



An  
Bord  
Pleanála

## Inspector's Report ABP-311568-21

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<b>Development</b>	Demolition of commercial structures and construction of Nursing Home/Step-Down Facility (131 bedspaces). 139 Apartments, 2 commercial units, communal amenity spaces, and associated site works.
<b>Location</b>	Unit 21, First Avenue, Cookstown Industrial Estate, Dublin 24
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD21A/0196
<b>Applicant</b>	Bartra Property Cookstown Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Bartra Property Cookstown Limited.
<b>Observer(s)</b>	Gravis Planning for Print & Display Ltd, Downtree Investments Ltd., PD Visual Ltd., and Westside Press Ltd.

**Date of Site Inspection**

28<sup>th</sup> February 2022.

**Inspector**

Elaine Sullivan

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## 1.0 Site Location and Description

- 1.1. The subject site is located within the jurisdiction of South Dublin County Council and is approx. 9kms south-west of the city centre. It is c. 1.7km southwest of the M50/R838 junction and is approached by Belgard Road to the east, and Cookstown Way to the west. Bóthar Katharine Tynan is to the north of the site with the Luas Red Line running alongside it to the south, and the Belgard Heights housing estate to the north. Tallaght University Hospital and the Tallaght Town Centre are located c. 800m to the south and the Belgard Retail Park is situated to the south-east along with some additional retail warehousing units.
- 1.2. The site has a stated area of 1.077 hectares and is located on the corner of First Avenue and Cookstown Estate Road within the Cookstown Industrial Estate. The site currently has two larger warehouse/industrial type units and a number of smaller structures/units along the western boundary including a small café, which is no longer in use. The immediate land-uses within the industrial park are industrial/warehouse type units.
- 1.3. First Avenue is characterised by a number of engineering/industrial units including accident or service repair garages. Parking in the area is very limited with vehicles parked along roads and within sites. The immediate local road network also carries a significant number of HGVs as witnessed at time of inspection. The extended area surrounding the industrial park is urban and mainly consists of residential dwellings, schools, businesses and community facilities. The Belgard Luas stop is located approx. 500m to the north-east of the site via the industrial estate. There are also bus stops located along Belgard Road, which is c. 500m to the east of the site.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of all existing 1-3 storey industrial /commercial structures on site, (c. 5,500sqm) and the construction of the following:
  - 1-5 storey nursing home/step-down facility, (total floor area of 1,141sqm) with 131 bedspaces and ancillary services over a partial basement, (plant room).

- 139 apartments, (67 one-bed, two-person units, 12 two-bed, three-person units and 60 two-bed, four-person units), arranged in 2 blocks with a total floor area of c. 10,556sqm.
- Block A would be 8 storeys in height and would comprise 87 apartments; 51 one-bed, 7 two-bed, three person units and 29 two-bed, four person units. All units would have balconies and would be accessed from an open-deck arrangement.
- Block A would also have two commercial units of c. 292sqm, comprising a café and pharmacy, at ground floor level and facing onto Cookstown Estate Road.
- Block B would be 5-6 storeys in height and would comprise 52 apartments; 16 one-bed, 5 two-bed, three person and 31 two-bed four person. All units would have balconies and would be accessed from an open-deck arrangement.
- New vehicular access to the site from First Avenue with egress onto Cookstown Estate Road via a one-way system through the site.
- 42 surface car parking spaces, including 4 accessible spaces, would be provided along the southern site boundary and the central spine of the development. 26 of these spaces would be allocated to the apartment development with the remaining 16 spaces allocated to the nursing home facility.
- Bicycle parking for 307 bicycles would be provided in a mix of lock-ups and outdoor bike stands.
- Communal open space for the residential Blocks A & B is provided in a central courtyard of 1,272sqm.
- Public open space would be provided in the form of a partial pocket park of 1,165sqm to the south-west of the site and would be in the order of 10% of the development site area.
- Ancillary site works would include the provision of an ESB substation, foul and surface water networks, public realm upgrade works, pedestrian access, landscaping and boundary treatment works.

2.2. The planning application was accompanied with the following documents:

- Planning Report
- Childcare Needs Assessment
- Building Lifecycle Report
- Social Infrastructure Statement
- Site Lighting Report
- Sustainability and Energy Report
- Daylight and Sunlight Report
- Environmental Impact Assessment Screening Report
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001, as amended
- Ecology Statement
- Appropriate Assessment Screening Report
- Architectural Design Statement
- Engineering Services Report
- Mobility Management Plan
- Outline Construction Management Plan
- Construction & Demolition Waste Management Plan
- Transport Assessment & Parking Strategy
- Arboricultural Assessment & Impact Report
- Landscape & Visual Impact Assessment
- Verified 3D Views
- Landscape Report
- Operational Waste Management Plan
- Noise Impact Assessment

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was refused by the PA for the following 5 reasons:

1. Sequencing and Phasing - The proposed development substantially diverges from the LAP policy on sequencing and implementation, and would be physically isolated if delivered prior to adjoining development and/or enhanced connections to either the town centre or a luas station. The proposed density and corresponding low car parking provision at the site exacerbate this issue and could only be accommodated (a) on a larger site capable of establishing its own character and enclosing a viable mixed-use area (as provided for in the LAP), or (b) in tandem with enhanced connectivity and permeability as provided for in the LAP. The site faces significant constraints for regeneration and redevelopment without permissions being in place on adjoining sites. The applicant may wish to expand the subject lands for the benefit of a future application, or wait until permissions are in place on adjoining lands. This notwithstanding, the proposed residential development of this site alone should only progress in line with LAP standards and without prejudicing development on adjoining sites. In the current context, the proposed development would be isolated development and would provide a poor standard of residential amenity for that reason, and thereby undermine the regeneration priorities as outlined in the zoning objective. The development would materially contravene Section 8.0 and Objective IS1 of the Tallaght Town Centre Local Area Plan 2020 - 2026 and would be a material contravention of that Plan and would also contravene Policy H3 (Housing for Older People) in the South Dublin County Development Plan 2016 - 2022 in that it is not in an established residential and mixed use area and is not at a location proximate to services and amenities.
2. Intensity of Development - The present proposal, stated by the applicant to have a plot ratio of 1.49, represents overdevelopment. This is contrary to specifications of plot ratio in section 3.3 the Tallaght Town Centre Local Area Plan 2020 – 2026, under which a maximum plot ratio of 1 is specified, with



flexibility for 20% increase of plot ratio where certain conditions are met. The proposed additional height and plot ratio is not justified under Section 2.6 of the Local Area Plan with reference to the public realm improvements provided on the site, in particular, the dominance of the internal street by car parking and the poor provision for pedestrians. The provision of 8-storey development fronting onto the internal street is inappropriate and would be detrimental to the enjoyment and amenity of that space. As such, the proposed development does not comply with the Building Height Strategy contained in Chapter 2 of the Local Area Plan, and would undermine the regeneration of the area by itself and by the precedent it would set.

3. Infrastructure - (a) The proposed development does not include provision for cyclists on Cookstown Estate Road, a major route through the area, as per the requirements of section 3.3 of the Tallaght Town Centre Local Area Plan 2020 – 2026. (b) The isolated nature of the development is exacerbated by the extremely low provision of car parking. The provision of car parking entirely on the street would lead to dominance of the streetscape by cars, undermining the comfort and safety of pedestrians and not in accordance with DMURS. (c) Childcare facilities are not proposed as part of this development, contrary to the 2001 Childcare Guidelines and contrary to the infrastructure requirements for Cookstown, set down in section 3.3. of the Tallaght Town Centre Local Area Plan 2020 – 2026. This would undermine the residential amenity of the development and the regeneration of the area, both by itself and by the precedent it would set. (d) Feasibility of the development in terms of water supply and waste water has not been established by Irish Water, having regard to the existing deficiencies in the water supply and wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease.
4. Residential Layout and Amenities - (a) The sunlight and daylight analysis of the development is not considered to be adequate, and the development would feature poor communal open space to serve Blocks A and B. This would undermine the residential amenity of the development and the regeneration of the area, both by itself and by the precedent it would set.

(b) The layout of the development should be improved in order to increase separation distances between apartment units on upper floors, decrease the dominance of surface car parking, and to ensure the internal street is not excessively enclosed by tall buildings.

(c) The glazed corner feature to the north-east of the residential block is inappropriate for a residential development in an urban streetscape.

(d) Minimum storage provision in the proposed units appears in some cases to have been counted both as storage and as habitable room space, and this should be revised prior to a grant of permission.

(e) Overall provision of space in apartments could be improved prior to a grant of permission in order to comply with section 3.8 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020), without relying on the assessment of 2-bed, 3-person units against the lower minimum apartment size of 63sq.m.

5. Public Realm and Water - Inadequate information has been supplied regarding the provision of natural SUDs, or green infrastructure, in accordance with Chapter 8 of the South Dublin County Development Plan 2016 - 2022. The design of SuDS features is required to be of high quality to achieve a multifunctional space for amenity, biodiversity and surface water management. Additionally, the applicant has not provided information to show compliance with Policy IE2 of the South Dublin County Development Plan 2016 - 2022. The development would, by itself and by the precedent it would create, undermine the sustainable regeneration of the area and the strengthening of green infrastructure.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the Planning Officer dated the 8<sup>th</sup> September 2021 informed the decision of the PA and included the following:

- Planning policy for the site is contained within the South Dublin County Development Plan, 2016-2022, (SDCDP), and the Tallaght Town Centre Local Area Plan, 2020-2026.
- Residential development is 'Permitted in Principle' within the REGEN zoning for the site and nursing homes are 'Open for Consideration'.
- The proposed development would fulfil the vision for Cookstown as set out in the LAP and would be acceptable in principle subject to sequencing, implementation, phasing, standards and objectives.
- The residential mix does not accord with Objective RE2 of the Tallaght Town Centre LAP which requires 30% of 3-bedroom units.
- The SDCDP has no provision for any 2-bed apartment with a floor area of less than 73sqm.
- Overall provision of space within apartments could be improved in order to comply with the Apartment Guidelines (2020), without relying on the assessment of 2-bed, 3-person units against the lower minimum apartment size of 63sqm.
- Objective IS1 of the LAP provides that development should extend outward from Tallaght town centre and only in extreme circumstances can the 'leap-frogging' to stand-alone sites be permitted.
- Development in the REGEN lands should be assessed against the Urban Design Manual, DMURS and the criteria set out in section 8.1 of the LAP.
- The proposed development does not provide connections for the site and would not integrate with adjoining development. It would not comply with section 8.0 and Objective IS1 of the LAP and should be refused.
- The development would be physically isolated within the Cookstown area and from the Tallaght town centre and the connections to the nearby Luas stations are poor.
- The proposed development does not take into account the provision of physical infrastructure as required by the LAP. It does not include provision

for cyclists on Cookstown Estate Road, as per the requirements of Section 3.3 of the LAP.

- The basis for the provision of a portion of the pocket park as shown in the LAP is considered reasonable.
- A special contribution would have to be applied for the delivery of Cookstown Urban Square, which forms part of the LAP objectives.
- The building heights are in excess of the heights set out in Section 3.3 of the LAP. Section 2.6 of the LAP does allow for additional heights of 2-4 storeys where certain criteria are met. Additional height could be considered on Cookstown Estate Road but not on First Avenue and the internal access road through the development.
- The stated plot ratio of 1.49 includes the area of public open space which serves more than just the subject site. When this area is excluded the plot ratio would be 1.68, which is in excess of the LAP allowable plot ratio for the site which is between 0.75-1.
- Section 2.6.1 of the LAP allows for an increase in the plot ratio where there will be a significant public gain from the development. A plot ratio of 1.2 could be considered subject to additional works to provide public gain. The plot ratio of 1.49 and the additional height is considered to be overdevelopment of the site.
- The overall visual impact would not be detrimental to the surrounding area and there is an understood rationale for how future development could address the site.
- The site layout encloses the communal open space for the residential block and leaves the courtyard to the nursing home open to the site boundary which could have implications for future development on adjoining sites.
- The internal street is dominated by car parking and is highly enclosed by the blocks on either side. On-street car parking and bicycle parking does not allow for easy access to the public open space/pocket park. There is also inactive frontage to Cookstown Estate Road. Overall, the site layout could be improved.

- There is a concern about the use of a deck access to the apartments facing onto Cookstown Estate Road, where a stronger elevation would help to better enclose the street and provide better surveillance. The glazed element to the north-eastern corner is poor and should be revised.
- The full area of communal amenity space was not assessed in the sunlight penetration analysis and therefore the results do not demonstrate that the 50% of the amenity space can achieve more than 2 hours of daylight on March 21<sup>st</sup>.
- The proposal is acceptable in terms of facilities for residents, (a communal amenity space of 83m<sup>2</sup> is provided), and also for social infrastructure, (a nursing home and part of a public park).
- The LAP requires a childcare facility to be provided on site for development of more than 100 units. No childcare facility is provided within the development and the argument that facilities will be provided extant permissions nearby is not accepted.
- The car parking provision is very low and the rationale for the quantum of parking is intrinsically linked to the integration of the site within a wider network of development and enhanced connectivity. In the present circumstances the rationale is inadequate.
- There are deficiencies in relation to the public realm design for the scheme and in particular the provision of natural SUDs features.
- Separation distances between blocks are inadequate and should be improved.

### 3.2.2. Other Technical Reports

- Environmental Health Officer – There is a concern that the light industrial units in proximity to the site will result in a noise nuisance for future residents. The submission of a Noise Assessment Report is noted. The proposed development is acceptable subject to planning conditions.
- Water Services – Further information is required with regard to the design of the system to deal with surface water throughout the site.

- Parks Department – the Public Realm Planning Report recommended that further information is required with regard the landscaping plan for the site, its implementation and maintenance, the definition of public and communal pedestrian access routes, details of play proposals for the site and a SUDS Management Plan which includes additional SUDS measures.
- Housing Procurement Section – A Part V condition should be attached to any grant of permission.
- Roads Department – An overall drawing detailing the pedestrian routes in and around the site would be useful. The car parking rate is very low and is rationalised by the proximity of public transport. However, this is dependent on good pedestrian connections. No areas for taking in charge have been identified. The Waste Management Plan does not identify the waste collection locations or how vehicles will navigate the site. Additional information is requested to show a minimum of 6m distance behind all perpendicular parking bays and details on the projected number of workers and daily visitors to the development.

### 3.3. Prescribed Bodies

- Transport Infrastructure Ireland – No observations to make.
- Irish Water – Further information is required. The applicant is requested to engage with Irish Water with regard to the following:
  - The submission of a Pre-Connection Enquiry, (PCE), to determine the feasibility of connecting to the existing public water system and the wastewater system.
  - The feasibility of the design proposal to plant trees over the existing 100mm water main.
  - The feasibility of the proposed diversion of the existing 300mm public wastewater sewer to the north-east of the site and the proposed location of trees in relation to this public sewer.
- Department of Defence – Due to the proximity of Casement Aerodrome the operation of cranes should be co-ordinated with the Air Corps Air Traffic

Services and the developer shall implement bird control measures during the construction phase. The area might also be subject to a high level of noise from aircraft.

### 3.4. Third Party Observations

Three observations were received by the PA. They included observations from the Belgard Area Residents Association, Tallaght Community Council and Gravis Planning on behalf of a nearby landowners. The following issues were raised:

- The housing mix proposed is not in accordance with Section 5.2.1 of the LAP in terms of the over-provision of 1 bed units and the under-provision of 3 bed units.
- The height and density of the development is in excess of the LAP and the development does not comply with the certain circumstances whereby this can be increased.
- The nursing home / step down facility is welcomed but the density of the development is considered to be high.
- The Social Infrastructure Audit does not include an assessment of the capacity of schools in the area to cater for the increase in population.
- Parking for the nursing home is inadequate to cater for visitors.
- No reference is made to how the development will contribute to the delivery of the Cookstown Urban Square, which is an objective of the LAP.

## 4.0 Planning History

On the subject site:

**SHD - ABP-303911-19** – Planning permission refused on the 19<sup>th</sup> June 2019 for a strategic housing development comprising 150 ‘Build to Rent’ apartments in three, 5-6 storey blocks and 222 ‘Shared Living’ units in fourth block of 6-8 storeys in height.

Two reasons were given for the refusal as follows:

1. Having regard to the location of the subject site within the existing Cookstown Industrial Estate, to the established build form, uses and character of the industrial estate surrounding the site, particularly along First Avenue and Cookstown Way, and having regard to the location of the subject site at a remove from the town centre of Tallaght, it is considered that the development of a residential use at this location, in the absence of an overall strategy for the re-development of the industrial estate, and in the absence of the realisation of planned direct vehicular, and convenient cyclist and pedestrian links, to the town centre and to public transportation, would represent an uncoordinated and haphazard form of development which would give rise to an isolated piecemeal pocket of residential development that is disconnected from shops, amenities and/or residential services, contrary to section 11.2.4 of the current South Dublin County Development Plan 2016 – 2022, 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, and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the format proposed for the shared accommodation development, with significant numbers of individual units sharing a single common living/kitchen area on each floor, and with a notable shortfall in the quantitative and qualitative provision of sufficient communal facilities, would fail to provide an acceptable living environment for future residents of the development, contrary to the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in March 2018, and particularly paragraphs 5.15, 5.22 and 5.23 of these Guidelines. The proposed shared accommodation development would, therefore, be contrary to these Ministerial Guidelines and would seriously injure the residential amenities of future occupants/residents, and accordingly would be contrary to the proper planning and sustainable development of the area.



On sites in close proximity:

**SHD - ABP-309731-21** –Planning permission refused on the 8<sup>th</sup> July 2021 on a site directly to the east of the subject site and within land parcel CT-D in the Tallaght LAP, for the demolition of existing industrial and commercial buildings and the construction of 1,104 no. BTR apartments, (475 number one-beds, 208 number two-beds and 45 number three-beds), creche and all other associated site works. The development would comprise four blocks, varying in height from four to eleven storeys. Two reasons were given for the refusal as follows:

1. Having regard to:

- The tenure mix being proposed (that being 100% build-to-rent with no build to-sell units), and
- The plot ratio in conjunction with the building height proposed,

It is considered that, given the scale of the proposal at 1,104 units on a site of c. 5 ha. in particular, the proposed development would conflict with the provisions of the Tallaght Town Centre Local Area Plan 2020-2026 in relation to tenure mix and intensity of development. Furthermore, the Board is not satisfied that a material contravention of the said LAP has been justified in this instance and a grant of permission would set an undesirable precedent for similar developments in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be premature having regard to the existing deficiencies in the water supply and wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease.

**SHD-ABP-309916-21** – Planning permission granted on the 21<sup>st</sup> September 2021 for development at a site at Colbert's Fort c. 400m to the south-east of the subject site and within land parcel CT-G of the LAP. The development comprised the demolition of existing buildings on the site and the construction of 170 no. BTR apartments, creche and associated site works. The site is located within land parcel CT-G of the LAP where the recommended plot ratio is 0.75-1.0. The development would yield a plot ratio of 1.87.

**ABP-SHD-308398-20** – Planning permission granted on the 28<sup>th</sup> January 2021 for development at a site at the corner of Fourth Avenue and Cookstown Estate Road, approx. 500m to the south of the subject site for the demolition of industrial buildings and the construction of 525 no. BTR apartments, comprising 50 no. studios, 96 no. 1 beds, 100 no. 2 beds and 6 no. 3 beds. The site is located in the ‘Centre’ neighbourhood of the LAP and the development would yield a plot ratio of 2.95.

On sites in proximity & prior to the adoption of the Tallaght LAP:

**SHD-ABP-305763-19** – Planning permission granted on the 20<sup>th</sup> February 2020 on a site on the corner of Airton Road and Belgard Road approx. 650m to the south-east of the subject site, for the demolition of existing buildings and the construction of 328 no. apartments, (93 no. 1 bed, 222 no. 2 bed and 13 no. 3 bed), creche and associated site works. The development would yield a plot ratio of 2.62.

**SHD-ABP-303306-18** – Planning permission granted on the 15<sup>th</sup> April 2019 on a site at the corner of Belgard Square North and Belgard Road, approx. 700m to the south-east of the subject site), for 483 no apartments and 403 no. student bedspaces, amenity and staff facilities, creche, 6 retail/commercial units, parking and public plaza. The development would yield a plot ratio of 1.59.

**SHD-ABP-303803-19** – Planning permission granted on the 28<sup>th</sup> January 2019 for development at the corner of Second Avenue and Cookstown Way, approx. 630m to the south-east of the subject site, for the construction of 196 no. BTR apartments, (45 no. studios, 48 no. 1 beds, 103 no. 2 beds), underground car park, commercial unit, office, creche, gym and communal spaces. The development would yield a plot ratio of 3.41.

## 5.0 Policy Context

### 5.1. Development Plan

The **South Dublin County Development Plan 2016-2022** is the operative Development Plan for the area. The site is zoned ‘REGEN’ which aims ‘*to facilitate enterprise and/or residential-led regeneration*’. Residential, Residential Institution, Housing for Older People, Restaurant/Café, and Shop-Local are all permitted in

principle uses in this zoning. A nursing home is listed as 'open for consideration' under the REGEN zoning objective.

Within the Core Strategy, CS1 Objective 2, seeks '*To promote and support the regeneration of underutilised industrial areas in areas designated with Zoning Objective Regeneration 'REGEN' (to facilitate enterprise and/or residential led development)*'.T

The town of Tallaght is identified as a Metropolitan Consolidation Town in the RPG's settlement hierarchy).

The following policies and objectives are relevant to the proposed development:

**Housing Policy 3** - It is the policy of the Council to support the provision of accommodation for older people in established residential and mixed-use areas that offer a choice and mix of accommodation types to older people (independent and semi-independent living) within their communities and at locations that are proximate to services and amenities.

**H3 Objective 1:** To support housing that is designed for older people (including independent, semi-independent or nursing home accommodation) in residential and mixed-use areas, at locations that are proximate to existing services and amenities including pedestrian paths, local shops, parks and public transport.

**Housing Policy 8 – Residential Densities** - It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.

**H8 Objective 2:** To consider higher residential densities at appropriate locations that are close to Town, District and Local Centres and high-capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

**H8 Objective 4:** To support proposals for more intensive enterprise and/or residential led development within areas designated with Zoning Objective 'REGEN' (To facilitate enterprise and/or residential led regeneration), subject to appropriate design safeguards and based on traditional urban forms that adhere to urban design criteria.

**H8 Objective 5:** To ensure that developments on lands for which a Local Area Plan has been prepared comply with the local density requirements of the Local Area Plan.

**Housing Policy 9 – Residential Building Heights -** It is the policy of the Council to support varied building heights across residential and mixed-use areas in South Dublin County.

**H9 Objective 4:** To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme.

**Housing Policy 10 – Mix of Dwelling Types -** It is the policy of the Council to ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the County in accordance with the provisions of the Interim South Dublin County Council Housing Strategy 2016-2022.

**Housing Policy 12 – Public Open Space -** It is the policy of the Council to ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that provides for active and passive recreation and enhances the visual character, identity and amenity of the area.

**5.1.5 – Building Height in Urban Centres (UC) Policy 6 Building Heights -** It is the policy of the Council to support varied building heights across town, district, village and local centres and regeneration areas in South Dublin County.

**UC 6 Objective 1:** To encourage varied building heights in town, district, village, local and regeneration areas to support compact urban form, sense of place, urban legibility and visual diversity while maintaining a general restriction on the development of tall buildings adjacent to two-storey housing.

**UC 6 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 Local Area Plan or Planning Scheme.

## Chapter 11 – Implementation

**11.2.4 – Regeneration Zone** - 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 in the area and demonstrate that the development of the site would not give rise to isolated piecemeal pockets of residential development that are disconnected from shops, amenities and/or other residences.
- Residential development should not be introduced at ground floor level adjacent to busy roads.
- Given the transitional nature of Regeneration zones, precautions will be taken to ensure that the potential for noise pollution, air pollution or other nuisance from established industrial uses will not exceed acceptable environmental standards.
- It may be necessary to consider improvements to the surrounding road and street network in conjunction with the Planning Authority, to calm traffic and improve pedestrian and cyclist access.

**11.2.7 – Building Height** - 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 in Town Centres, Regeneration zones and Strategic Development Zones, and subject to an approved Local Area Plan or Planning Scheme.

**11.3.1 – Residential** – Mix of Dwelling Types / Residential Density / Public Open Space / Children’s Play / Dwelling Standards

### 11.4.1 – Bicycle Parking Standards:

	Long Term*	Short Term**
Nursing Home	1 per 5 staff	1 per 10 residents
Residential Apartments	1 per 5 apartments	1 per 10 apartments.

Café	1 per 5 staff	1 per 10 seats
Retail Convenience	1 per 5 staff	1 per 50sqm

\*Long Term – spaces to be designed for use by residents and employees.

\*\*Short Term – spaces to be designed for ease of use by the general public.

#### 11.4.2 – Car parking standards

The site is located within Zone 2 as it is located within 800m of a Luas station and within 400m of a high-quality bus service

	<b>Zone 2</b>
Nursing Home / Retirement Home	1 per 8 residents
Café	1 per 20sqm GFA
Retail Convenience	1 per 25sqm
<u>Apartment:</u>	
1bed	1
2bed	1.25
3bed	1.5

#### 5.2. Tallaght Town Centre Local Area Plan 2020

The subject site is located within the Tallaght Town Centre Local Area Plan 2020, (Tallaght LAP). It is located within land parcel CT-C of the Cookstown neighbourhood, (Fig. 3.4).

- Figure 2.1 – Route Structure - sets out the long-term route network for the LAP lands and identifies the roads to the north and east of the site as Existing/Improved Tertiary/Local Route/Homezone.
- Figure 2.2 – Cycle Structure - shows a new improved cycle route along Cookstown Estate Road, to the east of the site.

- Figure 2.4 – Urban Structure - shows building heights of 4-6 storeys residential along Cookstown Estate Road with heights of 3-4 storeys behind that.
- Figure 2.5 – Mixed Use Frontage - allows for a mixed-use frontage along the eastern site boundary, facing onto Cookstown Estate Road.
- Figure 2.8 – Height Strategy - Heights on the subject site are 4-6 storeys (residential) along the eastern boundary to Cookstown Estate Road and 3-4 storeys inside the site.
- Figure 2.10 – Public Realm – Pocket-park to be delivered in the south-west corner of the site.
- Figure 2.11 – Open Space and Green Infrastructure – A ‘New/Improved Local Green Corridor’ is shown along Cookstown Estate Road to the east of the site.

The following Sections of the LAP are of relevance to the proposed development:

2.4 – Landuse and Urban Function

2.4.2 – Mixed-use Frontages

2.5 - Neighbourhoods – The site is located in the Cookstown neighbourhood, the vision for which is to create, *‘An attractive, mixed-use, residential led neighbourhood with distinctive urban qualities and high levels of access to public transport and the urban centre’*.

2.6 – Intensity of Development – Plot Ratio - Table 2.0 sets out the range of appropriate plot ratios across the plan lands. The plot ratio range for parcel CT-C is 0.75-1.0. Flexibility in relation to the gross floor area of up to 20% of the plot ratio ranges may generally be applicable where there is a strong design rationale for an increase in density/height and the development will result in a significant public gain. A significant public gain includes:

- The dedication of part of the site for public open space including parks and plazas, above the standard 10% requirement for public open space on site.

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

#### 2.6.2 - Height & Built Form – The height strategy provides for the following:

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

#### 3.3 Cookstown – Key Objectives for Cookstown:

- 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 provision of a new urban square or plaza at a central location at, or in close proximity to, the junction of Cookstown Estate 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.
- CK5: Delivery of a variety of building types around Luas stops.
- CK6: Support provision of a new primary school if deemed necessary by Department of Education and Science.



- CK7: Utilising location as source of River Poddle, incorporating it into public realm and open space and green/blue infrastructure asset strategies.
- CK8: Encourage and facilitate higher intensity employment uses and economic development.
- CK9: Encourage design proposals to provide appropriate space to accommodate non-residential uses, particularly for existing businesses in the Cookstown area which can be appropriately accommodated in a mixed-use development with a substantial residential component.
- CK10: Explore the feasibility of uplifting the River Poddle and incorporating into public realm, open space and green/blue infrastructure asset strategies as part of proposals for development.

Infrastructure Requirements for the overall Cookstown area:

**Childcare** - All new residential developments and particularly those in excess of a 10-minute walk-time from existing childcare facilities with sufficient capacity to accommodate that development, will be required to comply with the minimum childcare standards and the provision of childcare facilities as part of specific developments.

Physical Infrastructure Requirements for land parcel CT-C:

- Upgrade / enhancements required to Cookstown Estate Road in order to facilitate development within CT-C, including public realm improvements, pedestrian, cyclist linkages and potential alternative routing for HGV traffic.
- Enhanced pedestrian and cyclist linkages to Belgard and/or Cookstown Luas Stop.
- Pocket Park Minimum Area 5,200sqm centrally located in CT-C. To be delivered as part of proposals for residential development in CT-C and to be a condition of planning permission, unless otherwise agreed with the Planning Authority in regard to securing the provision of such open space(s).
- Second Pocket Park Minimum Area 3,000sqm located to the west of CTF1 and east of CT-C. To be delivered as part of proposals for residential development in CT-F1 and CT-C and to be a condition of planning

permission, unless otherwise agreed with the Planning Authority in regard to securing the provision of such open space(s).

- Proposals for residential development in this area 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 in regard to securing the provision of this open space.

## 5.2 Residential Development

- It is an objective of the Council to ensure that all new residential development in Tallaght enables the delivery of a mixed and balanced community that is of a high-quality design and complies with Government guidance on the design of sustainable residential development and residential streets including those prepared by the Minister under Section 28 of the Planning & Development Act 2000 (Objective RE 1).
- It is policy of the Council to ensure an appropriate housing mix is provided within the LAP lands, therefore a minimum of 30% of units within any new residential development (in the form of either apartments or houses, but excluding student accommodation schemes) shall have a minimum of 3 bedrooms (Objective RE 2).

## Chapter 8 Implementation & Sequencing

'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).'

### 5.3. Regional Planning Policy

#### Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031, (RSES)

- Regional Strategic Outcome 2 – relates to Compact Growth and Urban Regeneration and promotes the regeneration of cities and towns by making better use of under-utilised land and buildings within the existing built-up urban footprint.
- Regional Policy Objective – RPO 4.3 - 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 RSES recognises the potential for a new district at Tallaght Town Centre/Cookstown

### 5.4. National Planning Policy

5.5. The following policy and guidance documents have particular relevance to the subject proposal:

#### 5.5.1. Project Ireland 2040 – National Planning Framework (2018).

The NPF 2040 was adopted on the 29th May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside.

The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

The following National Planning Objectives, (NPO), are of relevance to the proposal;

- **NPO 13** - 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 in order to

achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- **NPO 35** - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### 5.5.2. Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009.

The Guidelines set out the key planning issues to be considered in the provision of new housing development in terms of sustainable development.

It is recommended that, in general, increased densities should be encouraged on residentially zoned lands in city and town centres, on 'Brownfield' sites (within city or town centres), and on public transport corridors.

Increased densities should be promoted within 500m walking distance of a bus stop or within 1km of a light rail stop or train station. Minimum net densities of 50 dwellings per hectare should be applied within public transport corridors.

#### 5.5.3. Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities 2020.

The guidelines support the use of infill sites in urban locations to provide higher density apartment developments.

Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), to/from high capacity urban transport stops (such as DART or Luas), can be considered suitable for higher density apartment developments.

General blanket restrictions on building height or separation distance that may be specified in Development Plans should be replaced by performance criteria, appropriate to location.

- SPPR3 – Sets out the standards for minimum apartment floor areas.
- SPPR4 – Sets out the minimum number of dual aspect apartments to be provided in any scheme.
- SPPR5 – Specifies floor to ceiling heights.
- SPPR6 – Specified maximum number of apartments per floor core.
- Appendix 1 – sets out the minimum requirements for aggregate floor areas, room areas and widths, storage space, private and communal amenity space.
- Car Parking – In areas that are well served by public transport, the default position is for car parking provision to be minimised, substantially reduced or wholly eliminated. This is particularly applicable where a confluence of public transport options are located in close proximity.

#### 5.5.4. Urban Development and Building Height Guidelines 2018.

The following sections of the Guidelines are relevant to the appeal:

Section 3.0 – Building Height and the Development Management Process

Development Management Principles:

3.1 – It is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.

3.2 - In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies a set of criteria. The criteria relate to the development's impact at the scale of the city/town, the district neighbourhood / street and the site / building.

**SPPR 3** - It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above, (Section 3.2); and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework

and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

5.5.5. The Additional Policy Documents also informed the assessment:

- Guidelines for Planning Authorities on Childcare Facilities (2001)
- Design Manual for Urban Roads and Streets (2019).
- Smarter Travel – A New Transport Policy for Ireland (2009-2020).
- Guidelines for Planning Authorities on Childcare Facilities 2001.
- The Planning System and Flood Risk Management (2009).

## 5.6. Natural Heritage Designations

No designations apply to the subject site.

## 5.7. EIA Screening

5.7.1. The application site has an overall stated area of 1.077ha and is located within the Cookstown Industrial Estate which comprises a number of industrial/warehouse type units. The subject site is a brownfield site and currently has two larger warehouse/industrial type units and a number of smaller type structures/units along the western boundary. The proposed development involves the demolition of all existing structures on the site and the construction of a 1-5 storey nursing home/step down facility with 131 bedspaces and all ancillary services, and 139 apartments arranged in two blocks with a maximum height of 8 storeys. Associated works include a new vehicular access and egress with a one-way internal access road, surface car parking for 26 cars, bicycle parking and public and communal open space.

5.7.2. 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.*

- 5.7.3. An Environmental Impact Assessment Screening report was submitted with the application, and I have had regard to same.
- 5.7.4. 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.
- 5.7.5. A Statement in accordance with Section 299B (1)(b)(ii)(II)(C) was submitted with the application. This statement outlines how the results of other relevant assessments of the effects on the environment pursuant to European Union legislation, other than the Environmental Impact Assessment Directive, have been taken into account.
- 5.7.6. 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.

5.7.7. I am satisfied that all relevant assessments have been identified for the purposes of screening out EIAR. I have reviewed the documentation on the file, including the applicant's Screening Statement and I conclude 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 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 brownfield 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 2020-2026, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal address the reasons for refusal and include the following:

- Sequencing and Phasing –
  - The principle of mixed-use development at an accessible location near a high frequency Luas line is acceptable under the sites Regeneration zoning.
  - The purpose of the LAP sequencing is to ensure that physical and social infrastructure is delivered in tandem with development. The applicant is fully funded and site ready and is committed to delivering on its infrastructural requirements in contribution to the LAP.
  - It is only through the delivery of sites like the subject site that the objectives of the LAP can be delivered. Despite the number of extant permissions for development within the LAP lands, to date, none have commenced.
  - This signifies issues with viability or possibly land hoarding. It is unfair to expect the applicant, who is site ready, to wait on the development of other sites which may or may not go ahead. The Council has exhibited a lack of foresight into the challenges that some sites that are ‘sequentially favourable’ may have such as restricted covenants, title issues or negative debt issues.
  - The applicant, Bartra, are one of the largest developers of social housing in Ireland. They intend to enter into discussions with SDCC and approved Housing Bodies for use of a significant portion of the units for use as housing for the elderly in line with SDCC’s Age Friendly Strategy with a view to developing relationships with the nursing home.
  - Sites within the LAP can be developed in accordance with the LAP and in a different sequence. The connected neighbourhoods will not exist if the neighbourhoods are not built.

- The PA claims that the low car parking can only be accommodated on either a larger site or in tandem with enhanced connectivity and permeability. The site is not isolated but highly accessible to the Belgard Luas and the high frequency bus services operating at Belgard Road. Connections to the town centre are also improving with the recently completed link road from Belgard Square North and Cookstown Estate Road, (Ref. SD208/0012 refers).
- Nursing home residents can be transported to services outside the home by a minivan or third-party provider, which is common practice in the applicants other facilities of this type.
- In granting permission for the development, the proposal would help to alleviate some of the pressures on social housing supply and assist in delivering one of the key pathways of the Housing for All Strategy.
- In the absence of a permitted development on the site, the applicant is liable for a Vacant Site Levy, which is unfair given there has been two planning applications lodged to date in an effort to develop it.
- Intensity of Development –
  - The development is fully compliant with the Development Plan. Where the scheme may be in breach of the LAP standards, they are specifically provided for within the LAP context.
  - The height and plot ratio proposed are acceptable within the context of the Building Height Guidelines, 2018.
  - The density and plot ratio are calculated on the basis that the pocket park is included in the site with the reasoning that the space is a partial pocket park that will serve the proposed development until such a time as the other sites are developed. Excluding this area would provide a plot ratio of 1.68.
- Infrastructure –
  - In response to the PA's reason for refusal relating to the lack of provision for cyclists, the consulting engineers of the design team contacted the PA's Roads Department prior to lodging the application. The PA's response noted that there was no design criteria available and that the cycle lanes would be installed by the PA at some point in the future.

- Notwithstanding this response, the proposed footpath/set-back along Cookstown Estate Road has been provided at a width of 4.1m, which is sufficient to allow for a 1.8m footpath, 1.5m cycle lane and a 0.8m wide buffer to parked cars/loading bays.
- The nature of the development, the central and accessible location and the low level of parking proposed are all in accordance with the Sustainable Urban Housing: Design Standards for New Apartments (2020).
- Childcare - A comprehensive childcare assessment was prepared for the development and concluded that the proposed use, including nursing home and 139 unit development comprising 1 and 2 bedroom units, does not lend itself to requiring an on-site childcare facility.
- A response has been prepared by O'Connor Sutton Cronin regarding the concerns raised by the PA regarding water supply and the capacity of the wastewater drainage system. The response notes that Irish Water did not specifically note an issue with the proposed development and requested further engagement to obtain a Confirmation of Feasibility in response to a Pre-Connection Enquiry, which is standard procedure.
- A Confirmation of Feasibility is not a requirement for a planning application of this nature and a typical approach would be to allow for an appropriately worded condition which requires the necessary agreements with Irish Water to allow the development to proceed.
- A pre-connection enquiry was submitted with Irish Water prior to lodging the application but a response was not received. At the Glen Abbey Oral Hearing, (Ref. ABP 309916-21), Irish Water confirmed that there is adequate supply in the water network to support the permitted development and for new applications in the wider area.
- The additional items raised by Irish Water in their submission are considered minor in nature and could be addressed through compliance with planning conditions.
- Residential Layout and Amenities –

- Communal open space serving Blocks A and B is provided in a central courtyard of 1,272sqm, which is above the 831sqm required by the Apartment Guidelines. An area of 831sqm was assessed for compliance with daylight/sunlight standards and the results show that 57.6% of the space assessed would receive than 2 hours sunlight on the 21<sup>st</sup> March. If this area was expanded to 956sqm then 50% of the area would receive 2 hours of daylight.
- Furthermore, 82.1% of the entire courtyard would receive more than 2 hours of sunlight on the 21<sup>st</sup> June, which is when the courtyard is most likely to be used.
- Block Layout - The 11m separation distance cited by SDCC relates to the distance between the private balcony and the access deck opposite rather than between living/bedroom spaces. Furthermore, the windows that open directly onto the deck are bathroom windows and over-counter kitchen windows.
- Block Layout – The variation in building heights is a direct response to the hierarchy of existing and proposed street network. The 8 storey Block A overlooks the public facing site boundaries of Cookstown and First Avenue. The internal access road is addressed by the 5 storey blocks and the pocket park, with only a portion of the 8 storey building to the north.
- Car parking - No car parking bays are provided along the primary street frontages. The internal road provides parking proximate to key entrances which is particularly relevant to the nursing home element of the development.
- The proposed design and block form was guided by the policies and objectives of the Tallaght LAP. The site presented an opportunity to create a strong urban frontage. The glazed, curtain-wall feature will act as a visual marker when viewed from the Old Belgard Road.
- Apartment Layout - With regard to the apartments and the comments of the PA, it is unclear where the doubling of storage and room space occurs. All apartments comply with the Apartment Guidelines, which as Section 28, Ministerial Guidelines, take precedence over local planning policy. These

standards do not preclude the use 2-bed, three-person units or to including them in the counting for them in the +10% totals.

- Public Realm and Water -
  - It is of note that neither the SDCC Water Services Department, nor Irish Water recommended a refusal on issues pertaining to surface water disposal or SuDS features.
  - Several SuDS features were included in the design and a response to SDCC's request for further information has been prepared by OCSC and is submitted with the grounds of appeal.
  - The nature of the existing vacant site which is extensively covered with impervious hard standing would be greatly improved by the development which would provide landscaping and a public pocket park.

## 6.2. Planning Authority Response

- A response dated the 2<sup>nd</sup> November 2021 was prepared by the Planning Authority and stated that the issues raised in the appeal have been covered in the planners report.

## 6.3. Observations

One observation was received from the owners of Units 79 & 80 Cookstown Industrial Estate. The observation included the following:

- Landowners of nearby lands are not opposed to the principle of development on the site but are disappointed with the lack of engagement of the applicant with a view to pursuing a collaborative approach to the development of the area.
- The lack of detail in the application regarding the delivery of the 'Cookstown Urban Square' LAP objective is noted. It is a requirement of the LAP that the proposed square is to be delivered 'in tandem with development' with specific reference to Parcel CT-C.

- The subject site is located within land parcel CT-C and the site containing Units 79 & 80 is located within land parcel CT-G. The owners of Units 79 & 80 have not been consulted by the applicant or the PA at any stage about the delivery of the Cookstown Urban Square and are not aware of, or party to, any agreement with the PA regarding its delivery.
- In the absence of such an agreement with the PA, it is a requirement of the LAP that the proposed development, along with others in the CT-C, CT-D and CT-G parcels, provides for the delivery of Cookstown Urban Square.
- The application makes no reference as to how the development will contribute in this regard.
- Cookstown Urban Square is not listed under the current Section 48 Development Contribution Scheme. The PA has, in this context, sought to apply Special Development Contributions to development proposals in the area in order to establish a fund for its delivery.
- In the assessment of ABP-309916-21, an Bord Pleanála concluded that a 'Special Contribution' mechanism is not appropriate in these circumstances.
- As such, at this point in time there is no clear funding mechanism in place for the delivery of the Cookstown Urban Square.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Intensity of Development
- Layout & Design
- Residential Amenity
- Connectivity & Transportation

- Sequencing & Delivery
- Infrastructure – Drainage
- Appropriate Assessment

## 7.2. Principle of Development

- 7.2.1. Planning permission is sought for the development of a mixed-use development of 139 apartments and a 131-bed nursing home with associated facilities, café and pharmacy on a site zoned 'Regen' within the South Dublin County Council Development Plan 2016-2022 and located within the Cookstown Industrial Estate. The zoning objective seeks to support and facilitate the regeneration of underutilised industrial lands within close proximity to town centres. Residential, café and shop-local uses are listed as 'Permitted in Principle' within the Regen zoning and a nursing home is listed as 'Open for Consideration'. Housing Policy 3 in the South Dublin Development Plan also supports the provision of accommodation for older people in established residential and mixed-use neighbourhoods at locations that are proximate to services and amenities. Objective H3 1 underpins this policy.
- 7.2.2. The site is also located within the Tallaght Town Centre Local Area Plan, (LAP) 2020-2026, which was adopted in July 2020. Within the LAP, the site is located in the 'Cookstown' neighbourhood and forms part of land parcel CT-C. The LAP vision for the development of the Cookstown neighbourhood is to provide '*a residential-led area, with a greater mix of use around the Luas stops*'. Section 3.3 of the LAP sets out the development parameters for the site and allows for a plot ratio range from 0.75-1.0, with building heights of 4-6 storeys residential on secondary frontages such as Cookstown Estate Road and 3-4 storeys on 'other frontages', which includes First Avenue.
- 7.2.3. The subject proposal would have a plot ratio of 1.49 including the public open space, and 1.68 without, and would range in height from 5-8 storeys. Although the proposal is in excess of the height and plot ratio parameters for the site, an allowance can be made for an increase in these guidelines subject to specific criteria set out in Section 2 of the LAP.

- 7.2.4. National planning policy, as set out in the National Planning Framework, (NPF), the Urban Development and Building Heights Guidelines, (2018) and the Design Standards for New Apartments, (2020), promotes the consolidation of urban centres, the regeneration of brownfield sites and the intensification of development at locations in close proximity to public transport.
- 7.2.5. I am satisfied that the proposal is in accordance with national and local planning policy for the consolidation of urban settlements and the development of underutilised brownfield land in close proximity to urban centres and public transport. I note that the scale of the development proposed is in excess of the development parameters as set out in the LAP. However, I am satisfied that the proposal can be assessed on its merits and against the LAP criteria which allows for some divergence in height and plot ratio. The proposal will also be considered within the wider context of national guidance which promotes increased residential densities and building height in urban locations.

### **7.3. Intensity of Development**

- 7.3.1. Development parameters for the site are set out in Section 3.3 of the LAP, which allows for a plot ratio in the range of 0.75-1.0 and building heights of 4-6 storeys residential on Cookstown Estate Road and 3-4 storeys on First Avenue and along the internal streets. As noted above the quantum of development proposed for the site exceeds these parameters and would yield a plot ratio of 1.49 with building heights of 6-8 storeys on Cookstown Estate Road, 5 storeys on First Avenue. To the north of the site, the internal street would be framed with the 8-storey building of Block A to the east and the 5-storey nursing home to the west. At the southern section of the site, the streetscape would be formed by the 5-storey nursing home to the west, and by the 5-6 storey Block B to the east of the internal road.
- 7.3.2. The second reason for refusal relates to the intensity of development proposed for the site. The PA considered that the plot ratio of 1.49 represents overdevelopment of the site and is not justified under Section 2.6 of the LAP with reference to public realm improvements. It was also considered that the provision of an 8-storey building fronting onto an internal street is an inappropriate design response and would not comply with the Building Height Strategy as set out in Chapter 2 of the LAP.



7.3.3. Section 2.6 of the LAP allows for some flexibility in plot ratio building height subject to specific criteria. An increase of up to 20% in plot ratio and an additional 2-4 storeys can be considered at certain locations which are considered to be key sites, subject to exceptional design and contribution to the public realm. Within the context of the subject site, this provision may apply where the site is directly adjacent to and within 100m of:

- High-capacity public transport, and
- The proposed 'New Urban Square' within the Cookstown neighbourhood.

7.3.4. Additionally, where proposals go beyond the plot ratio range identified the proposal would need to deliver significant public gain, which would be considered on a case-by-case basis. An increase of up to 20% on the plot ratio ranges can be considered where there is a strong design rationale for an increase in density/height and the development will result in significant public gain, which is categorised as:

- The dedication of part of the site for public open space including parks and plazas, above the standard 10% requirement for public open space on site.
- The creation of streets and links that provide access through and access to a site.
- Major upgrades to streets surrounding the site including works such as street widening, new enhanced junctions and crossing points and realignments.
- Provision of community and/or cultural amenities that will significantly contribute to the social infrastructure in the area; and/or
- Other public domain works or improvements to be agreed with the Council.

7.3.5. The site is c. 450m from the Belgard Luas stop and c. 500m from the closest bus stop on Belgard Road. Whilst the site may not be 'directly adjacent' to high-capacity public transport as defined in the LAP, it is in close proximity and the southern section of the site would be within 100m of the proposed new urban square for Cookstown, (Figure 2.10 – Pubic Realm). In terms of significant public gain, the development would provide part of the new public pocket park for the area, which would allow for connections to adjoining sites. Until such time as the adjoining sites are developed, this section of the pocket park would provide the 10% requirement for public open space within the development. Apart from the provision of some public

open space, the development would not contribute to the significantly to the social or cultural infrastructure of the area.

- 7.3.6. Improvements to the public realm immediately adjoining the site would be made by providing a 4m footpath which could accommodate a cycle lane. However, even though large sections of the public road are included in the red line for the development, the proposal does not provide major upgrades to the existing streets or allow for enhanced junctions or crossing points which are lacking in the existing public realm. Therefore, I would agree with the PA that the proposal does not make a significant contribution to improving the public realm around the site.
- 7.3.7. As stated in the application, the proposed development would have a plot ratio of 1.49 and a residential density of 166 units per hectare. The residential density was based on a site area of 0.837ha which excludes the area of the public roads and the nursing home. In the report of the Planning Officer, it was noted that the plot ratio was not calculated in accordance with guidance contained in the Sustainable Residential Development in Urban Areas, (Guidelines for Planning Authorities, 2009, Appendix A), whereby it is recommended that density calculations for individual sites should exclude public open spaces which will serve more than the subject site. The grounds of appeal clarify that the plot ratio of 1.49 was calculated by including the quantum of public open space to be provided in the pocket park. When this area is excluded from the calculation, the proposed plot ratio for the site increases to 1.68. I would agree with the PA that the public open space should be excluded from the calculations as per the Sustainable Residential Development in Urban Areas Guidelines and that the proposed development would have a plot ratio of 1.68. The LAP allows for an increase of 20% on the recommended plot ratio range which would provide a plot ratio of 1.2 on the site. The proposal of 1.68 is considerably above this allowance. However, as plot ratio is only one tool to be used in the overall assessment of the intensity of development, it is my view the increase in plot ratio can be considered in this instance and that the scheme can be assessed on its merits.
- 7.3.8. I am satisfied that the development proposal can be considered for additional height and plot ratio based on the criteria set out in Section 2.6 of the LAP. The site is in within 500m of existing high-capacity public transport and within 100m of the proposed new urban square. It is also located on the corner of First Avenue and

Cookstown Estate Road which would become a four-way intersection in the new road network for the area. In addition, the development would help to achieve the LAP objective to provide a new pocket park by providing a portion of this park within their site with a view towards integrating with the adjoining sites when they become available for development.

- 7.3.9. In terms of the criteria set out in Section 3 of the Building Height Guidelines, I consider the location of the site to be capable of accommodating increased density and height as per the Building Height Guidelines given the location of the site within an urban area in close proximity to high quality public transport,. SPPR 3 of the Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. The criteria listed under section 3.2 relate to the city/town, the district/neighbourhood and the site/building.
- 7.3.10. At the scale of the city, the site is in proximity to high-capacity public transport with city-wide connections. The development would make a positive contribution to place making in the city by facilitating the regeneration of an under-utilised brownfield site which would also provide connections to adjoining sites to help improve permeability in the area and to promote development.
- 7.3.11. At the scale of the Neighbourhood/Street, the proposal would make a positive contribution to the neighbourhood by providing a new defined streetscape with a mixed-use development with ground floor uses that would animate the street. Improvements to the permeability of the neighbourhood would also be provided through and by the provision of access to the proposed pocket park.
- 7.3.12. In terms of the site itself, I would have some concern regarding the detailed design of the proposal in terms of its scale, mass, architectural details and overall layout. The detailed design will be assessed in the Section 7.4 below.
- 7.3.13. I would also have a concern regarding the extent of the additional height proposed within the site and along First Avenue. The overall urban structure for the Cookstown neighbourhood shows additional height around the perimeter of land parcel CT-C with the cross-streets and internal spaces at a lower scale with a more 'local' function. Within this context, and in order to retain a coherent urban form at a

human scale, I would recommend that any additional height be restricted to the Cookstown Estate Road frontage and is not accommodated on First Avenue and within the site itself.

#### **7.4. Layout & Design**

- 7.4.1. The layout of the development generally follows the urban block layout shown in the LAP. It would comprise a perimeter block plan comprising two distinct areas which are bisected by a one-way internal access road. On the western side of the site, the nursing home would be laid out in a 5-storey, 'T' shaped block with the longer section facing onto First Avenue. The remainder of the block would be laid out on a north-south axis within the site. It would form the western edge of the new internal street and would enclose an external courtyard for the nursing home along the western perimeter of the site.
- 7.4.2. To the east of the site, the apartments would be laid out in two perimeter blocks which frame a triangular internal courtyard of 1272m<sup>2</sup>. Block A would be 8-storeys in height and would form the new street frontage to First Avenue and Cookstown Estate Road. It would also wrap around the northern section of the internal access road. At the south-eastern corner of the site, Block A steps down to 6 storeys to meet Block B which wraps around the southern section of the site and around the internal access road. Block B ranges in height from 6 storeys facing onto Cookstown Estate Road to 5-6 storeys along the internal access road. The apartments are accessed from an open-deck which faces onto Cookstown Estate Road on the eastern elevation of Block A and onto the internal communal courtyard on the other elevations.
- 7.4.3. In terms of visual impact, the proposal would not result in a negative impact on the existing environment, which has a low-rise industrial nature. A full landscaping plan has been prepared for the site and the public realm and the provision of new street frontage and a comprehensive landscaping plan would serve to visually improve the area. The contemporary design, which comprises large elements of glazing and external finishes of brick, render and powder-coated steel, is acceptable within the emerging neighbourhood. However, I would have some concern regarding the

quality of the design facing onto Cookstown Estate Road and forming the new streetscape. I would agree with the PA that the open deck arrangement does not present a strong architectural response to Cookstown Estate Road which would help to contribute to a defined streetscape. I acknowledge that the open-deck access arrangement allows for the maximisation of dual-aspect apartments within the development and, whilst it is not an ideal design response, it does not result in a reason for refusal when considered in isolation.

- 7.4.4. Similarly, the fully glazed corner enclosing a circulation staircase at First Avenue and Cookstown Estate Road does not present a strong design response to define the corner and overlook the junction. It would not allow for sufficient surveillance of the streets below and would not contribute to a strong sense of place. Should planning permission be granted for the proposal, I recommend that a condition be attached to review the architectural detail of the corner facing onto First Avenue and Cookstown Estate Road with a view to presenting a high-quality visual punctuation at this corner that would provide a positive contribution to the emerging neighbourhood.
- 7.4.5. As outlined in Section 7.3 above, I am satisfied that the additional height can be accommodated on Cookstown Estate Road. This section of the site is in close proximity to the new urban square which would provide some relief in terms of open space which could allow for higher buildings in proximity to and/or framing the square. The corner of the site at Cookstown Estate Road and First Avenue is at an important junction within the urban form and block layout for the new neighbourhood and could also accommodate a building of 8 storeys.
- 7.4.6. In terms of the overall urban structure for the Cookstown area, I do not agree that the 8 storey height is an appropriate response to First Avenue or within the site. First Avenue is categorised as Existing/Improved Tertiary Route/Local Route/Homezone within the urban form strategy for the LAP. This would indicate a lower-order street where a lower level of design is appropriate. Although Cookstown Estate Road has a similar categorisation, the geographical context is different as outlined above. In my opinion the provision of an 8-storey building onto the lower order frontage is excessive in terms of scale within the context of the urban design framework of the LAP. Furthermore, the taller building onto First Avenue would prompt a similar design response for future sites on First Avenue. This could serve to disrupt the

urban design layout for the Cookstown area by distorting the definition of spaces and areas within the emerging neighbourhood.

- 7.4.7. I would also have a concern regarding the provision of the 8-storey section of the building onto the internal street in terms of the impact it would have on the sense of enclosure and urban design within the site. Including footpaths, the internal road is 11m in width at the narrowest point onto First Avenue. The scale and height proposed for this corner is excessive for the width of the proposed street. It is also not in accordance with the height strategy for the internal roads within the site. A more appropriate design response would be to reduce the height of the buildings on to First Avenue by stepping down in height from the First Avenue/Cookstown Estate Road corner.
- 7.4.8. The provision of a 5-storey building onto First Avenue and along the internal streets is also in excess of the height strategy for the site. However, I am satisfied that the 5 storey buildings framing the internal access road and First Avenue are acceptable within the context of the transitional area and would not be an excessive divergence from the overall urban form plan for the area. It is also noted that towards the southern end of the site, there are greater separation distances between buildings. There is also a c. 19m separation distance between the southern elevation of Block B and the site boundary.
- 7.4.9. In response to the urban form layout as set out in Section 2.4 of the LAP, I recommend that, should planning permission be granted for the proposed development, that the section of Block A facing onto First Avenue and onto the internal street, should step down to 5 storeys from its junction with Cookstown Estate Road, at the north-eastern corner of the site, to match the nursing home and to provide a more appropriate design response to the lower-order streets.
- 7.4.10. Surface car parking for 42 cars would be provided along the southern edge of the site and along the internal access road. The quantum and allocation of car parking for the proposed uses is assessed in Section 7.7 below. In terms of the overall design and layout of the proposed development I would share the concerns of the PA with regard to the parking layout on the southern section of the site. The car parking spaces dominate the streetscape along the southern section of the site and does not provide an attractive and coherent route to the pocket park in the south-

western corner. The parking layout also extends along the eastern border of the pocket park which provides a visual barrier to the park on the approach from the east. This arrangement does not provide an attractive access point to the park nor does it adequately frame the public open space which forms part of the overall open space strategy for the Cookstown neighbourhood. Should the Board be minded to grant permission for the development, I recommend that a condition be attached to review the parking layout with a view to enhancing the landscaping to prevent a vast expanse of parking along the internal street and to provide a more attractive and legible access to the pocket park.

## 7.5. Residential Amenity

- 7.5.1. A Housing Quality Assessment was submitted with the application and demonstrates that the units comply with the key components of the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*, in terms of the mix of units, unit size and internal layout, private open space, storage and dual aspect. The relevant elements that contribute to residential amenity are assessed under the headings below.

### Unit Size & Layout

- 7.5.2. The proposed development comprises 9 apartment typologies. All of the apartments meet the minimum floor areas required under SPPR 1 of the Apartment Guidelines. A total of 79, (57%), of the apartments have floor areas that are 10% more than the minimum floor areas. However, these units are the smaller typology and relate to the 1-bedroom apartments and the 2 bed-3 person units. None of the 2 bed-4 person units have floor areas that are 10% over and above the minimum requirements. Internal floor areas and aggregate living areas are all in accordance with the minimum standards in the Guidelines.
- 7.5.3. Dedicated storage areas are provided in each apartment. However, the quantum of storage to each unit does not meet the minimum requirements in all but the 1 bedroom, 2 person apartments, (Type A & Type F). The Guidelines state that storage may be partly provided in bedrooms and kitchens, but it should be additional to kitchen presses and bedroom furniture. All of the 2 bed units show storage within

the bedrooms and do not indicate if or where bedroom furniture can be accommodated as well. In many cases, it does not appear that there would be enough room to accommodate the storage area as well as a basic wardrobe. For this reason, I do not accept that the storage provision as shown is adequate to comply with the minimum standards for 2-bedroom units as set out in Appendix 1 of the Guidelines.

- 7.5.4. The majority of the apartments proposed are dual aspect with the exception of Unit Type F, which is a 1 bedroom, two-person unit. There are six of these units, all of which are located within the south-eastern corner of Block B. They have an easterly aspect and face onto Cookstown Estate Road. The quantum of single aspect units is in accordance with the Apartment Guidelines. Floor to ceiling heights are also in accordance with the minimum requirements as set out in the Guidelines.
- 7.5.5. Private open space is provided in balconies which are accessed directly from the main living/dining areas and are all in excess of the minimum requirements for each unit as set out in the Guidelines. None of the balconies are north-facing and most have a westerly orientation. A 'residents amenity' space of 102.8m<sup>2</sup> is provided at ground floor level facing onto First Avenue.
- 7.5.6. The overall design of the internal spaces within the nursing home would be guided by the requirements of the Health Information and Equality Authority, (HIQA) and does not form part of this assessment. However, the floor to ceiling heights would be generous at 3.6m at ground floor level and 3.2m on the floors above. All of the bedrooms are oriented to overlook either the central courtyard or the internal street and each floor would have a dining area and a sitting room/family room, which would indicate a good level of amenity for residents.

#### Daylight & Sunlight

- 7.5.7. A Daylight Sunlight Report was prepared by J.V. Tierney & Co. The report was prepared using the guidance contained in the BRE 209, 'Site Layout Planning for Daylight and Sunlight', 2011 guidance document, (BRE Guidelines). The apartments and nursing home rooms were assessed using the 'Average Daylight Factor', (ADF) methodology as set out in the BRE Guidelines, using a 1% ADF target for bedrooms and a 2% ADF target for kitchen/living/dining areas. Using these targets, the



report/assessment found that the 91.5% of all occupiable rooms would have adequate access to daylight. The design target of 2% for a combined kitchen/living/dining areas was achieved for 81% of the apartments. When the target of 1.5% was used the spaces met the target in over 91% of the apartments.

- 7.5.8. The majority of bedrooms meet the BRE standard of 1% ADF. However, achieving the 2% ADF target for combined kitchen/living/dining areas is more difficult given the location of the kitchen to the rear of the space and the provision of external balconies. The majority of the combined kitchen/living/dining spaces will achieve an ADF of 2%. Those that cannot achieve it are all in excess of the 1.5% target result. Small internal galley-type kitchen design is inevitable in apartment schemes of this nature. However, I note that the design and layout of the combined space follows the principles of the BRE guidelines for this instance, and all kitchens are directly linked to a well daylight living room. The report also states that the design team sought to maximise the level of lighting to the apartments by raising the head height of the external balconies on the lower levels of the building and by altering the position of the glazing.
- 7.5.9. I note para 2.1.14 of the BRE Guidance document in this regard and am satisfied that an ADF of 1.5%, being the value applicable to a living space, would generally be acceptable for combined kitchen/living/dining spaces which fall short of the 2% target. The desire to strike a balance against the achievement of appropriate levels of development and wider planning objectives such as the regeneration of urban areas is noted. Furthermore, and as per Section 3.2 of the Building Height Guidelines, discretion can be applied subject to the development contributing to the achievement of wider planning objectives such as securing comprehensive urban regeneration. Within the nursing home, the report found that 133 out of the 135 bedrooms and 15 out of 16 living rooms would meet the BRE targets. This would result in 96.6% of the occupiable rooms within the nursing home meeting the BRE targets.
- 7.5.10. I am satisfied that, overall, both the apartments and nursing home would achieve sufficient levels of daylight to provide an adequate level of amenity for future residents. I am also satisfied that the apartments would generally be in accordance with the standards as set out in the Apartment Guidelines and would provide a sufficient level of amenity for future residents in terms of general size and layout and

private open space. The constrained level of storage to individual units is noted and is regrettable. However, when viewed in the overall context of the apartment standards, it is not a reason for refusal. Given the location of the site, within an industrial estate and surrounded by low-rise, industrial units I am satisfied that the proposed development will not impact on the amenity of adjoining development in terms of overshadowing and loss of light.

#### Communal Open Space

- 7.5.11. Blocks A and B would be positioned around a central courtyard of 1,272m<sup>2</sup> which would be provided as communal open space for residents. The quantum of open space is in excess of the minimum requirement of 827m<sup>2</sup> as set out in the Apartment Guidelines. Within the Daylight Sunlight Report prepared by J.V. Tierney & Co., this area was assessed to determine if it would receive adequate levels of sunlight. The BRE Guidelines recommend that 50% of any qualifying amenity area should be able to receive at least 2 hours of direct sunlight on the 21<sup>st</sup> March and the open space was assessed against this guidance.
- 7.5.12. In the original assessment, the area of communal space selected for assessment was based on the minimum area of communal space required under the Apartment Guidelines, which was determined to be 827m<sup>2</sup>. The entire courtyard has an area of 1,272m<sup>2</sup>. The area assessed was in the northern section of the courtyard and the results showed that 50% of this area would achieve a minimum of 2 hours daylight on the 21<sup>st</sup> March. The PA disagreed with this methodology and the inadequacy of the communal open space was included in the reasons for refusal.
- 7.5.13. The assessment was reviewed in the grounds of appeal and the applicant noted that 956m<sup>2</sup> of the courtyard would achieve the BRE target. This would be 316m<sup>2</sup> less than the 1,270m<sup>2</sup> provided and 129m<sup>2</sup> above the minimum requirement. If the entire courtyard was to be assessed, then only 37.6% of the space would receive a minimum of 2 hours sunlight on the 21<sup>st</sup> March. The applicant notes that 82.1% of the entire courtyard would receive 2 or more hours of sunlight on the 21<sup>st</sup> June when it is most likely to be in use. The most southerly section of the courtyard would be overshadowed by Block B during the winter months and when the sun is low in the sky. The applicant states that the height of Block B was reduced in order to

maximise the light to the communal space. It is noted that the height of this block is in excess of the LAP height strategy.

7.5.14. A flexible approach to the application of the BRE Guidelines is recommended in the Building Height Guidelines. All of the residential units would have sufficient levels of private amenity space which would be well lit. As well as the 1,270m<sup>2</sup> communal open space, the development would also yield 1,165m<sup>2</sup> of public open space in the south-west corner of the site, which would be available to residents as an additional amenity space. When the full courtyard is assessed, only 37.6% of it would meet the BRE Guidelines for sunlight. However, I note that the full extent of the courtyard is in excess of the minimum area required by the guidelines and, given the layout of the communal space, this additional area acts as a buffer to allow for some level of overshadowing of the courtyard. By virtue of the perimeter block layout, some overshadowing of the communal courtyard is unavoidable. However, I am satisfied that the quantum of open space, which is in excess of the minimum requirement, makes allowance for some overshadowing and that a large portion of the courtyard will comply with the BRE requirements. As noted above, the majority of the units meet the requirements for daylight/sunlight and an additional area of public open space would be available for residents in the form of the pocket park.

7.5.15. The courtyard to the nursing home was also assessed for access to sunlight and was found to adequately meet the BRE recommendations. The total area of the courtyard would be 519m<sup>2</sup> and the total area of the courtyard that would receive the more than 2 hours sunlight on the 21<sup>st</sup> March was found to be 501m<sup>2</sup>, which is 96.5% of the total area. I am satisfied that the courtyard would receive sufficient levels of sunlight to function as a usable amenity space for future residents.

#### Childcare

7.5.16. A childcare facility is not included in the development. The SDCC Development Plan states that Childcare facilities in the Tallaght area are to be distributed throughout the area in accordance with approved LAP's or Planning Schemes, (C8 Objective 2). Section 3.3 of the LAP states that the infrastructure requirements for the overall Cookstown area require that all new residential developments, and particularly those in excess of a 10 minute walk from existing childcare facilities, shall comply with the

minimum childcare standards and the provision of childcare facilities as part of specific developments.

- 7.5.17. The 'Childcare Facilities – Guidelines for Planning Authorities', June 2001 recommend that at least one childcare facility is provided per every 75 new dwellings. Section 4.7 of the Apartment Guidelines recommend that the threshold for the provision of such services in apartment schemes should be established having regard to the scale and unit mix of the development, the geographical distribution of childcare facilities and the emerging demographic profile of the area. When assessing the requirement for childcare, one-bedroom or studio-type units should not generally be included in the requirement and, subject to location, this may also apply to units with two or more bedrooms.
- 7.5.18. The proposed development would comprise 67 no. 1 bed apartments and 72 no. 2-bed units. In consideration of the Childcare Guidelines and the Apartment Guidelines, the applicable number of units to be considered within the capacity of childcare provision is 72, which does not reach the threshold of 75 as required by the Childcare Guidelines. The applicant has carried out a Childcare Needs Assessment for the proposal which takes account of all the existing facilities within a 1.5km radius of the development. The assessment states that there are currently 12 available spaces within these facilities and that developments permitted under ABP-309916-21 and ABP-308398-20 will also have childcare facilities. I am satisfied that based on the mix of units to be provided within the proposed development, that the development does not require a childcare facility when measured against the requirements of the Childcare Guidelines and the Apartment Guidelines.

#### Noise Assessment

- 7.5.19. The industrial nature of the receiving environment and its impact on the future residents of the development was considered in the application. In consideration of Section 11.2.4 of the South Dublin Development Plan, a Noise Impact Assessment was prepared by RSK Group Ltd. against the background of guidance contained within the Dublin Agglomeration Noise Action Plan, (2019-2023), Volume 4, South Dublin County Council. The assessment measured baseline noise at three locations on the site and concluded that the existing commercial noise was not dominant at any location across the site and that the dominant noise would be from road traffic.

Overall, the site was considered to be suitable for residential subject to the provision of noise control measures, such as appropriate glazing and façade insulation, outlined in the report. A number of planning conditions were also recommended in the report.

7.5.20. I have visited the site and in consideration of the existing land uses surrounding the site and the findings of the report, I am satisfied that noise within the receiving environment would not be detrimental to the residential amenity of future residents. Should planning permission be granted, I recommend that the planning conditions contained in the Noise Impact Assessment be attached to the planning permission.

## 7.6. Housing Mix

7.6.1. The PA had concerns regarding the proposed mix of apartments in the development, which would provide the following:

	Block A	Block B	Total	Percentage
1 bed apartments	51	16	67	48%
2 bed apartments	36	36	72	52%
(2 bed / 3 person)	(7)	(5)	(12)	9%*
(2 bed / 4 person)	(29)	(31)	(60)	43%*
	87	52	139	100%

\*Percentage of total units.

7.6.2. The PA noted that the development includes 12 no. 2 bed, 3 person apartments. These units are facilitated under the 'Quality Housing for Sustainable Communities – Best Practice Guidelines 2007, and also within the Apartment Guidelines 2020.

However, the PA states that it is left to local authorities to make provisions for such units and the SDCC Development Plan contains no provision for units of this type.

7.6.3. SPPR3 of the Apartment Guidelines does not include a minimum floor area for a 2-bedroom, 3-person unit. However, Section 3.5 the Guidelines state that *'In relation to social housing, or purpose-built housing for older people it is considered necessary that these guidelines would make a provision for a two-bedroom*

*apartment to accommodate 3 persons*'. The Guidelines also note that this unit typology can also be considered by planning authorities and may be particularly suited to certain social housing schemes such as sheltered housing. In order to ensure that this unit type would not displace the standard 2-bedroom, 4-person apartment, no more than 10% of the total number of units in any private residential development may comprise this unit type. The proposed development would yield 9% of the total number of units within the development, which is in accordance with the Guidelines and is acceptable in this instance. It is noted that the applicant has proposed that 11 of the 12, 2-bed, 3-person units shall be provided under Part V units, which is to be agreed with the PA.

7.6.4. In order to provide an appropriate housing mix within the LAP lands, it is the policy of the PA that a minimum of 30% of units within any new residential scheme shall have a minimum of 3 bedrooms, (Objective RE 2 – Tallaght LAP).

The lack of 3 bed units is justified by the applicant as:

- the 1 and 2-bedroom units will provide an opportunity for young professionals, small families and 'empty nesters' to move into the Cookstown area,
- the apartments will allow for generational changes over the lifetime of the development as owners of 1 bed units will be able to 'upsized' to 2 bed units and similarly allow for downsizing which would free up larger units in the vicinity and,
- the proposed mix is in accordance with recent permissions in the area, such as ABP-303803-19 and ABP-303398-20. (I note to the Board that both of these developments comprised 100% Build to Rent apartments, which under SPPR8 of the Apartment Guidelines, no restrictions on dwelling mix may apply).

7.6.5. The PA note that the under-provision of three-bedroom units in the development would undermine the formation of a sustainable residential community in the area and would fail to meet the demand as set out in the LAP.

7.6.6. SPPR1 of the Apartment Guidelines 2020 states that 'there shall be no minimum requirement for apartments with three or more bedrooms'. However, statutory development plans may specify a mix for apartment or housing developments based

on an evidence- based Housing Need and Demand Assessment, (HNDA) that has been agreed on an area basis and incorporated into the relevant development plan.

- 7.6.7. Section 5.2.1 of the LAP sets out the housing strategy for the LAP lands, including the housing tenure and housing mix requirements. The LAP requires a mix of 1, 2 and 3 bed units within residential developments and where a high proportion of 1-bedroom units are proposed in any one development, a justification must be provided to demonstrate demand based on local demand and the demographic profile of the area. The LAP states that *'the statistical research presented in this section has emerged as part of preliminary work on the Housing Need Demand Assessment (HNDA)'*. A HNDA was prepared for the Draft South Dublin Development Plan 2022-2028 which has not yet been adopted. Section 11.3.1 of the South Dublin Development Plan 2016-2022 does not contain any specific housing mix to be provided for in specific developments.
- 7.6.8. I accept that the requirements of the LAP are informed by the background work to the HNDA, which is yet to be adopted and I note the concerns of the PA that a large amount of 1 and 2 bed units have been permitted in recent years, which could lead to a shortage of family type accommodation in the developing area.
- 7.6.9. The provisions of SPPR1 of the Apartment Guidelines does not allow for minimum requirements of three-bedroom units within specific developments. However, given the nature of the development which comprises build to sell units, the development should have included some three bed units in order to contribute to the long-term sustainability of the new neighbourhood. It is of note that the most recently permitted developments within the LAP area, (ABP-308398-20 and ABP-309916-21), comprised BTR apartments and included a small number of 3 bed units within the mix. ABP-308389-20 comprises 252 BTR units with a mix of 50 x studios, 96 x 1 bed, 100 x 2 bed, 6 x 3 bed), and ABP-309916-21 comprises 170 BTR units, with a mix of 50 x studio, 94 x 1 bed, 60 x 2 bed, 7 x 3 bed.
- 7.6.10. In the interest of providing a sustainable development within the emerging new neighbourhood, I recommend that, should the Board be minded to grant permission for the development, a planning condition be attached to require the provision of 3 bed units within the development through the reconfiguring of the internal space.

## 7.7. Connectivity & Transport

### Connections.

- 7.7.1. Planning history for the Cookstown area indicates that the area is entering into a transitional phase. However, the majority of the Cookstown estate is still within industrial use. Section 2.2 of the LAP sets out the access and movement strategy for the area and identifies new connections to be provided throughout the area.
- 7.7.2. Although the site is in close proximity to the Belgard Luas stop, and to the bus stops on Belgard Road, movement to and from the site is difficult. The existing road network around the site is heavily trafficked with heavy goods vehicles, and cars are parked along roadsides. There are footpaths in place throughout the industrial estate, but pedestrian crossing points are infrequent, and not clearly identified. The levels of traffic and presence of high roadside kerbs makes for an inhospitable environment for pedestrians and cyclists and does not allow for ease of movement throughout the area.
- 7.7.3. Figure 2.1 of the LAP identifies new connections to be provided on lands to the north of the site and on the northern side of First Avenue. These connections would provide a more direct pedestrian route to the Belgard Luas stop and would have less vehicular traffic. Proposed connections through the area to the east of the subject site would also allow for enhanced connectivity to Belgard Road. However, there is no time frame for the development of these lands or for the delivery of the enhanced permeability.
- 7.7.4. The existing road network around the site comprises a busy roundabout at the First Avenue – Cookstown Estate Road junction with roadside parking wherever space is available. There are no pedestrian crossing points in place in proximity to the site. Improvements to the public realm immediately adjoining the site would include the provision of some on-street parking spaces and a 4.1m wide footpath, which could accommodate a future cycle lane. However, no pedestrian crossing points have been included and, currently, there is no safe route for pedestrians to get to and from the proposed development.
- 7.7.5. Within the grounds of appeal, the applicant has suggested where connections may be improved by installing pedestrian crossing points. However, even though



sections of First Avenue and Cookstown Estate Road are included within the red line drawing for the site, no proposals for crossings are included in the development. I would agree with the PA that the development could make a better contribution to the public realm in terms of the addition of crossing points and, in the absence of these connections, I am not satisfied that future residents can move to and from the development in a safe manner. The applicant has not shown how this can be accommodated or indicated that where or how those connections can be made. In the absence of pedestrian crossings to the wider area the proposal does not provide a safe environment for future residents.

- 7.7.6. It is an objective of the LAP to provide a new cycle route along Cookstown Estate Road. The PA raised concerns regarding the future provision for cyclists along Cookstown Estate Road in the area adjacent to the development and this formed part of refusal reason No. 3. In the grounds of appeal the applicant has responded to these concerns and states that the LAP provides no detail on the type of cycle infrastructure to be provided along Cookstown Estate Road. In the absence of this detail the cycle provision was determined with reference to DMURS and the National Cycle Manual, (NCM), which indicates that a shared street solution would be acceptable based on the categorisation of Cookstown Estate Road as a 'tertiary/local route or home zone'. However, allowance was made for an off-road cycle facility to be provided via the 4.1m wide footpath, which could accommodate a footpath and a cycle lane.
- 7.7.7. Whilst the 4m wide footpath could accommodate an off-road cycle path, the interaction between the spaces within the public realm to the front of the development has not been fully considered. The landscaping plan shows indicative seating to the front of the café on Cookstown Estate Road, which would be a welcome addition to the public realm. However, this does not allow enough space for the footpath and cycle lane at this location and would lead to conflict between users.
- 7.7.8. The cycle lane shown in the LAP is indicative only and does not state which type of cycle provision would be appropriate for the road network directly outside the site. It is noted that the provision of a coherent and integrated cycle network will be delivered incrementally as sites become available for development and that detailed design has yet to be formulated. However, in the interim, I am not satisfied that the

applicant has fully considered how the public realm along Cookstown Estate Road will function effectively if the cycle facilities are delivered as shown. In order to future-proof the cycle network throughout the area I recommend that the public realm along Cookstown Estate Road be reconsidered to allow for ample space for the future delivery of a cycle facility to the front of the development and along Cookstown Estate Road. This can be conditioned should planning permission be granted with agreement required by the PA.

### Transportation

- 7.7.9. Surface car parking for 42 cars would be provided in the development. 16 spaces would be reserved for the nursing home, in accordance with the requirements of the SDCC Development Plan as set out in Table 11.23. The remaining 26 no. car parking spaces would be for the use of the residents in the apartment scheme.
- 7.7.10. Tables 11.23 and 11.24 of the SDCC Development Plan sets out the maximum parking standards for non-residential and residential development respectively. Based on the location of the site, within Zone 2 and the Development Plan standards the development would require 79 car spaces; 51 for the apartment development, 12 for the commercial space and 16 for the nursing home. It is also proposed to accommodate a Car Club base within the site which would reserve two car spaces for the use of the shared cars.
- 7.7.11. The Development Plan notes that a lower level of parking may be acceptable subject to the proximity to public transport, services, levels of car dependency generated, peak hours of demand and the ability of the surrounding network to cater for an increase in traffic. The development of car free housing can also be considered.
- 7.7.12. National guidance contained in the Apartment Guidelines 2020 states that the default policy is for car parking to be minimised in apartment developments of higher density in close proximity to public transport and encourages alternative options such as car sharing clubs. Within this context, I am satisfied that the level of car parking provided by the development is acceptable given the location of the subject site within an area which is earmarked for regeneration and in close proximity to the Belgard Luas stop and local bus stops. However, the success of higher density developments with low levels of parking hinge on access to public transport and the

availability of good pedestrian and cycle connections and facilities which are not in place around the site or included in the development proposals. At the very least the applicant should set out a strategy whereby these connections can be provided.

7.7.13. Development Plan standards for nursing homes are quantified as '1 per 8 residents'. It is not clear whether this figure makes provision for visitors to the nursing home and also for the people working there. Documentation submitted with the application makes no reference to the projected staffing levels required for a 131 bed facility and it is unclear if the Transport Assessment and Parking Strategy has considered the 24 hour requirement for staffing of the nursing home when public transport options are unavailable or restricted. Notwithstanding the lack of information provided, the quantum of parking spaces reserved for the nursing home is in accordance with the minimum requirements of the Development Plan. Should the Board be minded to grant permission for the development, I would recommend that a condition be attached which reserves 16 car parking spaces exclusively for the use of the nursing home.

7.7.14. A total of 307 bicycle parking spaces are proposed for the development; 281 spaces to serve the residents and visitors and 26 spaces for the nursing home staff and visitors. The provision of bicycle parking spaces is over and above the minimum requirements for residential apartments as set out in Table 11.22 of the Development Plan. It is also noted that safe and secure parking areas will be included at ground floor level within the residential blocks. It would be important to ensure that the nursing home staff would also have access to long-term, secure bicycle parking. Therefore, if planning permission is granted for the development, I recommend that the full details of the number and allocation of long term bicycle spaces to serve the nursing home and the apartments be agreed in full with the PA prior to the commencement of development.

## 7.8. Sequencing & Delivery

7.8.1. The first reason for refusal by the PA relates directly to Sequencing and Phasing of the LAP. It is the opinion of the PA that the proposed development would be physically isolated if delivered prior to adjoining developments and/or enhanced connections to the town centre or a Luas station. In the absence of such connections

the proposal would provide a poor standard of residential amenity and would materially contravene Section 8.0 and Objective IS1 of the Tallaght LAP and Policy H3 of the South Dublin Development Plan.

- 7.8.2. Section 8.1 of the LAP sets out the principles for the implementation of the LAP, which is based on the development occurring in line with the sequential approach. The overarching strategy for delivery of development as set out in Objective IS1 is that;
- Development should expand outwards from the town centre and from high-quality public transport. Leap-frogging to stand alone sites should be avoided.
  - Strong emphasis will be placed on encouraging infill opportunities adjacent to compatible uses and ensuring better use of under-utilised lands.
- 7.8.3. An allowance is made in the LAP for divergence from this strategy where proposals are brought forward for development on sites of 2ha or more, which are capable of establishing their own sense of identity and amenity during the transitional phase. The purpose of the sequencing is to ensure that a minimum level of infrastructure, facilities and amenities are provided in tandem with new residential development.
- 7.8.4. Within the Cookstown neighbourhood the physical infrastructure to be delivered by the developer or, with the developer as a lead agent include enhanced public realm including improved connections to public transport nodes, provision of water and wastewater infrastructure on a pro rata basis, provision of SUDS measures on a site by site basis and a new urban square. Additional infrastructure required includes childcare facilities as part of specific developments.
- 7.8.5. Specific infrastructure requirements that relate to the CT-C land parcel and in proximity to the subject site include, the upgrade of Cookstown Estate Road which would include the improvement of pedestrian, cyclist links and the potential alternative re-routing of HGV's, the delivery of a pocket park and the new urban square.
- 7.8.6. The overall strategy is considered reasonable and the complexities of delivering development within a regeneration area in transition is acknowledged. The subject site is currently surrounded by industrial uses but there is a large development site immediately to the east which had a recent refusal of planning permission under

ABP-309731-21 for a development of 1,104 no. apartments. Development within the LAP area needs to start somewhere. I don't consider it expedient to wait for sites in preferred locations to become available for development when fully serviced sites are available within 500m of a Luas stop and bus stops. There are also a number of extant permissions within the surrounding area, and it is reasonable to expect that these developments will be delivered imminently. However, as noted in Section 7.7 above, I am not satisfied that the proposal has fully considered the implications of the future integration of the site in terms of providing an enhanced public realm with improved connections to public transport nodes which would allow for safe connections for future residents while the area is in transition.

- 7.8.7. Within the grounds of appeal the applicant suggests that connections could be improved by providing pedestrian crossings at First Avenue and Cookstown Estate Road. I would agree that the provision of temporary crossings would enhance the pedestrian connectivity to and from the site whilst a wider movement strategy is developed and designed in detail. In the absence of these connections and without any clear strategy as to how these connections could be delivered in the wider area, the proposal development would not encourage the use of public transport and would not present a safe environment for future residents. For this reason, I recommend that planning permission be refused.
- 7.8.8. Should the Board be minded to grant permission for the development, I recommend that a planning condition be attached that requires the applicant to engage with the PA with a view to providing connections to and from the site on a short-term basis which would also integrate with the long-term strategy for the wider area.
- 7.8.9. If permission was granted for the development, I do not consider that Objective H3 of the SDCC Development Plan would be materially contravened. Objective H3 seeks to *'to support the provision of accommodation for older people in established residential and mixed use areas that offer a choice and mix of accommodation types to older people (independent and semi-independent living) within their communities and at locations that are proximate to services and amenities'*, and is not, in my view, sufficiently specific so as to justify the use of the term 'materially contravene' in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

## Development Contributions

- 7.8.10. It is an objective of the LAP that a new urban square is delivered in Cookstown. The location of the square is shown on a site to the south-east of the subject site and is bounded by land parcels, CT-C, CT-D and CT-G. A third-party submission was received from the owners of land within the CT-G land parcel and raised concerns regarding the mechanism for how the urban square would be delivered.
- 7.8.11. The PA recommend that in the absence of a plan progressed by SDCC or local landowners for the delivery of the new urban square, a special contribution should be sought under Section 48(2)(c) of the Planning and Development Act 2000 as amended. This approach is also set out in Section 8.3 of the LAP.
- 7.8.12. Section 48(2)(c) of the Planning and Development Act 2000 states that, *‘A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development’*.
- 7.8.13. Under Section 48 of the Act ‘public infrastructure and facilities’ includes the provision of open spaces, recreational and community facilities and amenities and landscaping works. The South Dublin County Council Development Contribution Scheme, (DCS), 2021-2025 includes provisions for the delivery of public infrastructure throughout the county. I consider that the application of a special contribution under Section 48, (2)(c) of the Act would result in the duplication of a contributions in respect of the delivery of open space.
- 7.8.14. In terms of the application of the Section 48(2)(c), the sub-section allows for the provision of a special contribution 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.
- 7.8.15. With reference to these criteria, I conclude that in this instance, a special contribution for the delivery of the new urban square would not be appropriate as the costs incurred are not exceptional insofar as they relate to the delivery of public open space which was planned and integrated into the Tallaght Town Centre LAP, which

was adopted in 2020. Whilst the current SDCC DCS is valid from 2021-2025, it does not include a specific reference to the provision of public spaces within the LAP area. However, Class 4 of the Project List does allow for 'Parks and Open Spaces Strategy Implementation'. As such, it could be argued that the existing DCS scheme, which was formulated under Section 48 of the Act, includes an allowance for the provision of public spaces and if a contribution was applied under Section 48(2)(c) that it would be a duplication of contributions.

- 7.8.16. 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.

## **7.9. Infrastructure - Drainage**

- 7.9.1. The development site is fully serviced with connections to the waste-water network and potable water supply. There is an existing 300mm public wastewater sewer located on First Avenue and another 300mm sewer located on the southern section of the site at Second Avenue that goes through Cookstown Estate Road and towards the north-east. Any connection to this network requires a New Connection Application to Irish Water prior to the commencement of works. It is proposed to provide a new 150mm HDPE watermain connection to the existing public 12" Asbestos watermain at Cookstown Estate Road at the south-eastern site boundary. A connection to this network will also require a New Connection Application to Irish Water prior to the commencement of works. It is proposed to separate the wastewater and surface water drainage networks and to provide independent connections to the local wastewater sewer network and to the local surface water sewer network respectively.
- 7.9.2. Surface water drainage for the development will ultimately be discharged to an existing 450mm surface water drain approximately 40m to the south-east of the site on Cookstown Estate Road. Within the site, surface water will be attenuated by the use of SUDS which would include pervious paving, green roofs, Bio-retention systems, tree pits and Geocellular & interceptor storage systems, flow control devices and fuel separators. The report of the PA recommended that further information be requested with regard to the information required to assess surface

water attenuation proposals and calculations. The applicant has responded to these queries in the grounds of appeal and has outlined the background to the calculations and methods used. I am satisfied that these queries do not warrant a reason for refusal and can be dealt with by condition.

- 7.9.3. The report of the PO states that Irish Water have raised serious concerns regarding the feasibility of the of the water supply to Cookstown to meet the demands of new development until such time as works are carried out to improve the network. The submission on file from Irish Water requests further information to assess the feasibility of a connection to public water infrastructure and to public waste-water infrastructure through the submission of a Pre-Connection Enquiry, (PCE) for both systems. Additional network design considerations were also raised. The submission did not include any reference to capacity issues within the network.
- 7.9.4. Planning permission was sought under SHD-ABP-309731-21 for development of 1,104 no. apartments on the site directly to the east of the subject site. The development was refused by the Board and the report of the Planning Inspector dated the 30<sup>th</sup> June 2021, states that with regard to the water supply for the development, that *'Irish Water has noted in its response to the Bord as part of the consultation for this development that in order to determine feasibility of a water connection it is necessary to carry out detailed scoping to determine the extent of investigations, pressure tests and hydraulic modelling required to identify demand within the district metered area. These investigations and modelling, when completed, would then inform the full extent of any upgrades which may be required to be completed to service the development connection to Irish Waters Infrastructure'*. The scoping, investigations and modelling was not completed when the PI's report was written and therefore the extent of the upgrades or works required were unconfirmed.
- 7.9.5. With regard to the wastewater network, the same report states that, *'Irish Water previously noted in its response to the Bord as part of the Pre-Consultation that capacity issues existed downstream of sewers adjacent to the site and to alleviate this a wastewater connection would need to be to the 600mm ID concrete sewer in Airton Road. In order to complete this connection, it was anticipated a sewer extension from the site was required for approx. 800m, however, subsequently, IW have become aware of further downstream constraints'*. The submission from IW



also states that, *“It is not suggesting the development proposal, as a whole is premature, rather until such time as the investigations and modelling outlined above 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 proposal”*.

- 7.9.6. In the grounds of appeal for the subject site, the applicant states that a PCE was submitted prior to lodging the application but a response was not received at the time of lodging the application. Reference is made to an Oral Hearing which was held on the 3<sup>rd</sup> day of September 2021, for development proposed under SDH-ABP-309916-21 and located at a site facing onto Colbert’s Fort and Belgard Road, whereby Irish Water confirmed that there was adequate supply in the public network to support the development proposed under ref. SDH-ABP-309916-21 and for new applications arising in the wider area.
- 7.9.7. The report of the PI following the Oral Hearing for SDH-ABP-309916-21, states that with regard to the water supply, *‘Submissions to the oral hearing have confirmed that the investigations and modelling work referenced in the Irish Water observation on this application (12th May 2021) have been completed and that Irish Water no longer have concerns with regard to the connection of the development to the water supply network. It has been further confirmed that no works or network upgrades are required to facilitate this connection’*.
- 7.9.8. With regard to the wastewater drainage network for the development proposed under SDH-ABP-309916-21 the report states that, *‘Submissions to the oral hearing have confirmed that investigations and modelling work on the local sewer network are complete. Downstream constraints referenced in the Irish Water Observation of 12th May 2021 are related to groundwater infiltration into the 600m sewer which reduces available capacity. Irish Water have confirmed that a connection to the wastewater drainage network can now be facilitated subject to the following upgrades:*
- *Extension of the drainage network to provide a connection from the proposed development to the existing 600mm sewer on Airton Road. This 420m network extension formed part of the original planning application proposals for the site; &*

- *Irish Water undertaking Capital Maintenance works on the 600mm sewer. These capital maintenance works comprise works to reduce current groundwater infiltration and thereby increase available capacity in the sewer. Irish Water have confirmed that the expectation is that these works will be complete by end-2022 and that the proposed wastewater connection cannot be facilitated in their absence’.*

7.9.9. I note that with regard to the subject proposal, correspondence from Irish Water requested further information with regard to the proposed development and did not state that development could not be accommodated on the site. However, it is noted that previous constraints in the wastewater network have been highlighted and have been addressed by IW with regard to specific developments. With regard to the subject proposal, I am not satisfied that the issues surrounding the connection to the existing network and the capacity of the wastewater network have been resolved with Irish Water. Given the documented historic constraints in the capacity of the wastewater system and, in the absence of any information to the contrary, I recommend that permission be refused.

7.9.10. A Flood Risk Assessment was also carried out for the development. The development is located within Flood Zone C and is not at risk from pluvial or fluvial flooding. Vulnerable uses such as residential and nursing homes, are considered to be appropriate uses within this Flood Zone and I am satisfied that the overall flood risk will be low.

## 7.10. **Appropriate Assessment**

7.10.1. An Appropriate Assessment Screening Report was prepared by Enviroguide Consulting and submitted with the application. The report concludes that the possibility of any significant effects on any European Sites arising from the proposed development are not likely to arise, whether considered on its own or in combination with the effects of other plans or projects.

7.10.2. Having reviewed the documents, submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.10.3. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.

Stage 1 – Screening

7.10.4. The proposed development is for the demolition of all buildings within a brownfield site in Cookstown Industrial Estate and the construction of a mixed-use development comprising a 131-bed nursing home and 139 apartments with two ground floor commercial units. The site is fully serviced and the development would connect to the existing mains water and waste-water infrastructure. Surface water would drain to the existing 450mm surface water drain located approximately 40m to the south-east of the site.

7.10.5. The proposed works are not located within a NATURA 2000 site. The development site is not within or directly adjacent to any Natura 2000 site. Therefore, the Zone of Influence, (Zol), would be restricted to the site outline with potential for minor localised noise, dust and light impacts during construction. Drainage from site, both foul and surface water, would be seen as the outputs from the site during construction and operation that could potentially extend the potential Zol. However, the proposed development has no direct hydrological link to a Natura 2000 site.

7.10.6. The Appropriate Assessment Screening Report submitted with the application considered the Zol to extend to 15km and identified the following European sites within this radius from the site:

<b>NATURA 2000 Site</b>	<b>Distance</b>
<b>Special Areas of Conservation</b>	
Glenasmole Valley SAC	4.1 km
Wicklow Mountains SAC	6.5 km
Rye Water Valley / Carton SAC	10.5 km

South Dublin Bay SAC	14.7 km
Knocksink Wood SAC	11.6 km
North Dublin Bay SAC	14.2 km
<b>Special Protection Areas</b>	
Wicklow Mountains SPA	8.1 km
South Dublin Bay and River Tolka Estuary SPA	11.6 km
North Bull Island SPA	14.7 km
Poulaphouca Reservoir	14.6 km

7.10.7. There are no direct hydrological links between the subject site and the closest European sites listed above. By using the source-pathway-receptor model, indirect hydrological links are identified via the Poddle River Storm Level 1 Catchment to North Dublin Bay SAC, South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA. All of the indirect hydrological links would be via discharges from Ringsend Wastewater Treatment Plant during the Operational Phase and during surface water during the Construction and Operational Phases.

7.10.8. The Conservation Objectives for the European sites identified as having a weak hydrological link are listed as follows:

<b>North Dublin Bay SAC</b>	
<b>Ref. 000206</b>	
Distance from site; 14.2km.	
Qualifying Interests	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows ( <i>Glaucopuccinellietalia maritima</i> ) 1395 Petalwort ( <i>Petalophyllum ralfsii</i> ) 1410 Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)

	2190 Humid dune slacks
Conservation Objectives	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
<b>South Dublin Bay SAC</b>	
<b>Ref. 000210</b>	
Distance from Site; 14.7km.	
Qualifying Interests	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation on drift lines 1310 Salicornia and other annuals colonising mud and sand 2110 Embryonic shifting dunes
Conservation Objectives	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC.
<b>South Dublin Bay and River Tolka Estuary SPA</b>	
<b>Ref. 004024</b>	
Distance from Site; 11.6km.	
Qualifying Interests	A046 Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) A130 Oystercatcher ( <i>Haematopus ostralegus</i> ) A137 Ringed Plover ( <i>Charadrius hiaticula</i> ) A141 Grey Plover ( <i>Pluvialis squatarola</i> ) A143 Knot ( <i>Calidris canutus</i> ) A144 Sanderling ( <i>Calidris alba</i> ) A149 Dunlin ( <i>Calidris alpina</i> ) A157 Bar-tailed Godwit ( <i>Limosa lapponica</i> ) A162 Redshank ( <i>Tringa totanus</i> ) A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) A192 Roseate Tern ( <i>Sterna dougallii</i> ) A193 Common Tern ( <i>Sterna hirundo</i> ) A194 Arctic Tern ( <i>Sterna paradisaea</i> ) A999 Wetlands
Conservation Objectives	To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qualifying Interests for this SPA.
<b>North Bull Island SPA</b>	
<b>Ref. 004006</b>	
Distance from Site; 14.7km	
Qualifying Interests	A046 Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) A048 Shelduck ( <i>Tadorna tadorna</i> ) A052 Teal ( <i>Anas crecca</i> ) A054 Pintail ( <i>Anas acuta</i> ) A056 Shoveler ( <i>Anas clypeata</i> ) A130 Oystercatcher ( <i>Haematopus ostralegus</i> ) A140 Golden Plover ( <i>Pluvialis apricaria</i> )

	A141 Grey Plover ( <i>Pluvialis squatarola</i> ) A143 Knot ( <i>Calidris canutus</i> ) A144 Sanderling ( <i>Calidris alba</i> ) A149 Dunlin ( <i>Calidris alpina alpina</i> ) A156 Black-tailed Godwit ( <i>Limosa limosa</i> ) A157 Bar-tailed Godwit ( <i>Limosa lapponica</i> ) A160 Curlew ( <i>Numenius arquata</i> ) A162 Redshank ( <i>Tringa tetanus</i> ) A169 Turnstone ( <i>Arenaria interpres</i> ) A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) A999 Wetlands
Conservation Objectives	To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qualifying Interests for this SPA.

7.10.9. The indirect hydrological pathway to the European sites would be via the surface water connection to Dublin Bay and via foul water to Ringsend Wastewater Treatment Plant, which operates under an EPA licence. 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. Furthermore, given the distance to the Natura 2000 sites via the public drainage networks sufficient mixing and settlement will take place in the absence of controls on site. I am satisfied that the downstream distance between the site and the hydrological discharge point to the Irish Sea is sufficient to ensure that no impacts will arise.

#### Cumulative Impacts

7.10.10. A number of residential developments that have been recently permitted in close proximity to the subject site. The developments permitted are located on brownfield sites with similar characteristics to the subject site. The distance between the subject site, the permitted development sites, and the closest European site is approximately 3.5km and the impacts would be similar to those listed above. I am satisfied that by virtue of the nature of the urban sites and the distance to any European site, that it is possible to exclude the possibility of significant cumulative impacts on the European sites arising from the proposed development and permitted development in the vicinity.

7.10.11. It is reasonable to conclude that, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No's. 000206, 000210, 004024 & 004006, or any other European site, in view of the site's Conservation Objectives, and that a Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that planning permission be refused for the proposed development for the following reasons;

## **9.0 Reasons and Considerations**

9.1.1. The proposed development, which is located within the boundary of the Tallaght Town Centre Local Area Plan 2020-2026, has not provided adequate connections and linkages to the wider area as required by Section 8.2.1 of the LAP. In the absence of legible connections for pedestrian and cyclists the development would not provide a safe environment for future residents and would give rise to residential and commercial uses that are disconnected from public transport and the wider area. Therefore, the proposed development would be contrary to the provision of the Tallaght Town Centre LAP and in particular with the criteria for the sequencing of development as set out in Section 8 of the LAP. Accordingly, it is considered that the proposal would be contrary to the proper planning and sustainable development of the area.

9.1.2. Having regard to the historical capacity issues of the existing waste-water network in the surrounding area, the Board is not satisfied that the applicant had demonstrated that the development can be accommodated within the existing public network. Therefore, the proposed development would be premature and would be contrary to the proper planning and sustainable development of the area.

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Elaine Sullivan  
Planning Inspector

3<sup>rd</sup> March 2022