieu of under provision of public open space.
- The quantum of communal open space is adequate.
- The roof terrace and events area should be relocated away Colbert's Fort.
- The crèche is of sufficient size, notwithstanding the overprovision of 1-bed units.

#### Public Realm and Ecology

- The Public Realm Department have concerns over the amount, quality and functionality of open space, SUDs provision, inadequate children's play provision, and universal design. Conditions recommended.
- Best practice measures for bats should be used during the demolition of structures.

#### Access, Transport and Parking

- There is marginal under-provision of car parking. (73 rather than 77).
- Conditions recommended.
- There are concerns with the layout of the shared access route. Autotrack details are required to show that emergency vehicles can access the site, and a Road Safety Audit is required prior to a grant of permission.
- These have not been provided and permission should be refused.

#### Water

- There are concerns about the change in strategic approach from Irish Water to downstream infrastructure serving the area. A condition is necessary to prevent occupation until the site can be fully serviced for foul drainage.
- A final SUDs proposal should be agreed, including run-off rates and attenuation mechanisms.

#### Environmental and Other Considerations

- It is proposed to take the street to the west in charge, however the street will not operate on a final layout until such time as the site to the west is developed.

#### Other Considerations - Special Development Contribution

- The application has not demonstrated that the delivery of the Cookstown Urban Square will be in tandem with development in parcel CT-G.
- Open space in the Tallaght LAP is not covered by the approved Development Contribution Scheme.
- This development contributes to the specific exceptional costs in respect of delivering public infrastructure and facilities benefitting the proposed development. The Planning Authority recommends the provision of a Section 48(2)(c) Special Contribution in the event of a grant of permission.
- A levy at €7.5m per ha of open space is considered reasonable, based on the Council's experience of delivering public space and is the adopted rate under the contribution scheme for contributions in lieu of public open space provision.
- On a pro rata basis, Cookstown Urban Square (0.7 ha) should be levied as €5.25m.
- The proposed development provides for 13,491.8sq.m in gross floor space / 3.28% of the cumulative development capacity of parcels adjacent to the Urban Square. The relevant levy for the special contribution is €172,172.95 (3.28%).
- It is recommended that the condition allow the final figure to be agreed.

#### Public Open Space Under-provision

- The eastern open space would be of limited useful public open space purposes.
- Section 2.7.2 of the LAP provides for a financial contribution in lieu of public open space provision.
- The Development Contribution Scheme specifies that contributions be levied at a rate of €7.5m per hectare of open space under-provision.
- The planning authority calculate a deficit of 377.7-sq.m., resulting in a contribution of €283,275.
- This levy is based on the proposed floorspace and the Planning Authority recommends flexibility in the condition wording to agree the final figure in the event of a grant of permission with amending conditions, and a balanced view in relation to the contribution to the Urban Square

#### 8.4. Conclusion and Recommendation

- The Tallaght Town Centre LAP is supportive of the regeneration of Cookstown and accords with the relevant national, regional policy, and Ministerial Guidelines.
- While the subject application has architectural merit, it substantially diverges from the Local Area Plan in terms of proposed tenure and mix of units, treatment of the public realm, building height and building bulk (plot ratio).
- The development materially contravenes the LAP, would create a poor precedent for development and would compromise the regeneration of the area.
- It is recommended that the development is refused for the following reasons:

(1) The proposed development would be premature by reference to the order of priority indicated in Objective IS1 of the Tallaght Town Centre Local Area Plan 2020 – 2026, with reference to sequencing of development. Development at this site would be out of sequence and would materially contravene the Objective.

(2) The proposed development does not meet the threshold for provision of 'significant public gain' to justify additional height and plot ratio, as set out in the LAP. The proposed heights and plot ratio would therefore be contrary to the Tallaght Town Centre Local Area Plan 2020 – 2026.

The proposed height of 7-storeys, on a site on which 4-storey development is permitted under the LAP, is excessive and contributes to a proposed plot ratio of 1.93 on a site with permitted plot ratio of 1.0. These point to clear over-development of the site, undermining the sustainable regeneration of the area, and in material contravention of the LAP, and the 'REGEN' land-use zoning objective and principles of proper planning.

(3) Due to inadequate set back of the taller elements from the southern boundary, failure to provide a gradual transition, and the proposed events / function room and roof terrace at 4th floor level, the development would have an overbearing impact on Colbert's Fort to the south, in contravention of the Tallaght Town Centre LAP, which seeks lower heights in this immediate area, and would be seriously injurious to the amenities of properties on Colbert's Fort.

(4) The proposed development directly contravenes Objective RE2 of the LAP, a specific written objective to provide 30% of units as 3-beds in each development. The proposed development provides just 4% of units as 3-beds, which is major

under provision, exacerbated by the scale of the development. The objective fulfils the requirements of SPPR 1 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) as amended to set a standard for mix of units. The proposed development would therefore undermine the managed regeneration of the area, contravene a specific objective of the Local Area Plan, and contravene the 'REGEN' land-use zoning objective.

The large proportion of 1-bed and studio units is disproportionate and, at over 50% of all units, is beyond the limits provided for in SPPR 1 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2018) as amended.

The proposed tenure of the scheme is not supported in the Local Area Plan, except where the proposed mix accords with Objective RE2.

- (5) Parking provision at the site is too low. The development, if delivered, would encourage additional on-street parking and/or illegal parking in the area, and would undermine the amenities of surrounding properties, in particular Colbert's Fort and would not be in keeping with the proper planning and sustainable development of the area.
- (6) The applicant has not submitted a Road Safety Audit or autotrack details to show that the site is accessible by emergency vehicles using Colbert's Fort. It has not been shown that the development would not cause traffic hazard and be a threat to public safety.

### **Recommended Conditions:**

The report recommends 27 no. conditions to attach in the event of a decision to grant permission on this case, including the following:

#### **2. Modifications to the Development**

- Omit development at 3rd floor, 4th floor, 5th floor and 6th floor level (storeys 4, 5, 6 and 7) in Block A. (30 units in total)
- Omit development at 4th floor, 5th floor and 6th floor level (Storeys 5, 6 and 7) in Block B. (33 units in total and events / function room)

- Additionally omit 3rd floor level development at southern wing of Block B. (9 units in total)
- Agree in writing the relocation and design details of the roof terrace to Block A, with setback events / function room at roof level.

The above modifications include the omission of 72 units in total.

3. Special Financial Contribution

The developer shall pay a special contribution to the planning authority of €172,172.95, in respect of the provision of the Cookstown Urban Square in accordance with S.48(2)(c). The special contribution shall be paid prior to commencement of development, or in such phased payments as the planning authority may facilitate.

4. Special Financial Contribution

The developer shall pay to the Planning Authority a financial contribution of €283,275.00 in lieu of the absence of the minimum required public open space for the proposed development, in accordance with Section 2.7.2 of the Tallaght Town Centre Local Area Plan 2020 – 2026, and with the terms of the Development Contribution Scheme 2021 – 2025, made under S.48 of the Act.

8. Provision of a children's play area.

9. A comprehensive SUDS management Plan shall be agreed in writing to demonstrate that the proposed SUDS features have reduced the rate of run off into the existing surface water drainage. A maintenance plan shall be included.

10. Roads Layout Details to be agreed: (a) to (g) including

a) Provide a Stage 1 Road Safety Audit of the access arrangements to the site.

b) If shown to be necessary, provide additional stage 2, 3 and/or 4 Road Safety Audits and agree any measures, including layout alterations.

c) The closure of the shared access route to commercial traffic and heavy good vehicles, excluding traffic serving the Health Service Executive site, or traffic servicing the proposed development, and any measures required.

d) Provide 77 no. car parking spaces for the exclusive use of residents.



11. Mobility management plan to be agreed.
19. Prior to the commencement of any works evidence of the written agreement from the Irish Aviation Authority to crane operations on site should be submitted.
21. Construction dust emission control.
22. Construction noise control.
24. Construction and demolition Waste Management Plan
25. Compliance with TII's "Code of engineering practice for works on, near, or adjacent the Luas light rail system".
26. 30 days notification of proposed crane operations to the Property management branch of the Department of Defence and the Health Service Executive.

The Chief Executives report is accompanied by copies of internal reports from the Public Realm Planning and Housing departments.

## 9.0 Prescribed Bodies

- 9.1. Irish Aviation Authority: Intention to commence crane operations on the site should be notified to the authority, the Dept of Defence and the HSE with regard to the operation of Tallaght Hospital helipad.
- 9.2. Irish Water: Since the issuing of a confirmation of feasibility to the applicant, Irish Water has been progressing scoping, investigations and modelling to inform the full extent of any upgrades which may be required within the district metered area to service the development. This work remains uncomplete and the extent of upgrades and/or works required, along with any consents necessary to facilitate water connection to the proposed development are unconfirmed.

In regard to wastewater, Irish Water previously noted in its response to the Bord as part of the Pre-Consultation in 2019 works, the works required to allow connection into the sewer in Airton Road. IW have subsequently become aware of further downstream constraints, however. As such, and given the lapse of time, the COF as issued, is no longer valid. It is IW's expectation that a model (Due May 2021, subject

to change) will be available and thereafter the necessary upgrading works to service this development will be identified.

Until such time as the above investigations and modelling have been completed, IW cannot identify the nature and scope of the upgrades and/works that will be required to facilitate connections for this development.

### 9.3. Transport Infrastructure Ireland (TII):

No objection. The site is located in close proximity to a Luas line and the applicant should ensure that there is no adverse impact on operation or safety. The development should comply with relevant TII Code of Practice.

## 10.0 **Assessment**

10.1. I have examined the application details and all other documentation on file, including the Chief Executive's report and all of the submissions received in relation to the application, and have inspected the site, and having regard to the relevant local/regional/national policies and guidance, it is proposed to consider the development under the following broad headings:

- Land Use and Development Principle.
- Material Contravention
- Density and Design
- Residential Amenity
- Daylight and Sunlight
- Noise
- Services and Drainage
- Transport and Access
- Other Matters Arising
- Chief Executive's Recommendation

### 10.2. **Land use and Development Principle:**

10.2.1. The application site is zoned *Regen* in the current South Dublin County Development Plan and the Tallaght Town Centre LAP 2020, *To facilitate enterprise and/or*

*residential led regeneration*. The LAP provides for the consolidation and redevelopment of current low-intensity industrial / lands in this area, proximate to public transport services and the town centre, in line with national policy guidance. Residential and ancillary uses are acceptable in principle within this land use zone and the proposed development is therefore in accordance with the land use zoning objectives of the County Development Plan and the LAP. While the retention of an industrial base in this area has been raised in observations, the plan provides for such residential led regeneration and there is no policy basis to reject the development on these grounds.

- 10.2.2. The proposed development comprises 170 no. build-to-rent apartments and ancillary uses including creche of 163-sq.m. The proposed development meets the definition of Strategic Housing, under section 3 of the 2016 Act, as amended.

I note that an observation refers to a incorrect reference to Cookstown Industrial Estate in the application site address. Article 18 of the regs requires the application to state the location, townland or postal address of the land or structure to which the application relates. In this case the application address refers to the Glen Abbey Complex and to Belgard Road. I consider that the application site is described sufficiently in this case so as to be to be readily and reasonably identifiable and I note that the observers were sufficiently aware of the application to make an observation thereon. I do not consider this provides a basis to invalidate the application.

- 10.2.3. The HSE observation raises two issues in respect of landownership. The first relates to the inclusion within the application red line boundary of an area of ground on the western side of the existing HSE building stated to be in HSE ownership, without the consent or knowledge of the HSE. Article 22(2)(g) requires that “where the applicant is not the legal owner of the land or structure concerned, the written consent of the owner” be submitted with the application. Where the HSE claim is correct, this requirement has not been met. The affected area provides pedestrian access from the northern access road to the courtyard and to the eastern side of the site. The exclusion of this area from the site would require alterations to the scheme, and it is not therefore regarded as a de minimis matter.

- 10.2.4. The second issue relates to a failure to identify a strip of lands along the eastern site boundary, and to the south of the HSE building, as being in the applicant's ownership. Article 22(2)(b) states that the application drawings "shall" be accompanied by a location map identifying any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land the subject of the application, to be outlined in blue. Where the HSE claim is correct, this area should be outlined in blue on the application drawings. The omission of this strip of land from the application does not impact materially on the proposed development and does not appear to prejudice any third parties. It is clear that the adjoining landowner is aware of the issue in this regard. This second matter might therefore be regarded as a de minimus error which does not prejudice other parties.
- 10.2.5. A review of LandDirect.ie supports the HSE claims, albeit that this is not a definitive source, and both of these issues raise questions about the validity of the application. I note that this issue arose from receipt of the HSE observation and that there was no apparent basis to invalidate the planning application upon receipt.
- 10.2.6. Notwithstanding the above, section 10(6) of the 2016 Act provides that a person shall not be entitled solely by reason of a permission under section 9 to carry out any development. This effectively replicates the provisions of S.34(13) in respect of planning appeals. The *Development Management Guidelines for Planning Authorities* note that the planning system is not designed as a mechanism for resolving disputes about title to land. They also note, however, that in the case of doubt as to the sufficiency of a legal interest, further information may have to be sought. Only where it is clear from the response that the applicant does not have sufficient legal interest should permission be refused on that basis. If notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission, subject to S. 34(13).
- 10.2.7. In the present case, as there is no provision for further information, the holding of an oral hearing might be considered as an appropriate mechanism to examine and provide greater clarity on this issue.

- 10.2.8. The LAP sets out an indicative Urban Framework / layout for each neighbourhood within the plan area. Within this Parcel CT-G, the plan identifies primary frontage to Belgard Road, with secondary routes running through this block. The applicants have submitted an indicative masterplan block layout for the subject site and adjoining lands to the north and west, in the ownership of Comans, but which excludes HSE lands to the east. Landownership appears to be a significant influence on the layout of the development within this masterplan. I note that the indicative layout varies somewhat from the overall framework in the LAP but does not compromise the fundamental components of the plan. The Chief Executive's report on the application raises no objections to the proposed Masterplan in this regard.
- 10.2.9. Application documentation includes a letter from the adjoining landowner to the west and north, Comans Wholesale Ltd., which indicates that they engaged in the preparation of the masterplan framework for the overall block, and also their intent to redevelop their site in line with the masterplan. I note, however, that the masterplan drawing referenced in this letter (dwg no. P16043-CWO-XX-XX-DR-A-1152) is not the drawing submitted with the application. It is not clear whether there are differences between these drawings.
- 10.2.10. The letter confirms their agreement to the inclusion of the shared northern access road, which in their ownership, within the application boundary. It indicates that they have 4 no. additional entrances to their lands, ensuring continuous access and egress during "*any construction periods and development phasing*". This letter does not specifically confirm, however, that operational HGV use of the existing access road from Belgard Road will cease, as indicated in the application documentation.
- 10.2.11. There is no agreement from the HSE or other landowners to the west which might be affected by the development footprint indicated in this application and any grant of planning permission on foot of this application should be clear that it relates to the subject application and is not consent / agreement to the proposed masterplan layout.

### 10.3. **Material Contravention**

The Material Contravention Statement submitted with the application states that the proposed development potentially materially contravenes the Tallaght Town Centre Local Area Plan 2020 in respect of the following provisions:

- a. Building Height
- b. Plot Ratio
- c. Housing Mix
- d. Housing Tenure
- e. Urban Form/Block Configuration

Section 9(6)(c) of the 2016 Act provides that the Board may only grant permission for a strategic housing development that would materially contravene the development plan where the Board considers that, if s.37(2)(b) of the 2000 Act, as amended, were to apply, it would nonetheless grant permission for the proposed development.

In accordance with s.9(3)(a), the Board is required to apply specific planning policy requirements contained in any guidelines issued by the Minister under s.28 of the 2000 Act and S.9(3)(b) further provides that such specific planning policy requirements will apply (to the extent that they are different) instead of the relevant provisions of the Development Plan.

Each of the identified material contraventions of the plan are considered below. With regard to Urban Form / Block Configuration, however, I note that the LAP states that

*“The proposed urban structure is a guide for future development in the area. Flexibility in relation to the proposed urban structure will be considered where it is demonstrated that the overarching objectives of the urban framework and key elements of the proposed urban structure are achieved in any alternative layout.”*

As noted above, I do not consider that the minor variance from the Urban Structure in the LAP is material or that it compromises the fundamental objectives of the urban framework. The Chief Executive’s report on the application raises no objections to the proposed Masterplan in this regard. I do not therefore consider that the proposed development materially contravenes the provisions of the plan in this regard.

10.3.1. Having regard to the foregoing, I make the following comments in respect of the criteria identified in S.37(2)(b):

(i) *The proposed development is of strategic or national importance.*

The proposed development occurs on zoned lands and provides for residential development in accordance with the land use provisions of the County Development Plan and Local Area Plan, and in accordance with local, regional and national planning policy. The development is of a type and scale which meets the definition of Strategic Housing Development set out in section 3 of the Act of 2016, as amended. The 2016 Act is an act to facilitate the implementation of *Rebuilding Ireland, An Action Plan for Housing and Homelessness*, which plan notes that the accelerated delivery of housing is a key priority for government. The provision of Build-to-Rent units is a key action under Pillar Four of the plan.

It is considered that the contribution of the proposed development to the national strategic objective of delivery of housing satisfies the criteria of being 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.*

The LAP for the Tallaght Town Centre was adopted in 2020 and provides a clear structure and framework for the development of the area, with an identified development capacity. The LAP identifies standards for building height and plot ratio across the plan area at the level of the land parcel & street, with provision for exceedance of the identified standards subject to clear criteria, in accordance with SPPR1 of the Building Height Guidelines. The policies and objectives of the development plan are not conflicting or unclear in relation to building height or plot ratio.

The LAP policies with regard to Housing Mix and to Housing Tenure are clearly stated and there is no identified conflict within the plans.

(iii) *Permission for the proposed development should be granted having regard to regional spatial and economic strategy, guidelines under S.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.*

In accordance with s.9(3)(a), the Board is required to apply specific planning policy requirements contained in any guidelines issued by the Minister under s.28 of the 2000 Act and S.9(3)(b) further provides that such specific planning policy requirements will apply (to the extent that they are different) instead of the relevant provisions of the Development Plan.

#### **a) Building Height**

The current LAP for Tallaght Town Centre was adopted in 2020, which post-dated ministerial guidelines in respect of Apartment Design and Building Height.

The Urban Development and Building Heights Guidelines support increases in building heights to achieve densification and consolidation of urban areas, including the reuse of brownfield sites. The guidelines note that development plans should identify and provide policy support for specific geographic locations or precincts where increased building height is not only desirable but a fundamental policy requirement. Locations with the potential for comprehensive urban development or redevelopment should be identified and such areas should be accompanied by appropriate master-planning exercises and local planning frameworks to deal with movement, public realm, design and other issues that are best addressed at a neighbourhood level rather than at an individual site scale.

In this case, I note that the LAP provides for significant redevelopment and population increase within the plan area, having regard to relevant guideline documents, including the Apartment Design Guidelines and the Building Height Guidelines. The plan sets out an Urban Framework and the development capacity of the plan area is linked to the building height and plot ratio criteria. The LAP identifies the subject site as being appropriate for 3-4-storeys of residential / commercial development, within land parcel (CT-G), based on its location on tertiary / local routes. Primary frontage within this parcel, to Belgard Road is identified for heights of 6-7-storeys of development. The proposed development varies between 4 and 7-storeys.

Section 3.1 of the Building Height Guidelines identifies a presumption in favour of buildings of increased height in town or city centre and other areas with good public



transport. Criteria to be applied in considering applications for buildings taller than prevailing building heights are identified in section 3.2, and SPPR 3 provides that where those criteria are met, permission may be granted even in contravention of the development plan, although there is no obligation to grant permission. I note the following in respect of the criteria set out in section 3.2.

<b>Broad Principles</b>
<i>Assist in securing NPF objectives of focusing development in key urban centres, fulfilling targets related to brownfield, infill development and effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?</i>
The development of these <i>Regen</i> lands for residential purposes will assist in the achievement of NPF objectives.
<i>Is the proposal in line with the development plan which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?</i>
No. The development materially contravenes the provisions of the 2020 LAP which takes account of the requirements of the guidelines and which provides a comprehensive urban framework for the regeneration of this area.
<i>Where the relevant development plan 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?</i>
N/A
<b>At the scale of the relevant city/town</b>
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>
The site is within walking distance of existing LUAS services at Belgard. There are bus services along Belgard Road, although these currently operate at lower frequency. Bus Connects will provide for improved services along this road.

*Development proposals incorporating increased building height, should successfully integrate into / enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner.*

The current urban environment is of low quality and the LAP provides a framework for its comprehensive redevelopment. The application is the first on this parcel of land. The development contravenes the specific provisions of the framework in respect of building height and plot ratio. There will be no interference with key views or prospects. A landscape and visual impact assessment is provided. There will be some improvement to the public realm along the southern boundary.

*On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.*

The development departs somewhat from the layout of the framework plan but such departure in layout is not regarded as material. The new public space at Colbert's Fort is regarded as a positive aspect of the development. New connections / routes through the site are provided for along its eastern and western sides. Proposed building heights within the interior of this land parcel are contrary to the framework plan and would create a precedent for similar height and intensity of development on adjoining lands, undermining the overall coherence and design approach of the LAP. The scale of development exceeds the plot ratio / density objectives of the LAP for this location and the precedent it would set for further development would compromise the overall development capacity objectives of the plan.

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

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

The development reduces in height to four-storeys behind the landscaped open space at Colbert's Fort and the relationship with the adjoining housing area is not regarded as unacceptable. The adjoining lands to the north, east and west remain in commercial and industrial use. Pending the redevelopment of those lands, the transitional environment for residents would not be of high quality. The western access road, provides permeability through the site, but would lack active frontage and runs the risk of become a neglected route, pending the redevelopment of adjoining lands to the west.

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

The scale of development and relationship with Colbert's Fort to the south is acceptable. The elevations are generally broken up to avoid monolithic form, although the northern elevation lacks visual interest.

*The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of the Flood Risk Management Guidelines.*

Having regard to the transitional nature of this area, I refer to the urban design context set out in the Urban Framework of the LAP. The site at the centre of this land parcel does not address key thoroughfares in the area or areas of public open space which locations are identified for increased heights in the LAP.

*The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area and integrates in a cohesive manner.*

Increased heights at this location are not required to improve legibility. Such development in contravention of the urban framework in the LAP will potentially undermine the legibility of the wider plan area and the definition of primary and secondary thoroughfares.

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

The development will assist in the residential-led regeneration / transformation of this area from low intensity industrial / commercial to a more urban form. The mix of units is biased toward smaller one-bed units, while the wider area was traditionally based on a lower-density, three-bed housing model. The extent of similar permitted development in the area is not quantified in the application and the assessment of the impact of this mix of housing is not clear. The BTR nature of the development will increase the rental sector offering in the area.

**At the scale of the site / building**

*The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*

A Daylight and Sunlight Assessment Report is submitted with the application. All proposed apartments achieve adequate levels of daylighting to living room and bedroom areas. Acceptable levels of dual aspect units are provided. The assessment confirms that open spaces are suitably lit.

The orientation of the proposed development and adjoining residential properties is such that no unacceptable impacts on receptors to the south will arise.

*Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' or BS 8206-2: 2008 – 'Lighting for Buildings*

The assessment of daylight and sunlight has regard to the standards identified in the referenced guidance document. All proposed apartments achieve adequate levels of daylighting to living room and bedroom areas. The assessment provides a rationale for the exclusion of ADF values for kitchen use from the analysis having regard to the provisions of the BRE Guidance document.

*Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion,*

The report identifies where the assessed apartment units meet the recommended daylighting (ADF) values, however, I note that the assessment does not examine

all ground or first floor apartments. Notwithstanding the rationale for the treatment of kitchen spaces in terms of daylighting, the extent of non-compliance of combined Kitchen / Living / Dining spaces is not identified.

Section 3.2 also notes that Specific Assessments may be required, and I note that the application is accompanied by the following:

- AA screening report.
- EIA Screening report.
- Aeronautical Assessment Report, and a Glint and Glare statement
- Utility Report
- Flood Risk Assessment

In conclusion, I consider that the LAP sets out a considered development framework to deliver the regeneration of these lands and the consolidation of development in this area, in line with regional and national planning policy and guidance. The Urban Framework in the LAP is formulated having regard to the provisions of Chapter 2 of the Building Height Guidelines. The proposed material contravention of the building height provisions of the plan is therefore not justified by an argument for the consolidation of urban development, which is already facilitated under the adopted LAP. To do so would set a precedent for similar development in the surrounding area and would undermine the overall development strategy and the coherent plan led approach to the redevelopment of the area.

In this regard, I note also the decision of the Board in respect of ABP-308398-20, wherein the provisions of the LAP in respect of building height were considered appropriate for that site and conditions were attached to reduce heights in accordance with the Urban Framework of the LAP.

#### **b) Plot Ratio**

The LAP identifies a range of plot ratio standards for land parcels within the Cookstown area. The subject site comprises part of land parcel CT-G, for which plot ratios in the range of 0.75 – 1:1 are identified, due to its relative remove from the

LUAS corridor and town centre. As noted in the Chief Executive's report, the LAP identifies these lands as the area of lowest development intensity in the area.

The stated gross site area is 0.91ha, while a net site area of 0.664ha is identified as comprising lands in the applicant's ownership and excluding the northern access road and parking area, and the western access road. The planning authority regard the net site area as the appropriate measure for calculation of plot ratio and public open space, notwithstanding that the LAP states that plot ratio shall normally be calculated on the basis of the gross site area.

In this case, while I concur with the planning authority that the northern access road and car park, which serve adjacent commercial uses, should be excluded, I consider it appropriate to include the western access road for these purposes having regard to the layout of development and the function of this road. This provides for a revised gross site area of approx. 0.742 ha. The corrected plot ratio figure would therefore be approx. 1:1.87, which remains considerably in excess of the LAP standards for the site, notwithstanding any potential flexibility provided for in the plan.

This issue is related to that of height above. The recently adopted LAP has identified a range of standards and measures to achieve the plan-led sustainable consolidation and regeneration of these lands in accordance with national policy, including provision for higher densities of development, which vary with location and which reflect the capacity for growth in the LAP lands. The contravention of the standards and design principles of this plan would set a precedent for similar development on other lands in the Cookstown area and would undermine the plan led approach to its development. I do not consider that national and regional policy, or ministerial guidelines, justify the proposed contravention of the standards of the plan in this regard.

### **c) Housing Mix**

The proposed development provides the following mix of housing units:

<b>Unit type</b>	<b>No.</b>	<b>%</b>
<b>1-bed</b>	103 no. (9 no. studio 94 no. 1 bed)	60.6%

<b>2-bed</b>	60 no.	35.2%
<b>3-bed</b>	7 no.	4.1%

Objective RE2 of the LAP requires that a minimum of 30% of residential units comprise 3-bed units or larger.

SPPR1 of the Apartment Design Guidelines provides that housing developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix 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 plans. SPPR 8 further provides that in respect of BTR development, no restrictions on dwelling mix shall apply, unless specified otherwise.

I note the recent decision of the Board in respect of ABP-308398-20, wherein it was confirmed that no restrictions on dwelling mix for BTR development shall apply in accordance with SPPR8. Furthermore, it is the case that an agreed HNDA has not yet been adopted in accordance with SPPR1. In this regard therefore, it is considered that the requirements of the Specific Planning Policy Requirement takes precedence over the conflicting policies and objectives of the LAP.

The proposed material contravention of the housing mix objectives of the plan (RE2) is therefore justified by reference to SPPR8(i) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply for Build-to-Rent developments.

#### **d) Housing Tenure**

The planning authority have raised concerns regarding the provision of a 100% Build to Rent scheme, noting that while LAP Objective RE 5 supports Build to Rent development, this is subject to compliance with the housing / occupancy mix requirements of the plan and of national policy, in particular with the provisions of the Apartment Design Guidelines.

The BTR sector is encouraged under Pillar 4 of Rebuilding Ireland, while section 5.7 of the Apartment Design Guidelines states that a key aspect of BTR is its potential to accelerate the delivery of new housing at a significant scale. Section 5.8 notes that 'potential for accelerated housing construction through BTR can make a significant contribution to the required increase in housing supply nationally, identified by Rebuilding Ireland, and the scale of increased urban housing provision envisaged by the National Planning Framework'. Section 5.9 further notes that the promotion of BTR development by planning authorities is strongly merited through specific planning and design policies and standards.

The development provides 170 no. dwelling units, comprising BTR apartments and 10% / 17 no. Part V housing units. SPPR 7 provides for BTR development and includes a requirement that the scheme be maintained as a long-term rental housing scheme in institutional ownership for an extended period.

The planning authority refer to Objectives RE3 and RE4, which aim to provide a mix of tenure across the plan area to meet the needs of the current and future population, and to the pipeline of BTR development in the area. Section 5.2.2 of the LAP states the ambition to encourage the provision of at least 30% owner occupied units across the plan area. This provision is to be reviewed pending the completion of a Housing Need and Demand Assessment (HNDA). This is an overall ambition of the plan and is not an explicit objective or requirement of planning applications, however.

The planning application is accompanied by a BTR justification report, which notes the proximity of the site to employment centres and public transport connections to the city centre. The relatively young age profile of the electoral district and a general shortage of affordable rental accommodation is identified and it argues that the development will contribute to addressing the housing supply issues in the city.

While Policy RE 5 supports BTR development, this is subject to the housing mix provisions of the plan. As noted above, these housing mix objectives are regarded as conflicting with SPPR 8 of the Apartment Design Guidelines and their contravention is recommended. Pending the adoption of a Housing Need Demand Assessment, development of the nature proposed would be justified having regard to the provisions of section 5 of the Apartment Design Guidelines.



The potential material contravention of the housing tenure mix provisions of the LAP is therefore justified by reference to section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

- (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.*

The relevant LAP came into effect in July 2020. I note that prior to the adoption of the plan, there were a number of planning applications for residential development granted permission in the surrounding area, however, since its adoption there has been only one grant of permission for similar development in the Cookstown area (ABP-308398-20). In that case, the Board determined that the building height strategy of the LAP was appropriate for the site and modified the development by condition in accordance therewith. Material contravention of the LAP was approved in respect of housing tenure and plot ratio, however, in respect of plot ratio, the Board had regard to the reduction in floor area arising from the conditioned reduction in building height.

I do not therefore consider that this justifies the material contravention of the provisions of the LAP in this case.

#### 10.3.2. **Other Matters Arising:**

- (i) Cookstown Urban Square

Observers have queried whether material contravention of the LAP arises in respect of the provision of the new Urban Square at Cookstown, to the northwest of the application site. Objective CK3 for this neighbourhood is to deliver a mix of new open spaces, including a new urban square at a central location at, or in close proximity to, the junction of Cookstown Road and Second Avenue. The exact location, design and delivery of this space to be progressed by SDCC in discussion with landowners.

Area Specific Requirements in respect of parcel CT-G include, proposals for residential development to provide for the delivery of Cookstown Urban Square, as per the criteria set out in Section 8.4.2, in tandem with development, unless otherwise agreed with the Planning Authority. Similar requirements are identified in respect of parcels CT-C and CT-D. The plan is unclear as to what such provision entails in the case of applications which do not include or directly adjoin the space. Section 8.4.2 of the LAP notes the likelihood that the Council may be required to take a more active role in the delivery of such key infrastructure, which will be required in tandem with and prior to the completion of each block of development.

The subject application site does not include or immediately adjoin this square. The proposed Masterplan submitted with the application indicates how development therein will relate to the proposed square and provide for the implementation of the southeastern corner of the space. I note that case ref. ABP-309731-21, within land parcel CT-D to the north and which post-dates adoption of the LAP, has not yet been decided.

The PA note that the applicant has not proposed any measure to assist in the delivery of the Cookstown Urban Square or demonstrated that its delivery will be in tandem with development. Ultimately the PA note that responsibility for delivery of the square rests with developers collectively and with the Planning Authority. The PA are therefore seeking a special contribution under S.48(2)(c) in respect of the provision of this square.

This is the first application within the CT-G parcel, although there have been other applications in parcels CT-C and CT-D. There is no timeline available for completion of the remainder of this block and I note the varied landownership across these lands. Having regard to the submitted Masterplan, it may be considered that the application does make some provision for the delivery of Cookstown Urban Square, as per the criteria set out in Section 8.4.2, which is required in tandem with and prior to the completion of each block of development. The planning authority are agreeable to the development subject to a special contribution toward the delivery of this space. I do not consider that the development materially contravenes the provisions of the LAP in this regard.

Having reviewed the documentation submitted by the planning authority, however, I am not satisfied that the recommended condition can be properly described as 'special contribution' condition formulated in accordance with the relevant provisions of Section 48(2)(c) of the Planning and Development Act 2000, as amended. This sub-section provides that such a contribution may be required in respect of:

- (a) a particular development, in circumstances where,
- (b) specific exceptional costs are incurred, and where,
- (c) these costs are not covered by a scheme made under this section.

With reference to these three criteria, I conclude that the recommended special contribution:

- (a) does not relate to a particular development but to categories of development (i.e. commercial and/or residential units) which are situated within identified land parcels in Cookstown.
- (b) does not relate to specific exceptional costs insofar these were foreseeable and do not appear to be so exceptional as to be incapable of incorporation within the terms of a development contribution scheme formulated in accordance with this section of the Act, and
- (c) the costs involved, although not covered by a scheme made under this section, are nevertheless appropriate for apportionment under such a scheme and, indeed are formulated and applied by the planning authority as if they did fall to be so considered.

I therefore query the basis for the application of the provisions of s. 48(2)(c) in this case and whether the Board are entitled to attach such a condition in the event of a decision to grant permission in this case.

## (ii) Sequential Development

The planning authority refer to material contravention of Objective IS1 of the LAP in respect of the sequential approach to development provided for in the plan. This objective states the following:

It is an objective of the Council that development within the plan area is undertaken in an orderly and sustainable manner. The development of the

identified regeneration lands at Cookstown and Broomhill alongside the Town Centre lands should generally be phased in accordance with the sequential approach:

- Development should extend outwards from the town centre and high-quality public transport with land closest to the centre and public transport nodes being given preference, i.e. 'leapfrogging' to stand alone or isolated areas should be avoided; and
- A strong emphasis will be placed on encouraging infill opportunities adjacent to compatible existing uses and ensuring better use of under-utilised lands (Objective IS 1).

The aim of the objective is considered reasonable in principle, however, it is expressed in general terms and does not clearly identify first or second phase development lands. The application site lies in the Cookstown Neighbourhood, between the town centre to the south and public transport noted to the north. There have been previous grants of planning permission for the redevelopment of intervening Regen zoned lands, however, those permission have not yet been implemented. I note also a concurrent application for development to the north of the subject site (ABP-309731-21). It would seem unreasonable to hold all planning applications until such development has commenced or is complete. As noted in the Chief Executive's Report this residential development adjoins and will reinforce the existing residential cluster at Colbert's Fort and may be considered to fall within the scope of objective IS 1.

Having regard to the general provision of the plan in this regard, I do not concur that the proposed development would materially contravene the LAP, and do not consider that this would warrant a refusal of permission in this case. I would, however, consider that a more detailed masterplan for the adjoining lands, to include transport management, would be appropriate and would assist in overcoming the transitional issues identified by the planning authority.

(iii) Apartment Floor Areas

The proposed development provides 2 no. 2-bed, 3-person apartments of 69-sq.m. The County Development Plan (para 11.3.1(iv)) states that all apartments must

accord with or exceed the floor area standards set out in Appendix 1 of the Apartment Design Guidelines and the minimum floor areas set out in Table 11.21 of the plan.

The Chief Executive's Report notes that while the Apartment Design Guidelines provide for 2-bed, 3-person apartments, they are not included in any specific planning policy requirement (SPPR). The development plan does not provide for 2-bed apartments of less than 73-sq.m. and it is therefore argued that revisions to the proposed 3-person, 2-bed units would be required.

I note that only 2 such apartments out of 170 no. units are proposed (1%) and that these units are marginally below the reference floor area 73-sq.m. Having regard to the specific wording of the development plan, however, the proposed development could be considered to materially contravene the provisions of the development plan.

I note that section 5.2.3 of the LAP states that all apartments shall accord with or exceed the minimum floor areas standards set out in the Apartment Design. Having regard to this inconsistency with the County Development Plan, it is considered that where the development was considered to materially contravene the development, plan this would be justified having regard to s.37(2)(b)(ii).

#### **10.4. Density and Design**

10.4.1. Observers have raised concerns regarding the density of development proposed in the scheme and in the 2020 LAP for the area. The relationship with Colbert's Fort and impacts on residential amenity are also raised.

10.4.2. The LAP was adopted in 2020 and identifies an overall indicative development capacity for the lands within the lifetime of the plan and across a number of plan periods. I note that section 2.8 of the LAP addresses the identified development capacity of the lands vis a vis the core strategy of the development plan. It is outside the remit of this report to review the overall development strategy of the LAP, however, the LAP identifies plot ratio, height and built form as the measures to control the intensity, scale and bulk of development, and differing standards are identified across the plan lands, which are considered in this report. The standards reflect the identified development capacity of the LAP lands.

10.4.3. The site is currently occupied by low-rise industrial structures and is bounded by similar commercial / industrial uses to the north, west and east. Lands to the south comprise an established low-rise residential area. The site does not in any way comprise a strategic location within the wider Tallaght or Cookstown area, notwithstanding statements in this regard in application documentation. The recently (2020) adopted LAP identifies the site as being located on tertiary / local routes, suitable for development of 3/4-storeys. The LAP provides for a considered approach to development and building heights and plot ratio, with variation / upward modifiers provided for in certain circumstances, including the location of the site and proximity to services, public transport and amenity spaces. Within the Cookstown neighbourhood, an increase of 2-4 storeys over the typical levels identified in the LAP are permissible where the site is directly adjacent to the high-capacity public transport stops or the proposed new Cookstown Urban Square. This provision only applies to the extent of a site which is within 100m of these locations. Having regard to the location of the site and the limited extent falling within 100m of the proposed Cookstown Urban Square, I conclude that the development cannot avail of this upward flexibility across the entire site. Any flexibility available would apply only to a portion of the site. I have already commented above on the relationship of the development with the urban framework set out in the LAP and the appropriateness of contravention of the design parameters set out therein.

10.4.4. The proposed residential density equates to approx. 229 / ha based on a corrected site area of 0.742ha. This density is inflated somewhat by the extent of 1-bed provision on the site, and it is considered therefore that the measures of plot ratio and building height identified in the LAP provide useful indicators of the intensity of development proposed on the site. Similar to building heights, the LAP provides for flexibility of up to 20% of the plot ratio range where there is a strong design rationale and where the development will result in a significant public gain. The LAP describes works or measures which might be considered to constitute a significant public gain.

10.4.5. The applicants argue that regard should be had to the following in providing for an exceedance of the LAP standards:

- Public open space of 1,095-sq.m. - 12% of gross site area / 16% net site area.
- Road and streetscape improvements on Belgard Road and Colbert's Fort.
- Upgrade works to the internal access road to the north.

- The western access road promoting permeability in the area.

As noted above the corrected plot ratio is calculated as 1.75, which would significantly exceed the scope of flexibility provided for in the LAP, notwithstanding the differing basis for this calculation. Furthermore, I consider that the works referenced by the applicants comprise part of the overall development of the site and do not consider that the scheme provides significant public gain in line with the provisions of the LAP.

- 10.4.6. The LAP states that a minimum of 10% of gross site area shall be provided as public open space. The application identifies 1,095-sq.m. of public open space at the frontage with Colbert's Fort and along the eastern site boundary. The southern Colbert's Fort open space is regarded as an attractive space which will improve the public realm at this location. I do not consider that the provision of a new boundary wall along this frontage, as suggested in observations, would contribute to the visual or residential amenities of the area. I note the comments in Chief Executives report with regard to the quality and nature of the eastern area of open space. I generally concur with these comments having regard to its location and narrow form, and in the absence of agreed development proposals for lands to the east which would provide for such function. I agree that this would more properly be considered as communal open space and therefore not provide a *significant public gain*. I note the recommended condition with regard to the payment of a financial contribution in lieu of a shortfall in public open space, as provided for in the LAP and the County Development Contribution Scheme 2021-2025, and consider that this would be reasonable and appropriate.
- 10.4.7. I have already commented above on the proposed housing mix and BTR nature of development, and the relevant provisions of the guidelines. Within the current policy framework, I do not consider that the proposed development would be unacceptable.
- 10.4.8. I note the previous decision of the Board to grant permission under ref. ABP-308398-20, subsequent to the adoption of the LAP. Having regard to this precedent, consideration could be given to a reduction in building heights in accordance with the provisions of the LAP by way of condition. Such reduction would also reduce the overall intensity of development on the site in line with the provisions of the LAP. Such modifications would be significant, however; and of a relative scale

considerably greater than that applied by the Board under ABP-308398-21. The reduction in the number of dwelling units would also be significant. Having regard to the significance and material nature of such modifications, I do not consider that this would be appropriately addressed by condition.

## 10.5. Residential Amenity

10.5.1. The proposed development comprises a Build-to-Rent scheme which is provided for under the Apartment Design Guidelines, and specifically SPPR 7 and 8 thereof. The statement of consistency identifies communal amenities / facilities to be provided for BTR units under SPPR 7. The statement confuses the intent of para 4.6 of the guidelines, however, which is to be read separately to the provisions relating to BTR development. Supporting communal and recreational facilities and amenities identified in the application equate to approx. 425-sq.m. net, and include:

Ground Floor	Reception 65.6-sq.m. Cinema / TV room 51-sq.m. Gym 79.2-sq.m. Residents Lounge 82.4-sq.m. Events Room 46.4-sq.m.
Fourth Floor	Event / Party room 100-sq.m.

The level of provision is considered to be reasonable for development of the nature proposed, in accordance with the provisions of the Apartment Design Guidelines. The application achieves over 50% dual aspect which is appropriate for this location and avoids north-facing single-aspect units.

10.5.2. The application is accompanied by a Housing Quality Assessment which sets out the proposed accommodation relative to the standards set out in the Apartment Design Guidelines. All units exceed the minimum internal floor areas. I note, however, that the schedule of proposed accommodation misleadingly compares the proposed room floor areas and widths with the guideline values, minus the 5% variation identified in Appendix 1 of the guidelines. I note that this provision for flexibility in the guidelines relates only to aggregate floor areas for main living / dining



/ kitchen rooms and does not apply to bedroom accommodation. The provision in the guidelines is not intended to set a new minimum standard but rather is understood to provide for flexibility in design.

- 10.5.3. While the application indicates that the minimum apartment floor areas are achieved, there are deviations from the minimum standards across a number of units, particularly in respect of bedroom floor areas and widths (including requirements for twin versus double bedrooms). While this is marginal in some cases, I note that the Guideline values are minimum standards. There are discrepancies between the detail contained in the schedule contained in the HQA and the plans and drawings submitted which do not assist in the assessment of the proposed accommodation and precise identification of compliance / exceedance with the Guideline values.
- 10.5.4. As noted above, the application applies flexibility in respect of bedroom floor areas and room width in error and in a manner which is not intended in the guidelines. I do not believe that it has been satisfactorily demonstrated that the minimum standards of accommodation set out in the *Sustainable Urban Housing: Design Standards for New Apartments (2020)* are achieved in the scheme. Notwithstanding the BTR nature of the proposed development, I am not satisfied that an appropriate standard of residential accommodation would be achieved.
- 10.5.5. Communal and private open space provision are regarded as satisfactory, and the development does not avail of the flexibility in relation to private open space provision as provided for under SPPR 8.
- 10.5.6. The application is accompanied by a Social Infrastructure Statement. The statement identifies that there is a range of school and educational facilities in this area. While enrolment figures for schools in the surrounding area identified, no assessment of capacity to serve such development has been established. Notwithstanding this, I note the provisions of the LAP in respect of the development capacity of LAP lands and that the proposed development would fall within the overall envelope of development envisaged in the LAP. Section 8.4.1 of the LAP, *Schools Requirements*, notes that it is anticipated that 3 primary schools and a secondary school will be required within or in very close proximity to the plan area. The plan identifies a potential location for the secondary school, and notes that sites for the primary schools have not yet been identified. The LAP identifies a set of criteria for

locating the primary schools, however, it notes that this will need to be actively assessed and monitored once permissions have been granted for c. 800-1,000 units.

10.5.7. The LAP identifies an indicative outline of the desirable services and facilities which could be required within each neighbourhood. In respect of Social Infrastructure, the plan identifies a requirement for a new community space per 5,000 population growth. The demand for, and delivery of, this facility will be assessed once 1,500 units have been granted planning permission in the Town Centre and Cookstown neighbourhoods. This would thus be outside the remit of this application. The development provides for childcare facilities to meet the anticipated demands arising from the scheme and meets the requirements of the plan.

## 10.6. Daylight and Sunlight

10.6.1. The application is accompanied by a Daylight and Sunlight Assessment Report. This report states that it was undertaken with regard to the methods outlined in the BRE guide 'Site Layout Planning for Daylight and Sunlight; A Guide to Good Practice', 2011 and BS8208 Part 2:2008 Lighting for Buildings, Code of Practice for Daylighting and IS EN 17037 (2018): Daylight in buildings.

10.6.2. In respect of daylight to proposed apartments, the assessment applies the following minimum Average Daylight Factor (ADF) reference values as identified in the BRE Guidelines and BS 8206-2 Code of practice for daylighting:

- 1.5% for living rooms.
- 1% for bedrooms.

In relation to the relevant ADF value, I note that BS 8206-2:2008 recommends that where one room serves more than one purpose, the minimum average daylight factor should be taken for the room with the highest value. The ADF value identified therein for kitchens is 2% and for living rooms is 1.5%. I note also that the importance of the daylighting and orientation of living spaces is recognised within the Apartment Design Guidelines (2020).

10.6.3. In respect of ADF values for kitchens, the report notes that kitchens in the proposed apartments are positioned at the rear of the space from the window wall, and that small internal galley-type kitchen design is inevitable in such schemes. It is stated

that the assessment follows the methodology and principles of the BRE guidelines for this instance and that all kitchens are directly linked to a well daylighted living room, in line with the BRE recommendation. I note para 2.1.14 of the BRE Guidance document in this regard. The assessment further notes that the values presented relate to the combined Kitchen living room areas. If the living room only was assessed, the daylighting values would be 40% greater on average. In addition, all units are stated to achieve the BS EN 17037 ADF reference values of 1.6%, however, the basis for this value is not referenced.

- 10.6.4. The assessment reviews apartments at ground floor and first floor levels in block B and ground, first, second floor levels in block A, in the context of the existing adjoining development. Notwithstanding comments in the *Statement of Response to the Pre-Application Consultation Opinion*, not all apartments at these levels are assessed. I note that for the eight ground floor units assessed in Block B, the combined kitchen / living rooms achieve ADF values of 1.6% to 3.4%, with four units failing to achieve the 2% ADF for Kitchen spaces. I note, however, that there are additional units which may not reach this value and for which no analysis is provided. The extent of ground floor compliance with this standard is therefore unclear. The assessment indicates that all assessed first floor units in Block B will achieve compliance with the BRE reference values being in the range of 2.5 – 4.4%. While not all units at this level were assessed, having regard to the identified values for the sample units, it is considered likely that all upper floor units will achieve the minimum recommended values for kitchen spaces.
- 10.6.5. In respect of Block A, combined ground floor kitchen / living room accommodation reports ADF values of 1.7%. At first floor level, the 2% ADF reference value for kitchen / living spaces is achieved.
- 10.6.6. I am satisfied that an ADF of 1.5%, being the value applicable to a living space, would generally be acceptable for combined LKD spaces, where balanced against the achievement of appropriate levels of development and such regeneration of urban areas. This balance arises only in respect of ground floor accommodation and the development would achieve compliance at upper floor levels. The BRE Guidelines provide for internal kitchen spaces where they are linked to a well daylighted living room. I regard these provisions as applicable to modern apartment design, noting that kitchen and living spaces are rarely separated. The assessment report

notes the extent of daylighting of the linked living spaces and I consider that the development would be in accordance with this provision of the guidelines.

10.6.7. In terms of sunlighting of open space, the assessment concludes that all areas will exceed the minimum reference value identified in BRE Guidelines of 2 hours of sunlight on March 21<sup>st</sup> over at least 50% of the area. In particular, it is noted that 62% of the communal courtyard will reach this value.

10.6.8. Having regard to the orientation and location of the site to the north of Colbert's Fort, there will be no overshadowing impacts on those residential properties. Similarly, in respect of daylighting of the adjoining cottages to the south, the assessment concludes that all houses will exceed the 27% VSC reference values identified in BRE Guidance and further, will not experience any reduction in excess of 20% of the existing values. No significant impacts on adjoining residential properties in respect of daylight, sunlight or shadow are therefore anticipated.

## 10.7. Noise

10.7.1. The application site is currently in low-intensity commercial use and the primary adjoining uses include distribution / warehousing to the west, and gym / fitness to the north. The application is accompanied by a noise impact assessment, which notes that road traffic noise dominates the noise climate along the eastern site boundary. Commercial units to the west are described as mostly warehouses with some light manufacturing and the assessment states that noise levels are not expected to be above traffic noise on the eastern side. Mitigation measures set out section 4 of the report are described as sufficient to achieve acceptable levels within the proposed apartments, which measures include:

- All residential units with facades facing towards the Belgard Road shall have acoustically rated high performing double pane window sets.
- All windows facing the industrial facility to the west shall have acoustically rated high performing double/ triple pane to prevent the breakthrough of external noise.
- All window sets should be tested for sound insulation in accordance with BS EN ISO 140 and BS EN ISO717.
- Compliance with Building Regs 2014, Technical Guidance Document E - Sound.

- 10.7.2. The assessment describes the operational noise impact of the proposed residential development on the receiving environment as slight, limited to internal vehicle movements entering and exiting the basement car-park, and residents using the internal courtyard amenity area which will be screened by the buildings. No adverse noise impacts on the receiving environment or on any existing third-party property are predicted. The assessment predicts that the operation of the creche will not adversely impact other units or residential apartments and children will typically not be outside playing before 9am. Break-out noise from plant on-site is predicted to be negligible due to the location and rating of identified plant, and the use of acoustic barriers.
- 10.7.3. The stated conclusions of the assessment are considered to be reasonable. I note however, that no assessment is made of the potential impact arising from use of the upper-level terrace and events room in Block B facing Colbert's Fort. Having regard to the centrally managed nature of the BTR scheme, such potential impacts could be addressed by restrictions on the use of the external terrace after a certain hour. This could be provided for as part of the Operational Management Plan.
- 10.7.4. It is proposed that noise and vibration monitoring of third-party buildings and property will be undertaken during the construction phase of the development, having regard to their proximity to development works, to ensure that works can be effectively managed. The report refers to the application of standard guidance / codes of practice in respect of noise and vibration emissions from construction sites, including:
- BS 5228 — 1:2009+A1 2014 Code of practice for noise and vibration control on open sites: Part 1 Noise.
  - BS 5228-2:2009+A1.'2014 Code of practice for Noise and Vibration Control on Construction and Open Sites: Part 2 — Vibration, and
  - BS 7385-2:1993 — Evaluation and Measurement for Vibration in Buildings: Part 2 — Guide to damage levels from ground borne vibration.

I note that there are gaps in the submitted report, specifically the absence of Figure 3 referenced on Page 7 identifying monitoring locations and the omission of Table 5 referenced on page 8. Notwithstanding these inconsistencies, I consider that the application of these best practice emission limit values, and proposed noise and

vibration monitoring during construction, will adequately protect adjoining residential amenity. These could be addressed through the agreement of a finalised Construction and Environmental Management Plan, in the event of a decision to grant permission in this case.

## 10.8. Services and Drainage

- 10.8.1. This brownfield site is served by existing mains water and drainage services. The site is almost completely under hard surfaces / buildings. The proposed surface water management system includes the use of attenuation tanks and flow control devices to limit discharge (2l/s at the outfall), and the use of green roofs and green spaces to reduce the surface water runoff. Any runoff from the car parking space will be treated with a by-pass separator. The engineering report identifies a requirement for attenuation storage of approx. 215m<sup>3</sup>, provided using pipes, manholes and attenuation tank, with allowance for up to 20% climate change. The proposed sewer will discharge by gravity into an existing ø300mm surface water sewer on Belgard Road. I note that the planning authority have not raised any objection to the surface water drainage proposals, subject to finalised SUDS proposals being agreed.
- 10.8.2. A Flood Risk Assessment is submitted with the application, which identifies the site as being located in flood zone C. The nearest watercourse is Whitestown Stream, which flows east, approx. 1.4km south of the site. The risk of flooding from all sources is described as low. OPW mapping does not identify any risk at this location and no historic events have been recorded at this location. The proposed development does not therefore appear to be at risk of flooding and a justification test would not be required in respect of the development. Subject to the appropriate management of surface waters on the site, the development will not give rise to increase risk of flooding of third-party lands.
- 10.8.3. It is proposed to connect to existing mains water supplies in the area. The submission from Irish Water indicates that since the original a confirmation of feasibility was issued, further investigations and modelling have been undertaken in this area. These investigations remain incomplete and the extent of upgrades or

other works required, along with any consents necessary to facilitate the proposed development are unconfirmed.

- 10.8.4. The engineering report notes that there are capacity constraints with the existing ø375mm foul sewer on Belgard Road. It is therefore proposed to provide a ø300mm extension over 420m from the site to connect to an existing 600mm sewer on Airton Road, which is stated to have capacity to cater for the development. This design solution was based on pre-application correspondence from Irish Water in August 2019. The submission received on this planning application from Irish Water, however, notes that since such 2019 pre-application consultation correspondence, IW have become aware of further downstream constraints on the foul network and that the Confirmation of Feasibility as issued, is no longer valid. Pending the completion of relevant investigations and modelling IW cannot identify the nature and scope of the upgrades and/works that will be required to facilitate connections for this development proposal. I note that these constraints appear to have come to light subsequent to the grant of permission by the Board under ref. ABP-308398-20.
- 10.8.5. An issue of prematurity arises therefore in respect of this application, having regard to the absence of certainty with regard to the extent of works required to facilitate this development and to overcome the current capacity constraints in the water and wastewater networks, including whether further consents are required and the likely timeframe within which such constraints would be overcome.

#### 10.9. **Transport and Access:**

- 10.9.1. The application site is currently accessed from Belgard Road (R113) via a shared access road which also serves adjoining uses in this industrial complex. The Belgard Road comprises a high capacity, urban dual-carriageway with a central median accommodating right-turn lanes along its length, including at the existing site entrance. The road is provided with footpaths and cycle lanes on both sides, and pedestrian crossings at intervals.
- 10.9.2. At time of inspection, there was limited traffic entering the complex from the Belgard Road. It is not clear whether the prevailing public health restrictions are impacting on traffic movements to the adjoining drinks distribution operation. The shared access road is bounded by surface car parking on both sides and there are generally no

pedestrian facilities currently within the complex. Internal access roads bound the existing buildings on the site on their western and southern sides. The western access is shared with, and is in the ownership of, the adjoining distribution operation to the west (Comans). There is a gateway from this western road to Colbert's Fort to the south, although this does not appear to be in current / frequent use. Colbert's Fort comprises a predominantly residential cul-de-sac. There are commercial uses at the eastern end of the road, which result in over-spill parking along the road. The road is provided with a narrow footpath on its southern side.

- 10.9.3. Vehicular access to the development is to be provided via the existing shared access from Belgard Road. This will provide access to the basement car park via the western access road. To facilitate the rationalisation and upgrading of this shared access route, the application site boundary extends to include the surface car parking area on the northern side of this road.
- 10.9.4. Notwithstanding the proposed vehicular access, the main reception area for the BTR development is located in the southeastern corner of the development facing Colbert's Fort. This arrangement is likely to generate / give rise to vehicular movements and drop-off at Colbert's Fort and the layout makes no provision for a pull-in or set-down area at this location. I consider it more appropriate that the main reception area would be located in Block A to the north and that vehicular access to the site be directed to the shared access road and away from the adjoining residential roads.
- 10.9.5. Refuse and emergency vehicle access to the proposed development will be provided from Colbert's Fort, via a one-way shared access along the western boundary. Use of this route will be controlled through the use of bollards. I note that this western route appears to be used for the parking / storage of HGVs / trailers by the adjoining distribution operation, which would not be compatible with the proposed development. Conditions confirming restrictions on such use would be appropriate in the event of a decision to grant permission in this case.

Parking:

- 10.9.6. The development provides 73 no. parking spaces. 64 no. spaces will be located at basement level, accessed from the west of the site. 9 no. surface spaces will be located to the north of Block A and will include 5 no. visitor spaces and four disabled



car parking spaces, and a set-down area. This equates to 0.37 spaces / per unit at basement level plus 9 surface spaces. The applicants argue that this is comparable with the levels of parking provision in other BTR developments permitted by the Board in this area. SPPR 8 states that there should 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. In this case I would note that the site is not centrally located but does lie close to employment centres, and that the closest high frequency public transport (LUAS) services is approx. 500m from the site. A reduced level of car parking provision is therefore considered to be acceptable in this case.

10.9.7. The development provides for amendments to the northern shared access road and to existing car parking spaces on its northern side. Markings suggest that these spaces predominantly serve the adjacent Comans operation. These amendments will result in a reduction from 43 to 28 no. car parking spaces and the effect of, or justification for, this loss of car parking is not described in the application.

10.9.8. The provision of satisfactory levels of cycle parking is important given the applicant's reliance on reduced levels of car parking in this development. The proposed development provides 354 no. cycle parking spaces in line with the provisions of the Apartment Design Guidelines, comprising 264 no. long-stay double-stacked spaces at basement level and 90 no. visitor spaces within the public realm. The Road Safety Audit response indicates that residents / cyclists will access the basement parking via the stairs / lift and that the basement access ramp is for vehicular use only. This is an unsatisfactory design solution, which will either discourage cycle use through having to negotiate multiple doors with bicycles, or result in unsafe use of the ramp by cyclists. Revisions to the development to address this deficiency would be appropriate in the event of a decision to grant permission.

10.9.9. With regard to traffic generation, I note that this is not a greenfield site. It comprises part of an existing industrial complex / estate, which generates existing and potential HGV / service vehicle movements to and from the Belgard Road. The application is accompanied by a Transport Impact Assessment, and I note that the traffic surveys were undertaken in 2019 prior to the imposition of any public health restrictions. Survey results indicate that the Coman's sites does not generate significant peak hour traffic movements, however, off-peak movements are not described.

- 10.9.10. The assessment of trip generation is based on TRICS data for residential sites in Dublin. The overall increase in trips along Belgard Road is not predicted to be significant, when compared with baseline flows, and the TIA concludes that no material impact on the local transport network will arise. Having regard to the existing industrial / brownfield nature of the site, the capacity of the surrounding road network, combined with the reduced parking levels proposed, these conclusions are not considered to be unreasonable.
- 10.9.11. In respect of the compatibility of the residential development with traffic movements associated with adjoining commercial uses, the TTA states that all HGV movements to and from Comans via the shared Belgard Road access road will cease as part of the current proposal, and that such HGV traffic will be diverted to alternative entrances to the Comans site. While this would be regarded as a necessary and positive aspect in terms of residential amenity, the location of these alternative entrances are not identified in the plans nor is any assessment undertaken of the impact of diverting traffic to such locations. I note also that the letter of consent from Comans is not as explicit as the TTA in this regard, which raises a doubt about the longer-term operational use of the access road by HGV's post-construction and pending any redevelopment of the Comans' lands. This should be addressed as part of a comprehensive access strategy of the lands.
- 10.9.12. In terms of trip distribution, the assessment states that it is assumed that vehicles arriving at the site will do so from the south, while departing traffic will travel north. The basis for this assumption is not clear as there are no restrictions currently on right-turning traffic accessing or exiting the site from Belgard Road, and this does not appear to be based on the existing surveyed traffic distribution. This issue is identified in the stage 1 RSA and the Audit Feedback indicates that no physical obstacle to right-turning vehicles accessing the site will be implemented. Signage will encourage left-turning exiting vehicles only. There will be no prohibition on right-turning vehicles accessing the site from the north. This trip distribution assumption in the TIA therefore appears to be flawed.
- 10.9.13. A road safety audit was undertaken which identified a number of issues, including the right-turn / trip distribution issue referenced above. The audit feedback form notes that a number of these issues will be addressed at detailed design stage

and in the event of a decision to grant permission, I would therefore recommend that stage 2 and 3 audits be completed in respect of the development.

- 10.9.14. Item 2.2.7 in the Audit refers to *Adjacent Access Points*. Figure 37 therein describes an existing ramped access point at the western end of the gym / fitness building to the north. At time of inspection, this ramp was in use associated with what appeared to be a car servicing / maintenance business. The ramp extends into the current car park area but the associated business unit and most of the ramp lies outside the application red line boundary. The Audit feedback form states that this area will be regraded, however, no detail is provided in relation to the nature of these works or how access to this business unit will be maintained. In addition, I note that the relationship of the proposed footpath along the southern side of the shared access road, with the HSE site and surface parking to the north of the vacant building is unclear.
- 10.9.15. The construction management plan indicates that construction access will be from the north and from Colbert's Fort depending on the stage of construction. In the event of a decision to grant permission, I would recommend that conditions generally restrict construction traffic from using Colbert's Fort, except where subject to specific agreement with the planning authority, in order to protect adjoining residential amenity.
- 10.9.16. I note that the taking in charge plan includes the main access road from Belgard Road and the western access road, which areas are in the ownership of Comans, but excludes proposed footpaths and areas of public open space. These roads will continue to serve the adjoining commercial / industrial uses and the agreement of the affected landowner / users in this regard is unclear.
- 10.9.17. The application proposes the redevelopment of this site within a wider industrial / commercial complex and requires modifications to the existing access and parking arrangements therein. In particular, I note the requirement to reroute HGV movements from existing access road. There is uncertainty in relation to aspects of the development in this regard and I consider that a comprehensive and agreed parking and traffic management plan for this complex should be provided in order to achieve a satisfactory standard of development and avoid conflicting parking demands and traffic movements. While I note the submitted letter from the adjoining

landowner, I would query whether this provides a sufficient basis on which to attach a condition addressing these matters.

## 10.10. Other Matters Arising

### 10.10.1. Aviation impacts

The application is accompanied by an Aeronautical Assessment Report, which identifies Casement Aerodrome as the relevant site for the assessment and that Dublin Airport and Weston Airport would be unaffected.

The report notes that the height of the proposed development will not impact on the approach or take-off climb surfaces for runways at Casement aerodrome and is lower than the slope above which it would be required for a structure to be notified as a potential obstacle on aeronautical charts. The Conical Surface lies above the highest point of the proposed development on this site and is unaffected by it. The proposed development is at sufficient distance from the Tallaght Hospital Helipad that it will not interfere with helicopter operations to/from this helipad.

The report notes that the proposed development complies with all aviation and aeronautical requirements affecting the site and that the report was circulated to the Irish Aviation Authority, and to the Department of Defence. In relation to other Aviation Considerations, the report notes that:

- No solar / PV panels will be installed on the proposed development and a statement on Glint and Glare is submitted.
- Any external lighting (including street lighting) should be of the cut-off type, showing no light above the horizontal.
- Prior notification of the use of any cranes is required to be submitted to the Irish Aviation Authority and to Casement Aerodrome and is also advised to (and agreement with) the HSE's Aero-Medical in respect of Tallaght Hospital helipad.
- An existing higher structure on Cookstown Road, which building itself projects above Casement's Inner Horizontal Surface, would provide a 'shielding' to development of similar height (or less) in the Belgard Road area.

I note that the application was circulated to the relevant bodies concerned with aircraft operations and safety. No submissions have been received in this regard,

and subject to conditions with regard to the operation of construction cranes, it is not considered that the proposed development would give rise to a risk to public safety or constitute an obstacle to aircraft movements.

#### 10.10.2. **Bat Survey**

A Bat Survey Report is submitted with the application, which notes that there are no records of bat species within this 1km square on the National Biodiversity Data Centre database. Day time inspections and a night-time survey were undertaken, which detected no bat roosts or signs of bat activity on the site.

#### 10.11. **Chief Executives Recommendation**

As noted above, the Chief Executive recommends that permission for the proposed development be refused for 6 no. reasons. In the interest of clarity, the reasons for refusal are addressed individually below.

- 1) *The proposed development would be premature by reference to the order of priority indicated in Objective IS1 of the Tallaght Town Centre Local Area Plan 2020 – 2026, with reference to sequencing of development. Development at this site would be out of sequence and would materially contravene the Objective.*

I refer to section 10.3.2(ii) above in relation to this issue. I note the aim of Objective IS1 which is considered to be reasonable, but which is expressed in general terms. and does not clearly identify first phase development lands. I note the pattern of permitted development in the area on these *Regen* zoned lands. It would not appear to be reasonable to place a hold on all planning applications until such development has commenced or is complete. The development adjoins and will reinforce the existing residential cluster at Colbert's Fort and may be considered to fall within the scope of objective IS 1.

I do not therefore concur that the proposed development would materially contravene the LAP in this regard, and do not consider that this would warrant a refusal of permission in this case. I would, however, consider that a more detailed masterplan for the adjoining lands, to include transport management, would be

appropriate and would assist in overcoming the transitional issues identified by the planning authority.

*2) The proposed development does not meet the threshold for provision of 'significant public gain' to justify additional height and plot ratio, as set out in the Local Area Plan. The proposed heights and plot ratio would therefore be contrary to the Tallaght Town Centre Local Area Plan 2020 – 2026*

*The proposed height of 7 storeys, on a site on which 4 storey development is permitted under the LAP, is excessive and contributes to a proposed plot ratio of 1.93 on a site with permitted plot ratio of 1.0. These point to clear over-development of the site, undermining the sustainable regeneration of the area, and in material contravention of the LAP, and the 'REGEN' land-use zoning objective and principles of proper planning.*

I generally concur with the recommendation of the planning authority in this regard. The LAP was adopted in 2020, subsequent to and in accordance with the provisions of Ministerial Guidelines in respect of Apartment Design and Building Height. Building height and plot ratio are factors which inform the identification of the overall development capacity of the LAP area.

The application site does not comprise a strategic site which would itself justify increased building heights and does not qualify for the application of the upward modifiers identified in the plan. The proposed development contravenes the identified building heights and plot ratio standards for this location and does not deliver any significant public gain. I note the recent decision of the Board in respect of ABP-308398-20, which identified that the approach to building heights in the LAP was appropriate in that case, and amended the development by condition in this regard.

The proposed development would create a precedent for similar height and intensity of development in the surrounding area which would undermine the urban framework and the coherent, plan-led approach to the regeneration of this area, within the identified development capacity of the LAP. I therefore concur with the planning authority recommendation in this regard.

3) *Due to inadequate set back of the taller elements from the southern boundary, failure to provide a gradual transition, and the proposed events / function room and roof terrace at 4th floor level, the development would have an overbearing impact on Colbert's Fort to the south, in contravention of the Tallaght Town Centre LAP, which seeks lower heights in this immediate area, and would be seriously injurious to the amenities of properties on Colbert's Fort.*

The proposed development at Colbert's Fort generally comprises 3 / 4-storey, with a fifth storey set back. At the eastern end of Block B, heights step up in height. Section 2.6.2 of the LAP states that *to ensure that building heights respect the surrounding context, new developments immediately adjoining existing one and two storey housing, in particular Colbert's Fort and at the edges of the Plan area, shall incorporate a gradual change in building height. In these instances, new development can be below the minimum range as specified in the Height Strategy.*

I do not consider that the proposed building height along the southern boundary would give rise to undue impacts on residential amenity or privacy having regard to separation from adjoining residential properties or give rise to overbearing impacts thereon. The proposed southern open space will give rise to improved visual amenities and streetscape at this location, in line with the objective of the LAP to achieve a transition towards a more urban form of development and a traditional street network. Notwithstanding overall concern with building heights I do not concur that this would constitute a reason for refusal of permission. Where concerns persist with regard to the height of the proposed development and its relationship with Colbert's Forts, this would be amenable to being addressed by condition.

4) *The proposed development directly contravenes Objective RE2 of the LAP, a specific written objective to provide 30% of units as 3-beds in each development. The proposed development provides just 4% of units as 3-beds, which is major under provision, exacerbated by the scale of the development. The objective fulfils the requirements of SPPR 1 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) as*

*amended to set a standard for mix of units. The proposed development would therefore undermine the managed regeneration of the area, contravene a specific objective of the Local Area Plan, and contravene the 'REGEN' land-use zoning objective.*

*The large proportion of 1-bed and studio units is disproportionate and, at over 50% of all units, is beyond the limits provided for in SPPR 1 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2018) as amended.*

*The proposed tenure of the scheme is not supported in the Local Area Plan, except where the proposed mix accords with Objective RE2.*

I note the concerns expressed by the planning authority. SPPR 8 of the Apartment Design Guidelines states that, in respect of Build-to-Rent development, no restrictions on dwelling mix shall apply. The application of this provision was confirmed by the Board recently in respect of ABP-308398-20. I do not concur with the planning authority argument in respect of the application of SPPR1 to BTR development and consider therefore that the material contravention of the provisions of the LAP in this regard would be justified.

With regard to tenure, I note the provisions of the Apartment Design Guidelines which acknowledge the potential for BTR to accelerate the delivery of new housing at significant scale and to contribute to the required increase in housing supply nationally, identified by Rebuilding Ireland by the National Planning Framework. The LAP supports the development of BTR accommodation, subject to the unit mix provisions of the plan. As these unit mix provisions are not supported, I consider that the material contravention of these provisions of the LAP would be justified.

*5) The parking provision at the site is too low. The development, if delivered, would encourage additional on-street parking and/or illegal parking in the area, and would undermine the amenities of surrounding properties, in particular Colbert's Fort and would not be in keeping with the proper planning and sustainable development of the area.*



I note the provisions of SPPR8 with regard to car parking provision for BTR development and the pattern of development previously permitted by the Board in this regard. The site lies within walking distance of high frequency public transport and a number of significant employers. Transport management measures in the surrounding area can satisfactorily address spill-over parking. I do not therefore consider that the level of car parking provision on the site would constitute a valid reason for refusal in this case.

6) *The applicant has not submitted a Road Safety Audit or autotrack details to show that the site is accessible by emergency vehicles using Colbert's Fort. It has not been shown that the development would not cause traffic hazard and be a threat to public safety.*

The application is accompanied by a Stage 1 RSA. I have already commented above on the requirement for stage 2 & 3 audits in the event of a decision to grant permission in this case. Autotrack analysis has been provided, which demonstrates fire tender access from Colbert's Fort. Concerns arise regarding impacts on adjoining properties to the north outside the application boundary and the lack of design detail in this regard. I note also comments in relation to right-turning traffic entering / existing the overall complex and the lack of certainty with regard to HGV movements on the shared access road.

An overall traffic and parking management plan for this complex / land parcel should be provided to avoid conflicting traffic and transportation requirements. While the submitted letters from adjoining landowners give rise some uncertainty in this regard, having regard to the fundamental reasons identified above, this is not included as a recommended reason for refusal.

## 11.0 Screening

### 11.1. Examination Screening for Environmental Impact Assessment (EIA)

11.1.1. The application site has an overall gross area of 0.91ha and is located within the Glen Abbey industrial / commercial estate, off the Belgard Road, Tallaght. Existing structures on the site comprise low-rise industrial / warehouse structures. The site is

set-back from the Belgard Road behind a landscaped area and an existing three-storey commercial / office building, which is currently vacant and in the ownership of the HSE. To west of the site is a large-scale drinks distribution operation, while to the north is a commercial / industrial building currently in use as a gym. To the south, Colbert's Fort comprises a long-established residential area. The application site includes the main estate access from Belgard Road, which is formed by a priority junction with right-turn access lane, and surface car parking serving adjoining uses.

11.1.2. The proposed development comprises the demolition of the existing buildings and the construction of 170 no. Build to Rent apartments, creche and associated site works. The development will connect to existing mains water and sewerage services, and measures for the attenuation of run-off prior to discharge to the adjoining surface water sewer are proposed. There are existing connections to mains water and sewerage services.

11.1.3. The prescribed classes of development and associated thresholds, for the purposes of section 176 of the Act are set out in Schedule 5 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), as amended. These include the following:

Schedule 5 - Part 2.

*10. Infrastructure projects*

- (b) (i) *Construction of more than 500 dwelling units.*
- (ii) *Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.*
- (iii) *Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.*
- (iv) *Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

*14. Works of Demolition*

*Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.*

*15. Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.*

An Environmental Impact Assessment Screening report was submitted with the application and I have had regard to same.

- 11.1.4. The proposed development is sub-threshold for the mandatory submission of an EIAR, having regard to the above thresholds set out in Part 2 of Schedule 5 of the Planning and Development Regulations. The EIA Screening Report accompanying the subject application states that all of the information required under Schedule 7A of the Regulations has been furnished. It concludes that the proposed development will not give rise to any likely significant effects on the environment having regard to the criteria set out in Schedule 7 and the identified mitigation measures.
- 11.1.5. Section 299B (1)(b)(ii)(II)(C) requires that the applicant provide a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, have been taken into account. In this regard, I note the following:
- An AA Screening Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application.
  - An Energy and Sustainability Report has been, which outlines how the proposal complies with European Performance of Buildings Directive (EPBD) and Irish Regulations (specifically TGD Part L).
  - A Flood Risk Assessment that addresses the potential for flooding in accordance with the provisions of the Planning System and Flood Risk management Guidelines for Planning Authorities (2009) and having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
  - A Construction and Demolition Waste Management Plan has been submitted, which has regard to EU Directive 2008/98/EC on Waste.

The applicant's EIA screening report considers the implications and interactions between these assessments and the proposed development for the purposes of EIAR screening, and concludes that the development would not be likely to have significant effects on the environment. I note also that a Bat Survey was undertaken having regard to the requirements of the Wildlife Act 1976 – 2021, the Habitats Regulations 1997 – 2011, which give effect to the requirements of the Habitats Directive.

I am satisfied that all relevant assessments have been identified for the purposes of screening out EIAR. I consider that the requirements of Article 299B(1)(b)(ii)(II)(C) have been satisfied.

I have reviewed the documentation on the file, including the applicant's Screening Statement, and have completed a screening assessment, as set out in Appendix B. I conclude that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. The conclusion of this assessment is as follows:

Having regard to: -

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands zoned REGEN: to facilitate enterprise and/or residential-led regeneration in the South Dublin County Development Plan 2016-2022 and in the Tallaght Town Centre Local Area Plan 2020, and the results of the Strategic Environmental Assessment of those plans,
- (c) The existing uses on the site and pattern of development in surrounding area,
- (d) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan and the Construction and Demolition Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

I recommend that a screening determination be issued to reflect this conclusion.

## **11.2. Screening for Appropriate Assessment:**

### **11.2.1. Description of the project or plan:**

The proposed development comprises the demolition of the existing buildings and structures on the site and the construction of 170 no. Build to Rent apartments, creche and associated site works, at the Glen Abbey Complex, Belgard Road, Cookstown Industrial Estate, Dublin 24. The development will connect to existing mains water and sewerage services, and measures for the attenuation of run-off prior to discharge to the adjoining combined sewer are proposed.

I refer to the more detailed descriptions contained in previous sections of this report.

### **11.2.2. Description of the site characteristics**

The application site has an overall gross area of 0.91ha and is located within the Glen Abbey industrial / commercial estate, off the Belgard Road, Tallaght. Existing structures on the site comprise low-rise industrial / warehouse structures. The site is set-back from the Belgard Road behind a landscaped area and an existing vacant, three-storey commercial / office building owned by the HSE. To west of the site is a large-scale drinks distribution business, while to the north is a commercial / industrial building currently in use as a gym. Lands to the south Colbert's Fort comprises a long-established residential area of single-storey houses. The application site includes the main estate access from Belgard Road, which is formed by a priority junction with right-turn access lane, and surface car parking serving adjoining uses.

I refer to the more detailed descriptions contained in earlier sections of this report.

#### 11.2.3. Relevant prescribed bodies consulted:

The submitted AA Screening report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information. The application was referred to the following prescribed bodies.

- Irish Water
- Department of Defence
- Irish Aviation Authority
- Transport Infrastructure Ireland
- National Transport Authority
- CIE
- South Dublin Childcare Committee

In response to the referrals, no submissions in relation to biodiversity or ecology were received from the prescribed bodies.

#### 11.2.4. Identification of relevant Natura 2000 sites.

The site is not located within or adjacent to any European site and will not result in any direct loss or impact on habitats in any site. The submitted AA screening report identifies ten European sites within 15km of the application site, as follows:

Site Code	Site name	Distance (km)
001209	Glenasmole Valley SAC	4.03
002122	Wicklow Mountains SAC	6.41
004040	Wicklow Mountains SPA	7.87
001398	Rye Water Valley/Carton SAC	10.82
004024	South Dublin Bay and River Tolka Estuary SPA	11.28
000210	South Dublin Bay SAC	11.28
000725	Knocksink Wood SAC	13.92
004006	North Bull Island SPA	14.47
000206	North Dublin Bay SAC	14.48

004063	Poulaphouca Reservoir SPA	14.75
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It is noted, however, that there is no potential for connections or pathways to many of these sites which are located hydrologically upstream or in a different catchments to the proposed development.

The site lies within the catchment of the River Liffey which flows to Dublin Bay, however, there are no watercourses on the site or in its vicinity. The screening report concludes therefore that there is no connectivity to the Dublin Bay European Sites via surface water pathways, which conclusion is considered to be reasonable.

The development will connect to mains wastewater services which will provide a potential pathway to European sites in Dublin Bay. A potential impact is therefore identified from operational wastewater discharging from Ringsend WWTP to Dublin Bay / Liffey Estuary Lower potentially affecting the following sites:

- South Dublin Bay SAC, 000210
- North Dublin Bay SAC, 000206
- South Dublin Bay and River Tolka Estuary SPA, 004024
- North Bull Island SPA, 004006

The relevant sites are described in the table below.

I consider that other sites in the bay area can be excluded from further consideration given the scale of the proposed development, the dilution provided in the estuarine/marine environment and the distances involved.

The proposed development will not result in any direct loss of habitat within Natura 2000 sites and no potential for habitat fragmentation is identified. Similarly, having regard to separation from European sites, construction or operational activity thereon will not result in any disturbance or displacement of qualifying interests of the identified sites. The habitats within or adjoining the site are not of value for qualifying species of these Natura 2000 sites. The site is dominated by buildings and artificial surfaces, which do not provide suitable roosting or foraging grounds for these species. No ex-situ impacts on qualifying species are therefore considered likely.

I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed

development, the degree of separation and the absence of ecological and hydrological pathways.

#### 11.2.5. Assessment of Likely Significant Effects

Likely significant effects are therefore identified in respect of increased loading on / discharge from Ringsend Wastewater Treatment Plant to Dublin Bay.

Irish Water previously advised that there was wastewater capacity to accommodate the proposed development. While further constraints have since been identified, these are understood to relate to the intervening network capacity rather than treatment capacities at the plant. The Ringsend WWTP operates under an EPA licence. While further upgrade of this plant is planned / underway, the additional discharge from the proposed development would equate to a very small percentage of the overall licenced discharge and would not therefore have a significant impact on the water quality within Dublin Bay.



Qualifying Interest/Special Conservation Interest	Conservation Objectives	Distance
<b>North Dublin Bay SAC (000206)</b>		
<ul style="list-style-type: none"> <li>– Mudflats and sandflats not covered at low tide</li> <li>– Atlantic salt meadows</li> <li>– Mediterranean salt meadows</li> <li>– Petalwort</li> </ul>	To maintain the favourable conservation condition	7km east of the site.
<ul style="list-style-type: none"> <li>– Annual vegetation of drift lines</li> <li>– Salicornia and other annuals colonising mud and sand</li> <li>– Embryonic shifting dunes</li> <li>– Shifting dunes along the shoreline with <i>Ammophila arenaria</i></li> <li>– Fixed coastal dunes with herbaceous vegetation</li> <li>– Humid dune slacks</li> </ul>	To restore the favourable conservation condition	
<b>South Dublin Bay SAC (000210)</b>		
<ul style="list-style-type: none"> <li>– Mudflats and sandflats not covered by seawater at low tide.</li> </ul>	To maintain the favourable conservation condition.	5.5km south-east of the site.
<ul style="list-style-type: none"> <li>– Annual vegetation of drift lines</li> <li>– Salicornia and other annuals colonising mud and sand.</li> <li>– Embryonic shifting dunes</li> </ul>	To maintain or restore favourable conservation status.	

<b>South Dublin Bay &amp; River Tolka SPA (004024)</b>		
<ul style="list-style-type: none"> <li>- Light-bellied Brent Goose</li> <li>- Oystercatcher</li> <li>- Ringed Plover</li> <li>- Knot</li> <li>- Sanderling</li> <li>- Dunlin</li> <li>- Bar-tailed Godwit</li> <li>- Redshank</li> <li>- Black-headed Gull</li> <li>- Roseate Tern</li> <li>- Common Tern</li> <li>- Arctic Tern</li> </ul>	To maintain the favourable conservation condition, as defined by identified attributes and targets	3.9km east of the site.
<ul style="list-style-type: none"> <li>- Wetland and Waterbirds</li> </ul>	To maintain the favourable conservation condition of the wetland habitat as a resource for the migratory waterbirds that regularly utilise it.	
<b>North Bull Island SPA (004006)</b>		
<ul style="list-style-type: none"> <li>- Light-bellied Brent Goose</li> <li>- Shelduck</li> <li>- Teal</li> <li>- Pintail</li> </ul>	To maintain the favourable conservation condition	7km east of the site.

<ul style="list-style-type: none"> <li>- Shoveler</li> <li>- Oystercatcher</li> <li>- Golden Plover</li> <li>- Grey Plover</li> <li>- Knot</li> <li>- Sanderling</li> <li>- Dunlin</li> <li>- Black-tailed Godwit</li> <li>- Bar-tailed Godwit</li> <li>- Curlew</li> <li>- Redshank</li> <li>- Turnstone</li> <li>- Black-headed Gull</li> </ul>		
<ul style="list-style-type: none"> <li>- Wetland and Waterbirds</li> </ul>	<p>To maintain the favourable conservation condition of the wetland as a resource for the regularly occurring migratory waterbirds that utilise it.</p>	

#### 11.2.6. In-Combination / Cumulative Impacts:

Permission was granted by the Board in April 2019 for the upgrading of the Ringsend WWTP under ABP ref. ABP-301798-18, which works are currently underway. In granting permission, the Board undertook an Appropriate Assessment of the development and concluded that that, by itself or in combination with other plans or projects, the proposed development would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

Documentation and evidence provided in that case, including the EIAR, provide a reasonable basis to conclude that this proposed development would not be likely to give rise to significant effects on the conservation objectives of European Sites, either individually, or when taken together and in combination with other plans or projects. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the wider city and the increased capacity of the plant.

I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

#### 11.2.7. Screening Determination Statement

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development on fully serviced lands,
- separation from European sites and the intervening land uses,
- the lack of direct connections to European Sites with regard to the Source-Pathway-Receptor model,

it is concluded that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 12.0 Conclusions and Recommendation

The proposed development is acceptable in principle on these zoned lands, although I note that questions have been raised in respect of landownership. The development would materially contravene the Local Area Plan in a number of respects. I do not consider that the material contravention of the building height and plot ratio provisions of the LAP are justified and to do so would create a precedent for similar intensity and heights of development in this area which would undermine the coherent, plan led regeneration of this area, and the identified development capacity of the LAP lands.

I note the decision to grant permission under ref. ABP-308398-20 and the conditions requiring a reduction in building heights in line with the provisions of the LAP. Having regard to this precedent, consideration could be given to modifications to the subject development to comply with provisions of the LAP. Such modifications would be significant, however; and of a scale considerably greater than that applied by the Board under ABP-308398-21. I do not consider that conditions requiring such material modifications would be appropriate in this case.

Having regard to the scale of development and the provisions of the relevant S.28 Ministerial Guidelines, and in particular SPPR1 and SPPR 8 of the Apartment Design Guidelines, I do not consider that the matters of housing mix and tenure constitute reasons for refusal.

It has not been satisfactorily demonstrated that the minimum standards of accommodation set out in the Sustainable Urban Housing: Design Standards for New Apartments (2020) are achieved in the scheme. The development otherwise provides acceptable levels of private and communal residential amenities on the site. There are deficiencies in public open space, however, the development contribution scheme provides for the payment of a financial contribution in lieu of such shortfall. Concerns arise in respect of the planning authority recommendation regarding a s.48(2)(c) special development contribution in respect of Cookstown Urban Square.

There remains significant uncertainty about the capacity of the water and wastewater networks to service this development and the development is regarded as premature in this regard.

There remains uncertainty regarding certain access, parking and transportation arrangements in this wider complex / land parcel. An overall transportation and access strategy addressing such uncertainty would be required for any development on these lands.

Having regard to the foregoing, and in accordance with Section 9(4) of the Act, it is recommended that the Board refuse to grant permission for the proposed development.

### 13.0 Recommended Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 9th Day of April 2021 by Square Foot Property Services Limited, care of Brock McClure Planning and Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, A96 T0H4.

#### **Proposed development.**

The proposed development consists of the following:

- Demolition of the existing industrial and commercial office buildings totalling c.4,628sqm;
- Construction of a Build-to-Rent Housing Development comprising 170 no. apartment units and crèche arranged in 2 no. blocks across 4-7 storeys over basement car park (total gross floor area c.13,880sqm excluding basement);
- The residential development consists of: 9 no. 1 bedroom studio apartments (c.37-38sqm each); 94 no. 1 bedroom/2 person apartments (c.45-58sqm each); 2 no. 2 bedroom/3 person apartments (c.69sqm each); 34 no. 2 bedroom/4 person apartments (c.73-83sqm each); 24 no. 2 bedroom/4 person duplex apartments (c.93sqm each) and 7 no. 3 bedroom/5 person apartments (c.91-98sqm each) with north, south, east and west facing terraces/balconies throughout;

- Internal communal amenity spaces at ground and fourth floor levels comprising reception, gym, lounge, cinema/tv room, events rooms and ancillary areas (totalling c.508sqm);
- External communal open space including children's play areas and informal amenity spaces at ground floor level between Blocks A and B. Communal roof garden at fourth floor level. Total external communal open space c.1,005sqm;
- Public open space at ground floor level to the east and south of Block B totalling c.1095sqm;
- 1 no. creche (c.163sqm) with associated outdoor play area at ground floor level (c.75sqm);
- 73 no. car parking spaces comprising 64 no. basement spaces, 4 no. accessible parking spaces and 5 no. visitor spaces at surface level;
- 354 no. bicycle spaces comprising 264 no. resident spaces at basement level and 90 no. visitor spaces at ground floor level;
- Reconfiguration/removal of existing car parking to the north of the site and access road resulting in a total of 28 no. car spaces serving the adjoining site;
- All associated plant including heating centres, gas room, water storage room, break tank room, comms room and bin storage at basement level, ESB substation and switch room at ground level and circulation spaces and stair and lift cores throughout;
- Vehicular/pedestrian access to the east from Belgard Road. All existing vehicular entrances serving adjoining sites maintained.
- Fire/emergency and refuse vehicle access and pedestrian access to the south from Colbert's Fort;
- All associated site development and infrastructural works, services provision, foul and surface water drainage, extension to the foul network, access roads/footpaths, lighting, landscaping and boundary treatment works.

On a site area of c.0.91ha at the Glen Abbey Complex, Belgard Road, Cookstown Industrial Estate, Dublin 24, D24 W2XA.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included all submissions and observations received by it in accordance with statutory provisions.

## **14.0 Decision**

Refuse permission for the above proposed development based on the reasons and considerations set out below.

## **15.0 Reasons and Considerations**

1. The proposed development would materially contravene the policies and objectives of the Tallaght Town Centre Local Area Plan 2020 in respect of building height and plot ratio. Having regard to the provisions of this plan, which are considered to be reasonable, and the nature and scale of development proposed, the Board is not satisfied that the material contravention of the plan in this regard would be justified and, further that such contravention of the plan would set an undesirable precedent for further development in the surrounding area which would compromise the coherent, plan-led approach to the redevelopment and regeneration of this area and the identified development capacity of the LAP lands. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The Board is not satisfied that it has been satisfactorily demonstrated that adequate standards of residential amenity would be achieved in the proposed development, having regard in particular to the required Minimum Floor Areas and Standards set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.



3. The proposed development would be premature pending the identification of the nature and scope of the upgrades and works that will be required to facilitate the connection of the proposed development to the water and wastewater networks in this area, along with any consents necessary, and to facilitate the regeneration of lands in this area, and the absence of certainty with regard the timeframe within which such constraints might reasonably be expected to be overcome. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Conor McGrath

Planning Inspector

08/07/2021

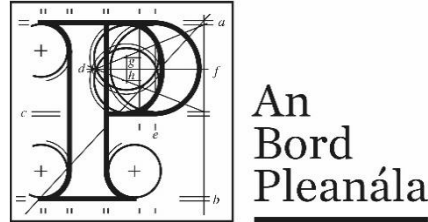
## **Appendix A:**

### **Documentation accompanying the application:**

- Copies of public notices
- Description of Development
- Strategic Housing Development - Planning Application Form and fee
- Letter of Consent – Comans Wholesale Limited Landowner
- Combined Planning Report and Statement of Consistency
- Response to An Bord Pleanála Opinion
- BTR Legal Covenant
- Cover letters to prescribed bodies
- Cover letters to ABP and South Dublin County Council
- Part V (Letter from South Dublin County Council, part v drawings and costings)
- EIAR Screening Report
- BTR Justification Report
- Social Infrastructure Assessment
- Material Contravention Statement
- Architectural Design Statement
- Site Location Map
- Site Layout Plan C
- Full Set of Architectural drawings, drawing register, schedules and housing quality assessment
- Design Statement including response to An Bord Pleanála Opinion (Design)
- Full Set of Engineering drawings including surface water/drainage details, water supply and wastewater and drawing register.
- Engineering Report including Irish Water Letter of Feasibility/Statement of Design Acceptance
- Flood Risk Assessment
- Transport Impact Assessment including Road Safety Audit
- DMURS Statement
- Construction Demolition Waste Management Plan
- Mobility Management Plan

- Response to An Bord Pleanála Opinion (Traffic/Roads)
- Construction Management Plan
- Landscape Drawings and register
- Landscape Design Statement
- Landscape and Visual Impact Assessment
- Noise Impact Assessment
- M&E and Lighting Drawings
- Lighting Report
- Utility Report
- Energy and Sustainability Report & Climate Change Adaptation
- Building Lifecycle Report
- BTR Operational Management Plan
- Glint & Glare Statement
- Sunlight & Daylight Assessment
- CGIs and Verified Views
- Aeronautical Assessment Report
- Appropriate Assessment Screening Report
- Bat Report

**Appendix B: EIA Screening Determination Report**



**EIA - Screening Determination for Strategic Housing Development Application**

**A. CASE DETAILS**

<b>An Bord Pleanála Case Reference</b>		<b>ABP-309916-21</b>
<b>Development Summary</b>		Demolition of the existing buildings, construction of 170 no. Build to Rent apartments, creche and associated site works.  Glen Abbey Complex, Belgard Road, Cookstown Industrial Estate, Dublin 24.
	<b>Yes/ No/ N/A</b>	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and a Stage 1 AA Screening Report has been submitted with the application

<p><b>2.</b> Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</p>	<p>No</p>	
<p><b>3.</b> Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA undertaken in respect of the South Dublin County Development Plan 2016-2022 &amp; Tallaght Town Centre LAP 2020</p> <p>Appropriate Assessment of the Tallaght Town Centre LAP 2020.</p> <p>An Energy and Sustainability Report, which outlines how the proposal complies with European Performance of Buildings Directive (EPBD) and Irish Regulations (specifically TGD Part L).</p> <p>A Flood Risk Assessment that addresses the potential for flooding in accordance with the provisions of the Planning System and Flood Risk management Guidelines for Planning Authorities (2009) and having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.</p> <p>A Construction and Demolition Waste Management Plan which has regard to EU Directive 2008/98/EC on Waste.</p>

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)  <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding environment?	Yes	<p>The development comprises the demolition of an existing low intensity industrial buildings and construction of a residential BTR development.</p> <p>The scale and character will differ significantly from the exiting site and its surroundings but would be consistent with the transition / regeneration of this wider area in line with the provisions of the LAP</p>	No

<p><b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The demolition and replacement of existing low-intensity industrial uses with residential uses of up to seven-storeys will result in change to the locality.</p>	<p>No</p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. There will be no significant loss of natural resources and no loss of local biodiversity / habitats as a result of the development.</p>	<p>No</p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No significant operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of urban construction sites.</p> <p>Noise and dust emissions during construction are likely. Such construction impacts would be localised and temporary in nature and implementation of a final Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>The potential presence of asbestos on the site is subject to separate regulatory requirements which are enforced by the HSA. These matters can be adequately dealt with through the construction and demolition waste management plan.</p> <p>Operational waste, typical of such residential use, will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
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<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. There are no watercourses on or adjacent to the site. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters.</p> <p>The underlying aquifer is Locally Important, moderately productive only in local zones and is not of high vulnerability.</p> <p>The operational development will connect to mains water and drainage services.</p>	<p>No</p>
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan and adherence to standard construction noise and vibrations ELV's.</p> <p>Management of the scheme in accordance with an agreed Operational Management</p>	<p>No</p>

		Plan will mitigate potential impacts. Lighting design to avoid overspill to adjoining lands.	
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	No	No significant emissions to water are anticipated. Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a final agreed Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	No
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk identified having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No

<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an intensification of use and an increase in the residential population at this location. This is part of a planned transition from low intensity commercial to residential led regeneration of the area. The development will meet an identified accommodation demand.</p> <p>The existing uses on the site do not provide high levels of employment currently.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone application.</p> <p>The proposed development contributes to the regeneration of this area under the recently adopted Tallaght Town Centre LAP, however.</p>	<p>No</p>
<p><b>2. Location of proposed development</b></p>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p>	<p>No</p>	<p>There are no conservation sites or features located in the vicinity of the site. The closest surface water pathway to Dubin Bay, and</p>	<p>No</p>

<p>1. European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>2. NHA/ pNHA</p> <p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>European Sites contained therein, is 1km from the site. The proposed development will not result in significant impacts to any of these sites. There are operational hydrological connections via wastewater discharge to Ringsend WWT. I refer to the conclusions of the AA Screening in section 11.2 of this report</p>	
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>There are no such uses on the site or adjoining lands, and no impacts on such species are anticipated. Surveys did not identify the presence of bats on the site.</p>	<p>No</p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>There are no features of landscape, historic, archaeological, or cultural importance on or in the vicinity of the site.</p>	<p>No</p>

<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	No	There are no such areas in the vicinity of the site.	No
<p><b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	No	There are no water features on the site or connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	No
<p><b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?</p>	No	No evidence of issues in this regard.	No
<p><b>2.7</b> Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	No	This brownfield site is served by the local and regional urban road network. No significant additional traffic or congestion impacts are anticipated.	No
<p><b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	No	No. Impacts on aviation and helicopter operations in the area, including those associated with Tallaght Hospital, are not likely.	No

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Having regard to the foregoing, significant cumulative environmental effects with existing or permitted developments are not anticipated.  Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
<b>3.3</b> Are there any other relevant considerations?	No		No

## **C. CONCLUSION**

No real likelihood of significant effects on the environment.	EIAR Not Required	
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**D. MAIN REASONS AND CONSIDERATIONS**

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
  - (b) the location of the site on lands zoned REGEN: to facilitate enterprise and/or residential-led regeneration in the South Dublin County Development Plan 2016-2022 and in the Tallaght Town Centre Local Area Plan 2020, and the results of the Strategic Environmental Assessment of those plans,
  - (c) The existing uses on the site and pattern of development in surrounding area,
  - (d) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- 
- (a) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
  - (b) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
  - (c) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan and the Construction and Demolition Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: \_\_\_\_\_ **Conor McGrath** \_\_\_\_\_

Date: \_\_\_\_\_