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|  | **Inspector’s Report**  |
| **ABP-311555-21** |
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| **Development** | Amendments to previously permitted ABP-303803-19 to include alterations to layout, size and positioning of the concierge and reception area. |
| **Location** | Units 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24. |
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|  **Planning Authority** | South Dublin County Council |
| **Planning Authority Reg. Ref.** | n/a |
| **Applicant(s)** | Stranwil ltd. |
| **Type of Application** | Section 146B |
|  |  |
| **Prescribed Bodies** | Commission for Railway RegulationCoras Iompair EireannIrish Aviation Authority Irish WaterDepartment of DefenceSouth Dublin County Childcare CommitteeNational Transport Authority Transport Infrastructure Ireland |
|  |  |
| **Date of Site Inspection** | 29/09/2022 |
| **Inspector** | Rachel Gleave O'Connor |

**Contents**

[1.0 Introduction 4](#_Toc115943293)

[2.0 Site Location and Description 4](#_Toc115943294)

[3.0 Planning History 5](#_Toc115943295)

[4.0 Proposed Development 9](#_Toc115943296)

[5.0 Planning Authority Reports 10](#_Toc115943297)

[6.0 Prescribed Bodies 10](#_Toc115943298)

[7.0 Third Party Observations 12](#_Toc115943299)

[8.0 Policy Context 12](#_Toc115943300)

[9.0 Assessment 15](#_Toc115943301)

[10.0 Conclusion and Recommendation 24](#_Toc115943302)

[11.0 Recommended Order 25](#_Toc115943303)

1. Introduction
	1. An Bord Pleanála received an application for amendments to a previously permitted development ABP SHD Ref.303803-19 on 4th October 2021 from Hughes Planning and Development Consultants in relation to Units 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24. The request for amendments is made under section 146B of the Planning and Development Act 2000 (as amended).
	2. In accordance with Section 146B. (2)(a) of the Planning and Development Act 2000 (as amended) and following a review of the submitted details, it was concluded that the alterations to which this request relates, amounted to a significant alteration to the overall development, and it could not be reasonably concluded that the Board would not have considered the relevant planning issues differently to a material extent, and that other planning issues for consideration might also arise. As a result, the alteration was considered to constitute the making of a material alteration of the terms of the development concerned.
	3. Pursuant to subsection (3)(b)(i) notice was subsequently served on the requester to require information specified in Schedule 7A of the Planning and Development Regulations. Following the receipt of this information, a determination is now required under subsection (3)(b)(ii) of the Act whether to —

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

1. Site Location and Description
	1. The development site is located approx. 9.5kms south-west of the City Centre within the jurisdiction of South Dublin County Council. The subject site, which has a stated area of circa 0.595 hectares, is located on the western edge of Cookstown Industrial Estate, approx. 1.2km north of the Square, Tallaght. It is a high visible site with frontage onto Cookstown Way and Second Avenue and is located immediately adjacent to the Cookstown Luas stop. Vehicular access to the site is currently from Second Avenue.
	2. Industrial type developments are the predominant use in the general area. There is a very large industrial unit adjoining the site to the east and to the west of the site is an established residential area. Tallaght hospital is located to the south of the subject site while Tallaght Institute of Technology is located approx. 1.3km to the east off Belgard Road.
	3. The development has commenced on the site and the structure of the proposed building approved under SHD ref.303803-19 is substantially constructed on the site.
2. Planning History
	1. Strategic Housing Development Reference ABP-303803-19 – Planning permission granted by An Bord Pleanála on 25th July 2019 for demolition of the existing 2,590 square metres industrial building and the construction of a ‘build-to-rent’ housing development providing a total of 196 number residential apartments comprising:
* 45 number studio units,
* 48 number one-bed units,
* 8 number two-bed (three-person) units and
* 95 number two-bed (four-person) units)

in four number six to nine storey blocks over basement.

* 1. The development includes one number commercial unit (248 square metres, accommodating Class 1, 2 and 8 uses as per the Planning and Development Regulations, 2001 – 2018) at ground floor level, one number office unit (111 square metres) at ground floor level; a crèche (192 square metres) at ground floor level; a gym (18 square metres) at ground floor level; six number communal amenity spaces provided at ground and first floor levels across the development (totalling 286 square metres); a communal hot desk room (25 square metres) at ground floor level; and three number communal secure storage areas (totalling 31 square metres) at ground floor level; along with a ground floor level landscaped courtyard, 408 number bicycle spaces (308 number resident spaces at basement level and 100 number visitor spaces at ground floor level); an underground carpark (accessed from Second Avenue, providing a total of 67 number parking spaces (including 61 number standard spaces and six number mobility impaired user parking spaces)) and refuse/waste/recycling stores.
	2. Associated site and infrastructural works also include: foul and surface water drainage; attenuation tanks; lighting; landscaping; boundary fences; plant areas; Electricity Supply Board substations; internal hard landscaping, including footpaths and street furniture; and all associated site development works.
	3. The Board should note that condition number 7 of this parent / original permission as referred to above states the following:
1. *“The developer shall comply with the following:*

*(a) The development shall comply with the Transport Infrastructure Ireland’s Code of Engineering Practice for Works on, Near, or Adjacent the Luas Light Rail System.*

*(b) Luas tracks must be kept free of dirt or debris from the construction site at all times.*

*(c) The developer shall apply for a works permit from the Luas Operator by virtue of the Light Railway (Regulations of Works) Bye-Laws 2004 (S.I. No. 101 of 2004) which regulates works occurring close to the Luas infrastructure in accordance with Transport Infrastructure Ireland’s Code of Engineering Practice for Works on, Near, or Adjacent the Luas Light Rail System. The following information shall be submitted for the written agreement of the planning authority with written approval by Transport Infrastructure Ireland:*

*(i) Plans and details depicting Overhead Contact System pole protection and safety distances;*

*(ii) A demolition and construction method statement which shall resolve all Luas interface issues and shall*

*(i) identify all Luas interface issues*

*(ii) contain a risk assessment for works associated with the interfaces and*

*(iii) provide mitigation measures for unacceptably high risks.*

*(iii) A vibration and settlement monitoring regime for Luas track infrastructure shall be submitted for the written approval of the planning authority and Transport Infrastructure Ireland. This monitoring regime shall be undertaken strictly in accordance with Transport Infrastructure Ireland’s Code of Engineering Practice for Works on, Near, or Adjacent the Luas Light Rail System, and shall contain, amongst other things, the proposed regime operation and mitigation responses. The monitoring regime is required to ensure the track rail alignment remains within tolerance and shall be wholly carried out at the developer’s expense.*

*(d) The developer shall be required to retain or replant trees in accordance with the existing light rail landscape scheme. Prior to commencement of development, revised plans to complement and reinforce the public realm works including hard and soft landscaping shall be submitted for the written agreement of the planning authority and written approval of Transport Infrastructure Ireland.*

*Reason: To protect existing public transport infrastructure in the area.”*

* 1. ABP-307177-20 – A request under section 146B. of the Planning and Development Act 2000, as amended, received 14th May 2020 seeking an alteration to the permitted development under reference 303803-19; Concerning a Strategic Housing Development for the construction of 196 Build to Rent (BTR) apartments, underground car park, commercial unit, office, creche, gym and including a range of communal spaces. Alteration to modular construction, with subsequent design amendments;
* Introduction of surface car parking beneath podium level (subsequent removal of basement car park);
* Reduction in the number of apartments from 196 to 185;
* Reduction in the number of car parking spaces from 67 to 58;
* Reduction in the height of all upper floors from 3150mm to 3075mm, and ground floor from 3700mm to 3075mm;
* Redesign of stair cores;
* Changes to apartment layouts and floorspace;
* Change to the location of fenestration in some areas;
* Reduction in size of private balconies and removal of secondary balconies;
* Introduction of new apartment type with internalised ‘laundry’ room;
* Incorporation of landscape communal amenity area at podium level;
* Creche amenity area subsequently located at sub podium level;
* Alteration to mix of Part V units in Block A;
* Relocation of bin store for Block A;
* Reduced entrance width to the development;
* Alteration to the arrangement of communal amenity rooms;
* Alteration to fenestration appearance; and
* Change of material finish (from brick and terracotta tile rainscreen cladding to ventilated façade systems).

The Board determined that the alterations were material and subsequently determined to refuse permission for the following reason:

The proposed alterations will significantly deteriorate the design quality of the approved development and introduce features that represent an unacceptable quality of accommodation. This is with specific reference to the following:

(a) The proposed alterations to the location of the bin store for Block A, which is a significant distance from the staircore for that block;

(b) The reduction in internal private amenity space;

(c) The creation of enlarged and usable storage space to units, contrary to the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018;

(d) The alteration to the outdoor amenity area for the creche resulting in an unacceptable environment;

(e) Failure to make a positive contribution to the surrounding streetscape by reason of the proposed alterations to the façade and material finish of the development.

1. Proposed Development
	1. A request under section 146B. of the Planning and Development Act 2000, as amended, received 4th October 2021 seeking an alteration to the permitted development under reference 303803-19; Concerning a Strategic Housing Development for the construction of 196 Build to Rent (BTR) apartments, underground car park, commercial unit, office, creche, gym and including a range of communal spaces.
	2. **Description of proposed alterations:**

Alterations as follows;

1. Alterations to the layout, size and positioning of the concierge/reception area, communal amenity areas, creche and 2no. commercial units provided at the ground floor and omission of the previously approved office and 2no. apartments to facilitate the introduction of a larger commercial unit capable of accommodating a small supermarket.
2. Removal of Core C to facilitate the introduction of a larger ground floor commercial unit and reconfiguration of the Block C’s internal space across first to fifth floor levels and the introduction of a glazed link between Blocks B and C at first floor level.
3. Reconfiguration of the approved basement layout.
4. Amalgamation and consolidation of communal amenity space serving the development at ground floor level.
5. Relocation of the substation and switch room previously proposed in Block D to Block A and associated alterations to previously approved ground floor Apartments 2 and 3 in Block D and Apartments 1 and 2 in Block A.
6. Minor alterations to party walls in Blocks A, B and D to accommodate a no. of 1 bedroom apartments in lieu of previous approved studio apartments.
7. Minor alterations to previously approved facades, building line and internal partition walls to accommodate the aforementioned amendments.
8. Increase in the overall number of apartments by 8 no. units, from 196 no. units to 204 no. units.
9. Planning Authority Reports
	1. No response.
10. Prescribed Bodies
	1. Irish Aviation Authority
* Confirmation of no observations to make.
	1. Transport Infrastructure Ireland (TII)
1. TII would highlight that construction is ongoing on this site without the achievement of compliance with the requirements of the parent planning permission ABP-303803-19 in particular condition no.7. TII is aware that enforcement action has been undertaken by the planning authority. In the absence of resolution of condition no. 7, TII advises that the subject proposal is premature especially with regard to the basement proposals and changes to the landscaping indicated in this alteration’s documentation. TII recommends that no decision should be made on this planning application pending demonstration of compliance with parent permission ABP-303803-19 in particular condition no.7.
2. In addition, TII would highlight that the location of the tram stops technical cubicle and associated ducting, and cables is not shown on the drawings submitted nor has a risk assessment for works associated with these interfaces nor has the necessary mitigation measures been proposed. TII advises that Condition 7(c)(ii) requirements of the parent permission ABP-303803-19 indicates the need to resolve all Luas interface issues. TII therefore notes with serious concern that the tram stops technical cubical including the ducting and cables from it to the tram stop itself has not been dealt with in this amendment despite the interactions which will occur as a result of the proposal and the proposed alterations. This is a serious oversight which needs to be addressed to ensure compliance and to ensure maintenance of Luas operations and services.
3. TII advises that an appropriate vibration and settlement monitoring regime for Luas’s track infrastructure remains to be submitted to TII’s satisfaction to ensure no adverse impact on Luas’s operations and services in accordance with Condition 7(c)(iii), of the parent planning permission ABP-303803-19. TII advises that in the absence of an appropriate and agreed vibration and settlement monitoring regime serious damage could occur to the Luas trackbed and infrastructure which would have very significant repercussions on the operation of the Luas Red Line which services the Dublin Region. For clarity, the Board is informed that for development adjacent to a Luas track the actual zone of influence will depend on the local ground conditions. In this instance, the applicant has as yet not dealt with this matter which needs to be addressed urgently and appropriately to ensure the protection of Luas operations and services. This is of particular concern given the proposed changes to the basement. TII therefore requests that prior to any decision on this planning application, an assessment is required for the development and that adequate mitigation measures from the assessment should be proposed as per the requirements of condition 7 of the parent permission ABP-303803-19. TII attaches details of the request for information already made via the South Dublin County Councils Planning Compliance system.
4. TII also advises that it is with serious concern that applicant proposes, in the documentation submitted, works associated with TII/Transdev maintained areas without legal consent or agreement. TII advises that prior to any decision being made on this planning condition clarity is required with regards to these works. In particular TII requires revised plans which would complement and reinforce the existing public realm works including hard and soft landscaping. Such proposals shall be submitted for the written agreement of the planning authority subject to the written agreement of TII. The developer shall be required to ensure any works including landscaping, planting and signage do not impede tram drivers’ visibility of road junctions, associated signals or affect the footpath to the extent that pedestrians may walk into the swept path of oncoming trams.
5. TII request clarification on the ownership of the lands required for a proposed water main diversion associated with this. There are multiple ownerships, and this has not been addressed by the documentation submitted nor the previous planning applications.

Given the risk to Luas, it is highly likely that a legal agreement will be required between the Contractor, Developer and TII for works adjacent to Luas. No works can commence until compliance of condition number 7 is achieved and subsequently a legal agreement is in place to ensure protection of the network.

1. Third Party Observations
	1. None received.
2. Policy Context
	1. **National Policy**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

* Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the ‘Sustainable Residential Development Guidelines’).
* Design Manual for Urban Roads and Streets (DMURS) (2019).
* The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
* Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) (the ‘Apartment Guidelines’).
* Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).

Other relevant national guidelines include:

* Housing for All;
* Project Ireland 2040, National Planning Framework. This identifies that Dublin’s continued performance is critical to Ireland’s competitiveness; and that as part of this, improving strategic infrastructure is key, including expansion and improvement of Luas networks.
	1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

* RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
* RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
* RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.
* RPO 4.3 -Consolidation and Re-Intensification- 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.
* RPO 4.3 – Dublin City and Suburbs, Consolidation and Re-intensification- 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.
* The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin’s sustainable growth.
* Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.
* RPO’s 8.1, 8.2 and 8.3 identify the need to integrate land-use planning with its transport strategy, the management and enhancement of strategic land transport networks and the protection of strategic capacity of the metropolitan area transport network.
* Section 9.2 Diverse and Inclusive Region, notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are adaptive for people’s full life cycle to meet their housing needs today and into the future.
	1. **Local Planning Policy**

Since the determination of the original or parent permission, a new Development Plan has been adopted and the South Dublin County Development Plan 2022-2028 is now the operative County Development Plan.

Zoning: ‘Objective REGEN’ which seeks to ‘To facilitate enterprise and/or residential-led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery’. Residential and restaurant/cafe development is ‘permitted in principle’

Chapter 2 of the plan deals with ‘Core Strategy and Settlement Strategy’, Chapter 6 deals with ‘Housing’ and section 6.7 ‘Quality of Residential Development’ and Chapter 7 deals with ‘Sustainable Movement’, and section 7.6 ‘Public Transport’. Chapter 12 ‘Implementation and Monitoring’ describes the zoning matrix and design standards and criteria to be achieved in development.

Policy SM1: Overarching – Transport and Movement asks for the integration of land-use planning with transport and movement networks. SM1 Objective 3 of the Development Plan states that expansion programmes for the Luas should be supported. SM1 Objective 5 of the Development Plan states that future development should be designed in a manner to maximise the efficiency and protect the strategic capacity of the metropolitan area transport network, both existing and planned.

The subject site is included within the area covered by the Tallaght Town Centre Local Area Plan 2020. Key objectives are identified for Cookstown (as a neighbourhood character area), as well as development parameters for the site itself.

1. Assessment
	1. The proposed alterations comprise internal and external changes to the development approved under SHD ref.303803-19; resulting in the increase in the overall number of approved Build-to-Rent (BTR) apartments by 8 no. units, from 196 no. units to 204 no. units. I describe the proposed alterations in detail as part of my assessment below.
	2. The main matters for discussion arising out of the proposals are as follows:
* Design Implications of the Proposed Alterations;
* Housing Mix;
* Transportation Matters; and
* Other Matters.
	1. **Design Implications of the Proposed Alterations**

I address each of the proposed alterations in turn below:

1. Alterations to the layout, size and positioning of the concierge/reception area, communal amenity areas, creche and 2no. commercial units provided at the ground floor and omission of the previously approved office and 2no. apartments to facilitate the introduction of a larger commercial unit capable of accommodating a small supermarket.

The development as permitted at ground floor included a 111.48sqm office unit, a 248.57sqm commercial unit, a 191.66sqm creche (with 30sqm outdoor play space), 57.82sqm and 75sqm communal amenity rooms, 41.63sqm concierge, 25.38sqm hot desk room and 189.17sqm gym, along with ground floor residential units.

As part of the proposed alterations, the ground floor would be altered to comprise the following:

* A 511sqm commercial unit capable of accommodating a small supermarket;
* A 110sqm commercial unit;
* A 185sqm creche with 22sqm outdoor play space; and
* 394sqm of internal communal amenity space, including a concierge/reception area, a communal hot desk room, and 4 no. multi-purpose communal amenity rooms.

The alterations are generally within the consented footprint of the proposed building, with a slight alteration to the building line to make this consistent across the frontage of the proposed commercial unit (supermarket). From a design perspective, this slight alteration to the building line is acceptable and would not detract from the building aesthetic.

The proposed alterations result in the reduction in the proportion of non-residential floorspace, including the omission of a gym (that was intended to serve the public) and office, with an associated slight increase in the quantum of internal communal amenity space and enlarged commercial unit at ground floor. The extent of active frontage remains comparable to the permitted development.

The changes facilitate the incorporation of a small supermarket at ground floor. The omission of a gym allows increased internal communal amenity space that is more flexible in terms of the type of activities that can be accommodated. Overall, I am satisfied that the omission of the office and gym and increased size of commercial unit to accommodate supermarket and internal communal amenity space is acceptable.

The alterations also result in the minor reduction in floorspace for the proposed creche unit by 6.66sqm, as well as a reduction in the outdoor play space attached to the unit by approximately 8sqm. In light of the wider alterations proposed to the development, which result in the decrease in the number of two bedroom units and associated increase in the number of one bedroom units, I am satisfied that the minor reductions to the size of the creche and its play area is acceptable. This is in light of the Apartment Guidelines which state in paragraph 4.7 that one bedroom units should not generally be considered to contribute to a requirement for childcare provision.

I note that previously proposed alterations under a separate s146b application for the subject site included the creation of a podium level, which is no longer the case under the alterations proposed in this current s146b application. As such, no concerns arise.

1. Removal of Core C to facilitate the introduction of a larger ground floor commercial unit and reconfiguration of the Block C’s internal space across first to fifth floor levels and the introduction of a glazed link between Blocks B and C at first floor level.

The proposed alterations include the removal of Core C, associated with this, the location of bin and cycle storage at basement level has been reconfigured to locate these facilities adjacent to the remaining two cores, thereby ensuring convenience for users.

At first floor, the removal of the core and internal communal amenity spaces (with internal amenity proposed to be consolidated at ground floor), facilitates the creation of additional residential units. Across first to firth floors, the proposed alterations include alterations in the layout, to facilitate the reduction in the number of studio and two bedroom units, with associated increase in the number of one bedroom units and I address the proposed mix separately in section 9.4 of this report below.

A Housing Quality Assessment is submitted with the application and confirms that the proposed altered units comply with the internal size standards outlined in the Apartment Guidelines. The alterations include the introduction of a single one bedroom unit type (no.6) that does not have a balcony / private external amenity space. However, I note that the communal internal amenity space (in the permitted development) that this one bed unit replaces, had a balcony. Therefore, the removal of this balcony area is to the detriment of this new residential unit in my opinion. While I note that SPPR 8 describes flexibility for the application of private amenity space standards to BTR schemes, it seems unnecessary in my opinion, to omit a balcony area previously included to the internal amenity communal space following its alteration to an apartment. Should the Board determine to accept the alterations proposed, I suggest that a modification is included to reinstate this balcony.

A Daylight and Sunlight Assessment is also submitted, and confirms that with in incorporation of minor alterations, such as removal of balcony surrounds and inclusion of larger windows, the altered units have a 96% compliance with the BRE guidelines for daylight (with reference to a 2% ADF target value to open plan living/dining/kitchens). I note that the development as permitted also demonstrated internal daylight that did not meet minimum BRE targets for ADF in all cases. In my opinion, the daylight conditions reflected in the altered development is commensurate to the permitted development and the development would have acceptable daylight conditions overall for future occupiers. I also note the design changes to maximise daylight levels, and that units with a room that does not meet minimum ADF values, have another room that will meet the target and/or benefit from enlarged private balcony areas. This provides some level of compensation for lower daylight levels in my opinion.

In terms of the overall proportion of dual aspect units in the development, as approved, 48% of the proposed units were dual aspect. In the current application for alterations this reduces marginally to 46%, however as the application is located in a highly accessible area (opposite a Luas station) this exceeds the minimum level required under the Apartment Guidelines (being 33%) and therefore is acceptable.

The glazed link between blocks C and B is at first floor only, with upper floors already linked across the floor plate. This new link means that occupiers of block C would be able to use block B’s lift and stair core for access. The Apartment Guidelines allow flexibility for the number of apartments to a core in BTR schemes under SPPR 8 and therefore this arrangement is acceptable. Aesthetically, the glazed linked is also acceptable and is a minor alteration to the elevational appearance of the development.

1. Reconfiguration of the approved basement layout.

It is proposed to alter the basement with an alteration to the footprint and layout of facilities in this area. The altered basement would continue to provide a commensurate quanta of car parking, disabled parking bays, bin storage, bike storage and attenuation tank space, as described under the permitted development albeit in a different configuration. I address transport arrangement specifically, separately below; however it should be noted that the application includes swept path analysis to demonstrate adequate manoeuvrability within the altered basement area. While overall I am satisfied that the reconfiguration of the basement does not generate general design concerns, wider transport matters arise which I address in section 9.5 of this report below.

1. Amalgamation and consolidation of communal amenity space serving the development at ground floor level.

In relation to the consolidation of communal residential floor areas at ground floor rather than across ground and first floors in the building, I note that there is no specific concierge area identified on the submitted plans. In my view, a specific entrance (with concierge area) that is clearly designed as such, is required to ensure legibility for users and visitors to the building. Should the Board determine to accept the alterations proposed, I suggest that the development be modified to require a specific residential entrance area with concierge.

The development as permitted included a total of 352.75sqm of internal communal amenity spaces and concierge in separate rooms on ground and first floor levels. The proposed alterations result in the consolidation of these spaces to create 394sqm of internal communal amenity space at ground floor. As such, the quantum of space is slightly increased, reflecting the increase in the number of units proposed. The proposed alterations are therefore acceptable in my view in this regard.

1. Relocation of the substation and switch room previously proposed in Block D to Block A and associated alterations to previously approved ground floor Apartments 2 and 3 in Block D and Apartments 1 and 2 in Block A.

The applicant describes in this current application for alterations, that upon review and in consultation with ESB, the location of the substation and switch room in Block D was found to be unsuitable for access due to the location of the Luas line. As such, the proposed alterations include for the relocation of the substation and switch room to Block A, just beyond the vehicular entrance gate to the development. This alteration is acceptable in my opinion and does not generate any design implications.

1. Minor alterations to party walls in Blocks A, B and D to accommodate a no. of 1 bedroom apartments in lieu of previous approved studio apartments.

The proposed alterations include a reduction in depth to internal party walls within the building. This facilitates the creation of 1 bedroom units, in lieu of 22 no. previously approved studio units in the development. As described above, the proposed units conform with standards under the Apartment Guidelines as described in the submitted Housing Quality Assessment and associated technical reports for the application. I am satisfied that this alteration is acceptable in terms of design and residential quality standards. I address housing mix separately in section 9.4 below.

1. Minor alterations to previously approved facades, building line and internal partition walls to accommodate the aforementioned amendments.

Minor design changes are included to incorporate the alterations described in this report, including the following:

* Slight alterations to window and door positioning and internal partition walls to facilitate the addition of and revisions to apartments;
* Alteration to the building façade associated with the removal of Core C and the removal of the balcony surrounding from the courtyard facing apartments in Block C;
* Slight alterations to the ground floor building line and door/window positioning in Block C to accommodate the repositioning of the concierge/reception area, communal amenity areas, creche and 2 no. commercial units.

As a result of the proposed alterations, the overall design and appearance of the development would not be significantly altered in my opinion, and the quality of external elevations would remain commensurate to the permitted development.

* 1. **Housing Mix**

As a result of the above alterations, the residential mix of apartments change as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Studio | 1 bed | 2 bed |
| Approved Scheme |
| Total: 196 | 45 (22.9%) | 48 (24.4%) | 103 (52.5%) |
| Proposed Scheme |
| Total: 204 | 15 (7.3%) | 90 (44.1%) | 99 (48.5%) |

SPPR 1 of the Apartment Guidelines states that housing developments may include up to 50% one-bedroom or studio type units, with no more than 20-25% of the total proposed development as studios. While the proposed alterations would change the mix of studios and one bedroom units to comprise 51.4% of the overall scheme, SPPR 8 of the Apartment Guidelines specifies flexibility to be applied in the application of standards under those guidelines to BTR schemes (such as the development subject to this assessment). This includes in relation to dwelling mix, with no restriction to be applied. As such, the proposed mix resulting from the proposed alterations is acceptable with reference to the Apartment Guidelines.

* 1. **Transportation Matters**

Response from Transport Infrastructure Ireland (TII)

I note the consultation response from TII which highlights serious concerns regarding the proposals, the lack of compliance with condition no.7 under the original planning permission and the implications that proposed alterations (particularly in relation to the basement) have upon the protection of Luas operations and services. TII state that in the absence of agreed details, “serious damage could occur to the Luas trackbed and infrastructure which would have very significant repercussions on the operation of the Luas Red Line which services the Dublin Region”.

Policy SM1: Overarching – Transport and Movement of the South Dublin County Development Plan 2022 asks for the integration of land-use planning with transport and movement networks. SM1 Objective 3 of the Development Plan states that expansion programmes for the Luas should be supported. SM1 Objective 5 of the Development Plan states that future development should be designed in a manner to maximise the efficiency and protect the strategic capacity of the metropolitan area transport network, both existing and planned. Regional policy objectives under the RSES also identify the need to integrate land-use planning with its transport strategy, the management and enhancement of strategic land transport networks and the protection of strategic capacity of the metropolitan area transport network, in RPO’s 8.1, 8.2 and 8.3. Project Ireland 2040 NPF identifies that Dublin’s continued performance is critical to Ireland’s competitiveness; and that as part of this, improving strategic infrastructure is key, including expansion and improvement of Luas networks.

Having visited the site, I am aware that the development is substantially commenced, with a structure in place on the site. I am also aware from planning records, that the planning authority has concluded that details submitted in relation to condition no.7 under the original consent (and concerning TII requirements / required details given the proximity to Luas infrastructure) are not acceptable. Planning enforcement in relation to this matter is not within the remit of An Bord Pleanála and is under the jurisdiction of the Local Planning Authority, being South Dublin County Council in this instance.

The matters highlighted by TII are significant and relate directly to the alterations proposed under this current s146b application. As such, I am recommending that the Board ‘refuse to make the alterations’ to the permitted development.

Car Parking

The altered development would continue to provide 67 no. car parking spaces as included within the permitted scheme, including 6 no. accessible parking bays.

Bicycle Storage

The altered development would include 316 no. bicycle storage spaces, which is uplifted on the 300 spaces in the permitted development, and reflects the increased number of units in the proposed altered development (+8 units).

* 1. **Other Matters**

EIA Screening

The applicant has submitted a ‘Statement of Required Information specified in Schedule 7A to the Planning and Development Regulations 2001’. The report concludes that the proposed development is below the thresholds for mandatory EIAR and that a sub threshold EIAR is not required in this instance as the proposed development will not have significant impacts on the environment.

Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

* Construction of more than 500 dwelling units;
* Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

EIA is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, it can be concluded in the first instance that there is no real likelihood of significant effects on the environment.

The proposed development involves alterations to an approved development, resulting in the construction of 185 residential units, or 204 units in the altered scheme, and ancillary facilities on a 0.595 ha site in an urban area that is zoned and serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001-2017. There are no apparent characteristics or elements of the design that are likely to cause significant effects on the environment. The subject lands are not located adjacent to, or proximate, to any Conservation Areas or Protected Structures. The site is sufficiently removed from watercourses, and other sensitive sites beyond, to ensure that no likely significant effects will result. The proposed development is not likely to have a significant effect on any Natura 2000 site as concluded as part of the original application approval on the site (ABP SHD Ref. 303803-19).

Having regard to;

1. the nature and scale of the proposed development, in an urban area on a site served by public infrastructure,
2. the absence of any significant environmental sensitivities in the area,
3. the location of the development outside of any other sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

it is concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. It is therefore considered that an environmental impact assessment report for the proposed development is not necessary in this case.

Screening for Appropriate Assessment

The original application to which the amendments under this application relate (ABP SHD Ref. 303803-19), described the screening for appropriate assessment associated with the proposed development. None of the amendments applied for under this application, would alter the conclusions reached as part of that original assessment. As such, the conclusion remains that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of those sites’ Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

1. Conclusion and Recommendation
	1. The proposed alterations, particularly in relation to the basement area, could have implications for the operation of the Luas Red Line. TII have highlighted serious concerns regarding the alterations and the lack of agreement with the applicant concerning details for this development in close proximity to Luas infrastructure. As such, the proposed alterations are contrary to Policy SM1: Overarching – Transport and Movement, SM1 Objective 3 and SM1 Objective 5 of the of the South Dublin County Development Plan 2022, as well as RPO’s 8.1, 8.2 and 8.3 under the RSES for the Eastern and Midland Region, relating to the need to integrate land-use planning with the regional transport strategy, the management and enhancement of strategic land transport networks and the protection of strategic capacity of the metropolitan area transport network. The proposed alteration is also contrary to Project Ireland 2040 NPF which identifies that improving strategic infrastructure, including expansion and improvement of Luas networks, is key to Dublin’s continued performance, which is critical to Ireland’s overall competitiveness.
	2. Having regard to the above assessment, I recommend that in accordance with subsection (3)(b)(ii) of section 146B of the Act 2000 (as amended) the Board –
	3. (III) refuse to make the alteration,
	4. for the reasons and considerations set out below.
2. Recommended Order

**Planning and development Acts 2000 to 2019**

**Planning Authority: South Dublin County Council**

Application for the alteration of ABP SHD Ref. 303803-19 under section 146 B of the Planning and Development Act 2000 as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 4th Day of October 2021 by Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2.

**Proposed Development**

Alterations consist of the following:

1. Alterations to the layout, size and positioning of the concierge/reception area, communal amenity areas, creche and 2no. commercial units provided at the ground floor and omission of the previously approved office and 2no. apartments to facilitate the introduction of a larger commercial unit capable of accommodating a small supermarket.
2. Removal of Core C to facilitate the introduction of a larger ground floor commercial unit and reconfiguration of the Block C’s internal space across first to fifth floor levels and the introduction of a glazed link between Blocks B and C at first floor level.
3. Reconfiguration of the approved basement layout.
4. Amalgamation and consolidation of communal amenity space serving the development at ground floor level.
5. Relocation of the substation and switch room previously proposed in Block D to Block A and associated alterations to previously approved ground floor Apartments 2 and 3 in Block D and Apartments 1 and 2 in Block A.
6. Minor alterations to party walls in Blocks A, B and D to accommodate a no. of 1 bedroom apartments in lieu of previous approved studio apartments.
7. Minor alterations to previously approved facades, building line and internal partition walls to accommodate the aforementioned amendments.
8. Increase in the overall number of apartments by 8 no. units, from 196 no. units to 204 no. units.

**Decision**

**Refuse permission for alterations to ABP SHD Ref. 303803-19 under section 146 B of the Planning and Development Act 2000 as amended, as described above, in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

**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 any submissions and observations received by it in accordance with statutory provisions.

**Reasons and Considerations**

On the basis of the information presented, it cannot be concluded that the proposed alterations would not represent a risk of serious damage to the Luas trackbed and infrastructure, with consequential implications for the operation of the Luas Red Line for the Dublin Region. As such, the proposed alterations fail to integrate land-use planning with the Regional transport strategy; enhance strategic land networks; and protect the strategic capacity of the metropolitan area transport network; contrary to Policy SM1, SM1 Objective 3 and SM1 Objective 5 of the of the South Dublin County Development Plan 2022, as well as RPO’s 8.1, 8.2 and 8.3 under the RSES for the Eastern and Midland Region. The proposal is also contrary to guidance in Project Ireland 2040 NPF which identifies that improving strategic infrastructure, including expansion and improvement of Luas networks, is key to Dublin’s continued performance, which is critical to Ireland’s overall competitiveness.

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| * 1. Rachel Gleave O’ConnorSenior Planning Inspector6th October 2022
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