

**Statement of Material Contravention of  
Draft South Dublin County Development Plan 2022-2028  
and  
Tallaght Town Centre Local Area Plan 2020**

*In respect of*

*Proposed Mixed Use Development at*

**BELGARD SQUARE EAST,  
TALLAGHT, DUBLIN 24**

*Prepared for*

**Ravensbrook Ltd**

*Prepared by*

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## 1.0 INTRODUCTION

- 1.1. This statement relates to the proposed mixed-use development on c. 1.26 ha of lands to the south of Blessington Road, west of Belgard Road and east of Belgard Square East, Tallaght, Dublin 24. This statement provides a justification for a potential material contravention of the Tallaght Town Centre Local Area Plan 2020 and draft South Dublin County Development Plan 2022-2028 in relation to **building height, plot ratio, tenure, unit mix, public open space** and **separation distances**.
- 1.2. This Statement of Material Contravention addresses the Draft South Dublin County Development Plan 2022-2028. It is noted that at the time this planning application was lodged the Draft Development Plan has not been adopted. This Statement is provided in anticipation of a situation where a decision will be made on the application after the new South Dublin County Development Plan 2022-2028 comes into effect (expected August 2022). The final content of the 2022-2028 CDP is not known at the time of submission.
- 1.3. A separate Statement of Material Contravention relative to the South Dublin CDP 2016-2022 and the Tallaght Town Centre Local Area Plan 2020 is also submitted with the application.
- 1.4. It is noted that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the Tallaght Town Centre Local Area Plan 2020 and the South Dublin Development Plan 2022-2028, and if minded doing so, grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).

### **Legislative Context**

- 1.5. Section 9 of the Planning and Development (Housing) and Residential Tenancies Act, 2016, confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land:

*'(6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under Section 4 even where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned.*

*(b) The Board shall not grant permission under paragraph (a) where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of land.*

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

- 1.6. Section 37(2)(b) of the Planning and Development Act 2000 states:

*'2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes*

*materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that –*

*(i) the proposed development is of strategic or national importance,*

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*

*(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

*(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan’.*

- 1.7. This statement provides a justification for a potential material contravention of the Tallaght Town Centre Local Area Plan 2020 and draft South Dublin CDP in relation to **building height, plot ratio, tenure, unit mix, public open space and separation distances**.
- 1.8. It is submitted that recent national planning policy, as set out in the Statement of Consistency, provides for increased density and building heights on appropriately zoned and serviced lands adjacent to high quality public transport corridors and flexibility on development standards such as plot ratio, unit mix and tenure to achieve overall national policy objectives that facilitate sustainable development.
- 1.9. ‘Plot Ratio’, along with ‘height and built form’, are some of the key development parameters used by the LAP to determine and assess the intensity, scale and bulk of development. The proposed development is a high-quality architectural approach to the site and seeks to achieve optimal use of land and sustainable urban densities. While these limits are exceeded, the development supports the achievement of key national, regional and local objectives.
- 1.10. The proposal which provides overall heights of 6 to 12 no. storeys is supported by recent national planning policy which has set out the need for increased density at appropriate locations such as the subject site. The current limitation of building height as set out in the Local Area Plan is inconsistent with the Building Height Guidelines, as higher density development cannot be achieved without the provision of taller buildings at appropriate locations within suitable areas. SPPR1 of the Height Guidelines specifies that while an LAP may identify areas for increased building height, numerical restrictions on height should not be implemented. The LAP clearly sets out height limitations for the subject site and therefore in conflict with the section 28 guidelines in this respect. The proposal meets all criteria outlined in National planning policy and Section 28 Guidelines, particularly the Building Height Guidelines 2018.
- 1.11. As set out in SPPR 7 and SPPR 8 of the Design Standards for New Apartments (2020) there is no restriction on dwelling mix for a Build to Rent (BTR) development. The proposed development provides for 99 No. (32%) 1 bed units, 203 No. (65%) 2 bed

units and 8 No. (3%) 3 bed units which is considered to provide a balanced mix of units. This unit size is considered suitable for the area given the high concentration of tradition detached and semi-detached house and increasing trend towards smaller households in Ireland.

- 1.12. As set out in Housing for All, the rented sector is a key component of the Government's overall response to resolving the housing crisis. Encouraging Build to Rent (BTR) is described as one of the 'key actions' within this Plan. The proposed development includes the essential facilities to meet the needs of future residents and is well positioned to meet the meet demand for BTR in the area.
- 1.13. The proposed quantum of public open space exceeds the 10% provision of the development plan however falls below the provision of 2.4 ha per 1,000 population, which would deem the site unviable owing to its scale and location proximate to high capacity public transport, services and employment.
- 1.14. Having regard to the analysis set out below as to how the proposed development complies with national planning policy and guidelines and having considered the pattern of development in the area since the making of the development plan it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the County Development Plan, by reference to sub-paragraphs, (i), (ii), (iii) and (iv) of Section 37(2)(b) for the reasons set out below.

## 2.0 DEVELOPMENT IS OF NATIONAL IMPORTANCE

- 2.1. The section below demonstrates how the proposed development is justified by reference to sub-paragraph (i) '*the proposed development is of strategic or national importance*' of Section 37(2)(b). It is respectfully submitted that the proposed development is of strategic importance for the reasons set out below. This justification applies to all of the material contraventions identified herein.
- 2.2. The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:  
  
***“An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”***
- 2.3. Due to the importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.
- 2.4. The proposed development comprises of the provision of 310 no. residential units on a brownfield site, which is zoned for residential purposes and located within the urban extent of Tallaght, within walking and cycling distance of public transport.
- 2.5. It can therefore be deemed of national importance with respect to the delivery of urban housing and implementation of the 'Housing for All' and 'Rebuilding Ireland'.
- 2.6. The significant shortfall in housing output to address current and projected demand is a national problem, having social and economic ramifications for sustainable national

growth. The latest ESRI report<sup>1</sup> for spring 2022 notes a fall in housing completions between 2019 and 2021. As set out in Housing for All it is estimated that Ireland will need an average of 33,000 new homes to be provided each year from 2021 to 2030. This will require a significant increase in completions over the coming years to address the deficit in delivery experienced in recent years which fell c. 41,000 units short of the targets set up to 2021 set out by Rebuilding Ireland 2016<sup>2</sup>.

- 2.7. The proposed development will also introduce build to rent apartment development into the Tallaght area. As recognised by the draft Plan, BTR accommodation consists of purpose-built, long-term rental apartment accommodation that incorporates dedicated residential amenities and facilities which are not provided in standard apartment developments, offering a high quality of living for residents. JSA has conducted an assessment of the local area and confirms a single permitted BTR scheme within a 10-minute walk from the subject site at Glen Abbey (ABP Ref: 309916-21) comprising 170 units, with a mixed apartment (216 units) and BTR (118 units) scheme proposed at the former ABB site c. 200 metres north of the subject site (ABP Ref: 313606). The proposed development is therefore in accordance with Housing Strategy and Interim HNDAs (HS) Policy 1: Objective 16 which seeks to ensure that *'there is no saturation of a single tenure with the defined area'*.
- 2.8. The proposal will provide an additional housing type and tenure to the local area at a location which is suitable for the provision of BTR accommodation in accordance with the Apartment Guidelines benefiting from proximity to high frequency and high-capacity public transport, employment and services and a range of facilities including retail and commercial uses within Tallaght town centre. The proposal will therefore help to meet existing demand for this type of accommodation in the area and is considered strategic in this regard.
- 2.9. Furthermore, increasing housing output is seen as a key priority for Government in response national policy documents have been prepared to specifically address this concern, these include:
- Housing for All, A New Housing Plan for Ireland (effectively replacing 'Rebuilding Ireland');
  - Rebuilding Ireland – Action Plan for Housing and Homelessness;
  - Project Ireland: National Planning Framework 2040.
- 2.10. Having regard to this legislative and policy context, the proposed Strategic Housing Development at the site is considered to be of national importance for the purposes of section 37(2)(b) of the 2000 Act.

### **Housing for All, A New Housing Plan for Ireland**

- 2.11. Launched in September 2021, 'Housing for All, A new Housing Plan for Ireland' is the Government's new plan (which in effect replaces 'Rebuilding Ireland') to boost the supply of housing to 2030; to increase availability and affordability of housing; and to create a sustainable housing system into the future.
- 2.12. The aim of the plan is that: everyone should have access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life.

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<sup>1</sup> [https://www.esri.ie/system/files/publications/QEC2022SPR\\_0.pdf](https://www.esri.ie/system/files/publications/QEC2022SPR_0.pdf)

<sup>2</sup> [https://data.oireachtas.ie/ie/oireachtas/parliamentary/BudgetOffice/2021/2021-12-06\\_snapshot-of-the-housing-market-in-2021-part-1\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/parliamentary/BudgetOffice/2021/2021-12-06_snapshot-of-the-housing-market-in-2021-part-1_en.pdf)

- 2.13. The plan contains a range of actions and measures to ensure over 300,000 new social, affordable, cost rental and private homes are built by 2030. The actions outlined in the Plan are backed by over €4 billion in annual guaranteed State investment in housing over the coming years, including through Exchequer funding, the Land Development Agency and Housing Finance Agency investment. The plan commits to over €20 billion in State investment in housing over the next five years. The plan is set out across four pathways to address the pressing housing challenges facing the State:
- *“Pathway to supporting homeownership and increasing affordability*
  - *Pathway to eradicating homelessness, increasing social housing delivery and supporting social inclusion*
  - *Pathway to increasing new housing supply*
  - *Pathway to addressing vacancy and efficient use of existing stock”*
- 2.14. These pathways are underpinned by long-term actions to address systemic challenges. It aims to create a housing system which has environmental, social and economic sustainability at its heart, and which meets the needs of all.
- 2.15. The proposed development will support the achievement of this Plan by providing housing at an appropriate scale and location including social housing. While the detail of this plan has yet to be fully developed, this application is in accordance with the intention and ambition of the plan.
- 2.16. The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in the County. The proposed development consists of 310 new dwellings, supplied with a mix of apartment types and tenure which can help alleviate the demand for housing within South Dublin. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.

### **Rebuilding Ireland – Action Plan for Housing and Homelessness**

- 2.17. Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.
- 2.18. Rebuilding Ireland is set around 5 no. pillars of proposed actions summarised as follows:
- Pillar 1 – Address Homelessness: Provide early solutions to address the unacceptable level of families in emergency accommodation; deliver inter-agency supports for people who are currently homeless, with a particular emphasis on minimising the incidence of rough sleeping, and enhance State supports to keep people in their own homes.***
- Pillar 2 – Accelerate Social Housing: Increase the level and speed of delivery of social housing and other State – supported housing***
- Pillar 3 – Build More Homes: Increase the output of private housing to meet demand at affordable prices.***
- Pillar 4 – Improve the Rental Sector: Address the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.***
- Pillar 5 – Utilise Existing Housing: Ensure that existing housing stock is used to the maximum degree possible – focusing on measures to use vacant stock to renew urban and rural areas.***

- 2.19. The proposed development is consistent with Pillars 2, 3 and 4 to accelerate social housing and build more homes. Provision of the 310 no. residential units will substantially add to the residential accommodation availability in the area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through Part V provision which is consistent with Pillar 2.

### **National Planning Framework (NPF) 2040**

- 2.20. The National Planning Framework is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 2.21. As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 2.22. The compliance of the proposed development with specific criteria of the NPF is detailed below, with a response provided beneath.
- 2.23. National Policy Objective 3a of the NPF states that it is a national policy objective to *"deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements"*.
- 2.24. National Policy Objective 3b seeks to:  
  
*"Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints"*.
- 2.25. National Policy Objective 4 states *'ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being'*.
- 2.26. National Policy Objective 5 seeks to: *"Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity"*.
- 2.27. National Policy Objective 13 states:  
  
*"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."*
- 2.28. National Policy Objective 31 seeks to:  
  
*"Prioritise the alignment of targeted and planned population and employment growth with investment in:...*  
*The provision of childcare facilities and new and refurbished schools on well located sites within or close to existing built-up areas, that meet the diverse needs of local populations;"...*

- 2.29. National Policy Objective 32 seeks to *“target the delivery of 550,000 additional households to 2040”*.
- 2.30. National Policy Objective 33 - *Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.*
- 2.31. National Policy Objective 34 - *Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.*
- 2.32. National Policy Objective 35 - *Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building height”.*
- 2.33. Furthermore, NPO 36 states:
- “New statutory guidelines, supported by wider methodologies and data source, will be put in place under Section 28 of the Planning and Development Act to improve the evidence base, effectiveness and consistency of the planning process for housing provision at regional, metropolitan and local authority levels. This will be supported by the provision of standardised requirements by regulation for the recording of planning and housing data by local authorities in order to provide a consistent and robust evidence base for housing policy formulation”*
- 2.34. The proposed development accords with the National Planning Framework (2018) (NPF), in particular with its principles of compact growth and the reinforcement of the country’s existing urban structure at all levels. Where housing policy is concerned, the proposed development accords with the NPF’s core principles for housing delivery – specifically that the location of new housing be prioritised in existing settlements on an infill site. The proposed development is aligned with NPO5 which seeks proposals of scale to make Dublin an internationally competitive city and is of appropriate height to provide a well-designed urban grain and contribute positively to the living environment and streetscape.
- 2.35. In accordance with the NPF’s strategy of compact growth, it is proposed to develop new homes at an underutilised, brownfield infill site.
- 2.36. In accordance with the above referenced policy objectives, new homes will be provided at a sustainable location, with access to existing services and facilities close by such as Tallaght Town Centre. The site is located adjacent to the number 27 and 175 bus routes with 10-15 minute peak frequency and a range of other bus services and is located adjacent to the proposed Bus Connects Route 9, to connect the site to the city centre, an existing cycle lane along Belgard Road and proposed cycle route along Belgard Square North. In addition, the site is within 380m of the Tallaght Centre Luas Stop. The proposal includes the provision of a creche which will meet the needs of the proposed development and consolidate provision in the local area, as well as enhancing the range of facilities and services in Tallaght town centre.
- 2.37. It is envisaged that this National Policy Objective will allow for the housing provision to meet varying housing needs at regional and local authority levels. The proposed development will also contribute directly to implementing housing targets within the Tallaght LAP area set out under Table 10 of the draft Core Strategy and the draft Housing Strategy which specifies a requirement for 17,817 units in the period to 2028. Section 8.3 of the Housing Strategy notes that *“it is important that in developing areas, as well as in the existing communities, places are created to attract a diverse range of*

*people including those who want to live, work and raise a family within the immediate area of their home, providing for the achievement of the 10-minute neighbourhood’.*

- 2.38. The proposal will implement 310 no. build to rent apartments including 31 no. units for purposes of social housing under the objectives of the CDP (Section 8.7, Schedule 4), in accordance with the housing strategy and will promote development of sustainable housing in accordance with the SRD Guidelines 2009. The proposed development will also contribute towards achieving the housing capacity on brownfield lands in Tallaght as set out in Table 1.10 of the Core Strategy which identifies a potential capacity of 5,412 in the settlement. The subject site is identified on Map 1.3 of the Core Strategy (page 19) as a ‘Capacity Site’ for the delivery of additional housing. Table 1.10 notes in respect of infrastructure that the *‘proposed high capacity transport projects would increase capacity of zoned lands’*. The subject site is located immediately adjacent to Bus Connects Corridor 9 and within 380 metres of the Tallaght Luas stop. In this respect, the site is suitably placed to increase housing capacity consistent with the core strategy.

#### Consideration Under Section 37(2)(b)(i)

- 2.39. The proposed development for a build to rent residential scheme on this underutilised brownfield site within the ‘town centre’ lands of Tallaght represent an excellent opportunity to provide for much needed housing development in the urban extent of an existing settlement consistent with the objectives of the Core Strategy of the draft South Dublin CDP and the Tallaght LAP. By virtue of the site’s location, forming part of Tallaght town centre, proximity to public transport, employment, services and facilities it can be considered as national in nature.
- 2.40. Furthermore, the proposed development is in accordance with National Policy Objectives set out in the NPF, which seek to increase the output of residential development on zoned serviced lands to meet anticipated market demand for residential development. In summary, the case for consideration of the proposed development as of national importance can be summarised as follows:
- The Government’s policy to provide more housing set out in the National Planning Framework, Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – Ireland’s New Plan for Housing.
  - The proposed development addresses identified housing need in the area and meets key housing delivery objectives in the draft South Dublin County Development Plan and the Tallaght LAP.
- 2.41. Having regard to the foregoing, it is considered that the proposal is of national importance, although it should be noted that it is only necessary for the purposes of the statutory provision that it is of strategic or national importance. The application site has the potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All, A New Housing Plan for Ireland issued in September 2021.

### 3.0 PLOT RATIO & HEIGHT

#### Plot Ratio

- 3.1. The proposed development is considered to constitute a material contravention of the LAP in respect of Plot Ratio. The LAP outlines a plot ratio range for each Neighbourhood. The plot ratio range for the Centre is 1.5 (Min) – 2.0 (Max) as set out at Section 2.6.1 of the LAP:

Neighbourhood	Min – Max Plot Ratio
Centre	1.5 – 2.0

- 3.2. The proposed plot ratio is 3.75 and therefore contravenes Section 2.61 of the LAP in this respect.

#### Height

- 3.3. Section 2.6.2 of the LAP sets out specific criteria for taller buildings and states that *‘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 (up to 6–7 storeys residential, +1 recessed and up to 5–6 storeys non-residential, +1 recessed).*
- *Building height and scale on secondary routes/frontages is lesser but still within an urban scale, (4–6 storeys residential, 3–5 storeys non-residential).*
- *Building Height (3-4 storeys) is lower along tertiary routes, within the network of secondary streets).*

- 3.4. Figure 2.8 of the LAP illustrates this (indicative location of site shown in red):



- 3.5. The LAP sets limits of 4-7 storeys + 1 recessed at the subject site. The site is not identified as having ‘Potential for Higher Buildings’. The proposed development includes building heights of 6 and 12 storeys and therefore contravenes Figure 2.8 and Section 2.6.2 of the LAP in this respect.

### Local Area Plan Provision: Plot Ratio

3.6. Plot Ratio', along with 'height and built form', are some of the key development parameters used by the LAP to determine and assess the intensity, scale and bulk of development. This approach promotes an urban design quality-led approach to achieving sustainable urban densities where the focus will be on achieving a high-quality urban environment. Density is a more accurate tool when assessing solely residential development.

3.7. Section 2.6 (page 25) of the LAP notes that higher and medium intensity areas should be located primarily around the existing retail and administration centre including The Centre and the Luas stations on the Cookstown and Belgard Roads. Further stating that:

*'Higher density of residential development in the form of mixed-use developments are desirable in these locations for reasons of their centrality, location proximate to transport nodes and/or the range of facilities currently available, subject to compliance with the concepts of this plan and the relevant Guidelines... This approach promotes an urban design quality-led approach to achieving sustainable urban densities where the focus will be on achieving a high-quality urban environment.'*

3.8. The LAP also states:

*'Flexibility in relation to the plot ratio range and the potential for higher buildings (2-4 storey increase on typical levels set in the LAP) may be considered at certain locations which are considered to be key or landmark sites, subject to exceptional design which creates a feature of architectural interest, a significant contribution to the public realm at these locations and mixed uses at ground floor level. These requirements are subject to criteria for taller buildings set out in Section 2.6.2.'*

3.9. The subject site is considered to constitute a 'key site' at the eastern entrance to Tallaght town centre having regard to its location at the corner of Blessington Road and the primary route of Belgard Road to the east. In this respect, flexibility on plot ratio range is considered appropriate at such a location, immediately adjacent to existing high-capacity and high-frequency bus services and Bus Connects Corridor 9, as well as being within 380 metres of the Tallaght Luas stop.

3.10. The Plan states that:

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

3.11. The Plan offers a flexibility to plot ratio where schemes provide a significant public gain *"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."*

3.12. The LAP notes the following as a 'significant public gain':

- *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.*
- 3.13. In response to the above considerations, we highlight the inclusion of a new high-quality tertiary (pedestrian / cycle) route in the south of the site linking Belgard Road and Belgard Square East, as well as the provision of c. 11% of the site as public open space, enhanced landscaped public interface at the northern, western and eastern perimeters including tree planting and bicycle parking and the provision for the implementation of cycle lanes on Blessington Road and Belgard Square East. The proposal also includes the provision of a creche at ground floor level of Block C and a significant area of public open space in the centre of the site which will become a valuable asset for the wider community, in combination with café/restaurant uses and retail/commercial uses at the site at ground floor level which will contribute an economic benefit to the area in accordance with the site's land use zoning.
- 3.14. The proposed development will regenerate an area of vacant brownfield land and vastly improve the visual appearance of the site as well as providing valuable public assets in the form of enhanced pedestrian and cycle network, landscaped open space and community infrastructure. The proposal will vastly enhance the site's public realm interface and can be considered to provide a 'significant public gain' to the area. On this basis, flexibility on plot ratio is considered applicable at the subject site.

#### Local Area Plan Provisions: Height

- 3.15. Building height, in conjunction with plot ratio, is also a key measurement to determine the intensity, scale and bulk of development. In general terms, the LAP 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 (up to 6–7 storeys residential, +1 recessed and up to 5–6 storeys non-residential, +1 recessed).*
  - *Building height and scale on secondary routes/frontages is lesser but still within an urban scale, (4–6 storeys residential, 3–5 storeys non-residential).*
  - *Building Height (3-4 storeys) is lower along tertiary routes, within the network of secondary streets).*



**Figure 2.1: extract from Figure 2.8 'Height Strategy' of the LAP**

- 3.16. In addition, the LAP states that the height standards set out above may be exceeded in the Centre neighbourhood where they reflect the height of existing buildings, particularly in the core of the town centre proximate to the Luas Terminus and The Square Shopping Centre, subject to Section 2.6.
- 3.17. The LAP restricts the building heights at the subject site to 4-7 storeys as shown in Figure 2.1 above, with the indicative location of the site shown in red. The proposed development includes building heights of 6 and 12 storeys and therefore materially contravenes Section 2.6 of the LAP and Figure 2.8.
- 3.18. The LAP states that *'in general, buildings that exceed the prescribed general buildings heights should only be provided at the locations indicated as having 'Potential for Higher Buildings' in the Building Height Strategy (see Figure 2.4) and at locations adjacent to the key public transport stops and key public spaces identified in Section 2.6.'*
- 3.19. The proposed development exceeds prescribed building heights at a location which is not indicated as having potential for higher buildings. The subject site is located within 100 metres of a *'high-capacity public transport stop'* in the form of a bus stop on Blessington Road which benefits from a high-frequency (10-minute peak hour service). However, the stop is not on a dedicated bus lane as required by the criteria under Section 2.6 of the LAP.
- 3.20. As set out at page 29 of the LAP, tall buildings must have regard to the following criteria:
- *Surrounding, established scale and height.*
  - *Impact on daylight and sunlight of the development, surrounding development and private, semi-private and public open spaces.*
  - *Impact on skyline, urban silhouette or streetscape (including overbearing).*
  - *Other social or physical infrastructural benefits from the development, such as public realm contribution.*
  - *Proximity to high quality public transport.*
- 3.21. The proposed development responds directly to the existing 7 storey buildings located to the west and east of the subject site and benefits from good proximity to high quality

public transport. The development contributes positively to physical infrastructure in the form of improved public realm and a new tertiary route in the southern part of the site. The scheme has been designed to mitigate impact on daylight and sunlight on surrounding development and open spaces. Please refer to the accompanying City Designer DTVA, Henry J Lyons Design Statement and BPG3 reports for further details on the above.

3.22. The LAP further states that:

*'Where justified by a Design Statement, building elements higher than 8 storeys must be designed as corner features or similar limited elements of urban blocks to define streetscape, respond to public spaces or close urban vistas. Where taller landmark buildings are proposed they should achieve the highest standards of design including high quality and robust materials, should contribute to an emerging skyline for Tallaght and should be slender buildings that successfully manage their environmental impacts on surrounding lands.'*

3.23. All elements of the buildings above 8 no. storeys are located on corners of blocks, consistent with the requirements of the LAP, with materials and finishes carefully considered to achieve the highest standards of design, as noted in the accompanying Henry J Lyons Design Statement.

3.24. On the basis of the LAP provisions discussed above, flexibility is considered to exist for increased plot ratio and building height at the subject site, notwithstanding that the proposed development constitutes a material contravention of the LAP in relation to both.

#### **Justification for Material Contravention: Plot Ratio & Height**

3.25. The section below demonstrates how the proposed development is justified by reference to sub-paragraph:

*'Part (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or'*

And:

*'Part (iii) - permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government'*

And:

*'Part (iv) - permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan' of Section 37(2)(b).*

#### **Part ii. Conflicting Objectives in the Development Plan**

3.26. There appear to be conflicting policies in the development Plan which would justify a material contravention in this respect based on Section 37(2)(b) of the Act which states:

*'there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,*

- 3.27. The following policies of the Draft South Dublin County Development Plan 2022-2028 are materially contravened by virtue of non-compliance of the proposed development with the policies of the LAP for height and plot ratio:

*“QDP14 Objective 1: To support a plan led approach through Local Area Plans in identified areas by ensuring that development complies with the specific local requirements of the Local Area Plan, having regard to the policies and objectives contained in this Development Plan and ministerial guidelines.”*

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

- 3.28. The proposed development is considered to constitute a contravention of the LAP in respect of building height and plot ratio and is therefore a material contravention of Objective QDP14 Objective 1 and UC6 Objective 3 of the draft Plan.

- 3.29. However, the proposed development constitutes increased height and plot ratio/density at an accessible location in accordance with Policy CS6 Objective 4:

*“CS6 Objective 4: To promote higher densities (50+ units per hectare) subject to meeting qualitative standards at appropriate locations, in urban built-up areas, especially near urban centres and/or high-capacity public transport nodes in line with prevailing Section 28 Ministerial Guidelines and where it can be demonstrated that the necessary infrastructure is in place or can be provided to facilitate the development.”*

- 3.30. Policy Objectives **QDP14 Objective 1** and **UC6 Objective 3** are considered to conflict with **CS6 Objective 4** of the draft County Development Plan as they relate to the proposed development in terms of height, plot ratio/density. While QDP14 Objective 1 requires proposed development to align with the content of a LAP (which the proposed development may be considered to materially contravene), CS6 Objective 4 promotes higher density development (50+ units per hectare) subject to meeting qualitative standards at appropriate locations in urban built-up areas near urban centres and/or high-capacity public transport in line with prevailing Section 28 Guidelines and where it can be demonstrated that the necessary infrastructure is in place or can be provided to facilitate the development.

- 3.31. The proposed development meets qualitative standards (as demonstrated by the submitted information), is located at an appropriate central and accessible urban location and benefits from existing infrastructure to facilitate the development. Irish Water has issued a Confirmation of Feasibility confirming the development can be facilitated at this urban location within an urban centre adjacent to high-capacity public transport nodes and a Statement of Design Acceptance (enclosed with CS Consulting Engineering Services Report).

- 3.32. It is considered that the limits placed on building height and plot ratio within the LAP as they relate to the subject site is in direct conflict with the provisions of the draft County Development Plan. They are also in conflict with the Building Height Guidelines 2018 which requires flexibility in development plans and local area plans to become *'more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights'* to achieve the National Strategic Outcome of compact urban growth as set out in the NPF. The

proposed development is considered to align with this objective and will regenerate a vacant, brownfield site at an accessible location within an urban area which is suitable for apartment development.

- 3.33. The location of the application site is suitable for a development of increased heights and density. Compliance with 2009 Guidelines on Sustainable Urban Development in Urban Areas and the 2020 Guidelines on Design Standards for New Apartments has been set out in the accompanying Statement of Consistency prepared by JSA and discussed further below. Compliance with the 2018 Guidelines of Urban Development & Building Height is demonstrated below. Irish Water has issued a letter confirming that the proposed development can be facilitated at the location in terms of water infrastructure.
- 3.34. The proposed development is located with 'The Centre' neighbourhood of Tallaght which is defined as a Town Centre and urban centre within the draft South Dublin CDP. The site benefits from a broad range of existing high-capacity and high-frequency public transport facilities in the form of bus routes and the Luas red line, which are located within a 5-minute walk from the site, alongside a range of employment facilities, third level institutions, hospitals and other services. In the context of the Apartment Guidelines, the site constitutes a 'centre and / or accessible urban location' and suitable for higher density development that may wholly comprise apartments.
- 3.35. In this respect, the provisions of the LAP as they relate to the subject site conflict directly with the policies and objectives of the draft South Dublin CDP 2022-2028 in respect of height and plot ratio/density. On this basis, any material contravention may be justified in the context of Part ii of Section 37(2)(b) of the Act.

#### Part iii. Section 28 Guidelines

- 3.36. The following section shall demonstrate how the proposed height is justified in the context of National Planning Policy and Section 28 Government Guidelines, which seek to increase residential densities on zoned services lands adjacent to public transport corridors. These include:
- Project Ireland: National Planning Framework 2040;
  - Design Standards for New Apartments, Guidelines for Planning Authorities 2020;
  - Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

#### **Project Ireland: National Planning Framework 2040**

- 3.37. The National Planning Framework seeks to increase densities and building heights in appropriate urban locations to consolidate urban sprawl and increase the sustainability of public transport networks. The NPF states that:

*"In particular, general restriction on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general locations e.g. city/ town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc".*

- 3.38. The proposed development is strategically located near Tallaght Town Centre (to the west) and within close proximity to a third level institution, Technological University Dublin (TUD) - Tallaght Campus (to the north-east) and Tallaght University Hospital (to the north-west). The site is highly accessible via a number of means including a range

of public transport networks. The Luas Redline provides a high frequency direct connection with Dublin City Centre. The site is located c. 380 metres east of the Luas stop at Tallaght centre.

- 3.39. Dublin Bus services the site via Blessington Road c. 75 metres east and Belgard Square North c. 100 metres north to the wider Dublin area including the Nos. 27 (every 10 minutes Monday – Friday during peak times) and a broad range of other routes (including 54A, 65, 75, 75A, 77A and 175) that interconnect and access the wider South Dublin environs and City Centre. Bus Connects Route 9 would also directly connect the site to the city centre from a stop on Belgard Square East, approximately 150m north of the site.
- 3.40. The subject development is also located in an area that has been highlighted for significant mixed-use development and increased intensity of development through the LAP, which would be appropriate for increased building heights adjacent to quality public transport and major employment centres. This is also supported by Policy CS6 Objective 4 of the draft CDP which promotes higher densities in urban built-up areas close to urban centres and/or high-capacity public transport. It is therefore considered that the subject site is an appropriate location for increased building heights and increased densities to support the objectives of the NPF. The proposed development is located between a primary and secondary road and provides a marker to the entrance of Tallaght town centre to the west, with carefully modulated increased building height considered appropriate without any significant impacts upon amenities of neighbouring properties owing to substantial separation distances to the north and east.
- 3.41. The NPF targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. Objective 11 of the NPF states:
- “In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth”.*
- 3.42. The subject development provides for a mixed-use development including residential, retail, a new tertiary pedestrian/cycle connection and creche facility. The scheme will also vastly improve the public realm, providing for pedestrian networks and cycle lanes at the northern and western perimeters as well as incorporating visitor cycle parking and a high quality central landscaped courtyard which promotes a range of activities for all demographics. The proposed development will provide for a mix of uses and activity within the area thus creating the need for increased heights and densities at this location to meet targeted growth rates.
- 3.43. The proposed development seeks to make the optimal uses of land well served by public transport and within the existing urban environment through increased height and density. The proposed density at 342 no. units per hectare and height of the development at 6 – 12 no. storeys is therefore considered to be consistent with the objectives of the NPF by utilising this strategically located land to provide for the critical mass to support the surrounding services, commercial centres, employment nodes and the high quality public transport infrastructure.
- 3.44. It is noted that building heights along the southern perimeter at Block C and eastern perimeter at Block A align with the requirements of the LAP, with 6 storeys proposed at these locations. Building heights graduate moving north through the site, however

while these exceed the height limits set out in the LAP, the proposed height strategy reflects the principles of the LAP, with lesser height proposed along the western perimeter at Belgard Square East and greater height along the eastern perimeter and northeast corner at Blessington Road and Belgard Road. This sensitive height modulation provides for good access to sunlight throughout the communal amenity spaces at roof levels and the central area of public open space between Blocks A and B. The proposed heights also respect the amenity of adjacent properties due to considerable separation distances of in excess of 55 metres to the north and east. This provides an appropriate context for increased building height in this location.

3.45. Objective 13 of the National Planning Framework also states that:

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

3.46. In response to Objective 13 of the NPF, the proposed development will provide for increased heights and densities in a high-quality urban design to achieve targeted growth of the area.

3.47. The NPF also states that that *“to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”*. Objective 35 states that it is an objective to *“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”*.

3.48. It is clear that there is a strong emphasis towards density and increased building heights in appropriate locations within existing urban centres and along public transport corridors in order to provide for the critical mass needed to optimise public transport services. The proposal will regenerate a vacant, brownfield site at an infill location and will implement sustainable mixed-use development at a central, accessible location. As such it is respectfully submitted that the proposed building heights of 6-12 storeys at a density of 342 uph are in line with government guidance and emerging trends for sustainable residential developments.

3.49. The subject lands are also located adjacent to ‘Public Transport Corridors’ in the context of the densities required under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). These areas are defined as being located within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.

3.50. The Design Standards for New Apartments (December 2020) include a location hierarchy to inform standards applicable. The subject lands are considered to constitute a *‘Central and/or Accessible Urban Location’*.

3.51. The subject site is highly accessible via a number of means including a range of public transport options. The Luas Redline provides a high frequency direct connection with Dublin City Centre. The nearest stop is Tallaght centre which is within close walking distance of the site (380m or a 4 min walk).

3.52. Dublin Bus service the site via Blessington Road c. 75 metres east and Belgard Square North c. 100 metres north to the wider Dublin area including the Nos. 27 (every 10 minutes Monday – Friday during peak times) and a broad range of other routes

- (including 54A, 65, 75, 75A, 77A and 175) that interconnect and access the wider South Dublin environs and City Centre. Bus Connects Route 9 would also directly connect the site to the city centre from a stop on Belgard Square North, approximately 150m north of the site.
- 3.53. Tallaght Town Centre comprises a District Centre, is designated a transport hub in the LAP and offers a range of commercial, cultural and civic uses. Many people are employed here in services such as retail, hospitality, offices and civic functions (300m to the west or 3 minute walk).
- 3.54. The site is strategically located within the designated Tallaght Town Centre (to the west) and within close proximity to a third level institution, Technological University Dublin (TUD) - Tallaght Campus (300 metres to the northeast) and Tallaght University Hospital (600 metres to the northwest).
- 3.55. Restricting the height of the development at such a location well served by public transport under the Tallaght Town Centre LAP would conflict directly with national policy which seeks to promote increased densities at well served urban sites, and discourages numerical height standards in certain urban areas, such as the subject site. It would also fail to achieve Policy CS6 Objective 4 of the draft Plan which promotes higher densities at appropriate locations in urban built-up areas near urban centres and/or high-capacity public transport.
- 3.56. The subject site is located within a 500m catchment of the Tallaght (The Square) Luas stop. As such, it is stated that the subject site can achieve 6-7 storeys of residential development (+ 1 recessed) in line with the LAP.
- 3.57. The LAP also states that "*the height standards set out above may be exceeded in the Centre neighbourhood where they reflect the height of existing buildings, particularly in the core of the town centre proximate to the Luas Terminus and The Square Shopping Centre, subject to Section 2.6.*"
- 3.58. The LAP states that: "*Throughout the Plan area, proposed building heights must be supported by design data and studies confirming compliance with established sunlight, daylight, overlooking and other residential amenity minimum design standards as required under Design Standards for New Apartments (2018). Building heights will also be evaluated against topography, culture context, key landmarks and key views as required by Building Height Guidelines*".
- 3.59. It is submitted that the LAP height strategy is inconsistent with the direction of national planning policy in particular the Urban Development and Height Guidelines which acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built up area in accordance with National Planning Policy.
- 3.60. The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities is not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.

### Urban Development and Building Height Guidelines 2018

- 3.61. The Government published the Urban Development and Height Guidelines (December 2018). The Guidelines are intended to set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040.
- 3.62. The Guidelines acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built-up area in accordance with National Planning Policy.
- 3.63. The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities is not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level. The Tallaght LAP clearly identifies numerical height restrictions within the Plan area and at the subject site, prescribing heights ranging between 4 and 7 storeys (+1 recessed) for residential development in conflict with national planning policy and the draft South Dublin CDP which makes provision for increased height and density at appropriate locations. The proposed development provides for graduated building height ranging from 6 to 12 storeys which is considered to make optimal use of a vacant brownfield site at a gateway entrance to Tallaght town centre from the primary route of Belgard Road.
- 3.64. In respect of Dublin, the Guidelines encourage the scope to consider *'even greater building heights'* to be kept open subject to the assessment criteria.
- 3.65. Lands considered by the Guidelines as appropriate are noted to be those suitably configured and benefit from *'particular concentrations of enabling infrastructure to cater for such development e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality'*. The subject site is located c. 380m from the Tallaght town centre Luas terminus and is served by a range of bus services as set out above, as well as range of employment opportunities. The architectural design has been carefully considered and is of the highest quality, as detailed within the accompanying Design Statement prepared by Henry J Lyons and the City Designer DTVA. The increased building height has the opportunity to define the corner of Belgard Road and Blessington Road to accentuate and identify the route to Tallaght town centre to the west, including appropriate setback upper floors and well-considered material finishes. The mixed-use nature of the development will provide a valuable asset to the wider community through a mix of residential and commercial uses including café/restaurant and retail uses fronting the public realm at the edge of the site. A creche is included at Block C, with high quality public open space at the central courtyard accessed via the tertiary route and the 'town link' branching south from Blessington Road. In this respect, the development includes an appropriate mix of uses for residents and visitors and will create employment alongside an enhanced public realm and permeability.
- 3.66. SPPR 3 states the following:
- (a) 1. *An applicant for planning permission sets out how a development proposal complies with the criteria above; and 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.*

- (b) *In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme.*
- (c) *In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.*

3.67. The LAP was adopted in July 2020, after the Government published the Urban Development and Height Guidelines. This Statement of Material Contravention (and accompanying Statement of Consistency & Planning Report) demonstrates the proposal is in accordance with the strategic and national policies set out in the NPF and other policy documents. The LAP includes height limitations within the lands which are exceeded by the proposed development, as such SPPR 3 applies to the proposed development as it is respectfully submitted that the proposal satisfies the Development Management Criteria at Section 3.2 of the Building Height Guidelines as set out in this report and therefore may be permitted “*even where specific objectives of the relevant development plan or local area plan may indicate otherwise*”.

3.68. The Guidelines set out a series of Development Management Principles and Criteria to be considered when assessing proposals for increased height. The following sets out the proposed development response in full:

### **Development Management Principles**

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

3.69. Yes, the scheme provides for a primarily residential scheme with a mix of commercial and public uses on a vacant brownfield site proximate to key employment locations, public transport within the urban extent of Dublin Metropolitan area.

3.70. The Urban Framework set out in the Tallaght Town Centre LAP acknowledges the need for mixed use development across the Plan area. In general land use mix will be determined having regard to land use zoning, urban function and the overall urban framework for the neighbourhood. Tallaght is recognised as a ‘Metropolitan Consolidation Town’ by the South Dublin CDP and is appropriately placed to accommodate developments of higher density and height which will meet the requirements to deliver increased housing at appropriate and accessible locations.

3.71. The LAP notes that higher and medium intensity areas should be located primarily around the existing retail and administration centre and ‘The Centre’ neighbourhood, where the subject site is located.

3.72. The proposal helps to achieve some of the key ‘Overarching Objectives’ contained within the LAP primarily including:

- **Deliver a quality built environment:** Create a built form that will shape the future spatial development of Tallaght Town Centre, while fulfilling the future potential of the Town Centre using best practice urban design principles.
- **Deliver a network of connected neighbourhoods:** To provide a vision for each of the neighbourhood areas and provide guidance on future building form in these areas, in terms of land use, building frontage, access and movement, green infrastructure and building height.
- **Deliver sustainable residential communities:** To strengthen Tallaght's appeal in terms of residential and community facilities and ensure the balanced provision of residential tenures, community facilities and services for the existing and future residents in order to promote health and wellbeing, social inclusion and quality of life.

3.73. In addition, the proposal helps to achieve some of the key Urban Framework objectives as set out in the LAP:

- *Objective UF1: to direct land uses and intensity of development in a manner that creates a sustainable urban form, based on the integration of land use and transport planning*
- *Objective UF4: To ensure that development is laid out in a series of blocks and plots that are legible, permeable and appropriate in land use, scale, building height, street widths, urban grain and street frontages*

3.74. Within the NPF, the proposed development helps support NPO 33 which aims to support sustainable development and at an appropriate scale of provision relative to location and NPO 35 which aims to Increase density through site-based regeneration and increased building heights.

3.75. As highlighted more widely in this Report and the Statement of Consistency, we submit that the proposed development will support the achievement of several national, strategic and regional policy objectives primarily including the delivery of homes at a sustainable location supporting compact growth.

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

3.76. The proposed development is predominately in line with the Tallaght Town Centre LAP and the draft SD County Development Plan. However, it does exceed certain development management guidelines of the LAP and Development Plan as set out within this Report.

3.77. As such, this Statement of Material Contravention clearly sets out these material contraventions and the rationale for same thus in accordance with this consideration.

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

3.78. The LAP was adopted in July 2020 after the Building Height Guidelines, however as noted in SPPR3, may still be permitted where the Development Management Criteria are satisfied, as set out in the following response to the criteria in turn.

## Development Management Criteria

### At the scale of the relevant city/town

*The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*

- 3.79. Tallaght is highly accessible via a wide range of means. The site is located within 350m of TU Dublin Tallaght Campus to the northeast and c. 380m from the Tallaght Centre Luas stop. Table 2 of the CS Consulting Mobility Management Plan is included below, demonstrating peak time frequency of 8-9 minutes for the Luas red line Tallaght stop.

Table 2 – Luas Red Line Light Rail Peak Capacity

Direction	Destinations	Average Peak Interval	Average Peak Capacity (passengers/hour)
AM Peak Period (07:00-10:00)			
Eastbound	Dublin Docklands	8 min	2,685
Westbound	Tallaght/Saggart	8 min	2,685
PM Peak Period (16:00-19:00)			
Eastbound	Dublin Docklands	9 min	2,387
Westbound	Tallaght/Saggart	9 min	2,387

- 3.80. The no. 27, 54A, 65, 75, 75A, 77A and 175 bus routes serves the Blessington Road located 75 metres east of the site, with route no. 76 serving Belgard Road c. 100 metres north of the site. A designated cycle lane is also provided on Belgard Road to the east. Bus Connects Route 9 would also directly connect the site to the city centre from a stop on Belgard Square North, approximately 150m north of the site. Table 3 of the accompanying CS Consulting Mobility Management Plan sets out bus services within a 5 minute walk of the site and their frequency:

Table 3 – Bus Services within 5-minute Walk of Site

Route No.	Operator	Destinations	Weekday Services <sup>1</sup>	Peak Interval
27	Dublin Bus	Clare Hall / Jobstown	100	10 mins
54a	Dublin Bus	Pearse Street / Ellensborough	33	30 mins
65	Dublin Bus	Poolbeg Street / Blessington	15	1 hour
75 / 75a	Go-Ahead	Dún Laoghaire / Tallaght	35	30 mins
76 / 76a	Go-Ahead	Chapelizod / Tallaght	51	15 mins
77a	Dublin Bus	Ringsend Road / Citywest	52	10 mins
175	Go-Ahead	UCD / Citywest	18	1 hour

- 3.81. Tallaght Town Centre is a District Centre and Urban Centre, designated a transport hub in the LAP and offers a range of commercial, cultural and civic uses. Many people are employed here in services such as retail, hospitality, offices and civic functions (300m to the southwest or 3-minute walk). Technological University Dublin (TUD) - Tallaght Campus (to the northeast) is located 300m or a 3 minute walk. Tallaght University Hospital (to the northwest) is located 600m or a 6 minute walk.

- 3.82. Given the above high level of accessibility, the subject site is considered to constitute a 'Central and/or Accessible Urban Location' as per the general location categories set out in the Design Standards for New Apartments.
- 3.83. Notwithstanding that the site is well served by existing high frequency public transport, it is proposed that Tallaght will be served by Bus Connects Core Route Corridor No. 9 'Greenhills to City Centre' in the near future, with the corridor routed along the northern perimeter of the site.
- 3.84. As set out in the accompanying Mobility Management Plan prepared by CS Consulting the subject site is served by high frequency and high-capacity public transport in the form of the Luas and a range of bus services. Based on initial modal split analysis, the proposed development may generate a maximum peak hour demand of 6.1% of the approximate total service capacity of the Luas and 7.8% of the approximate total service capacity of the bus capacity in the AM, with corresponding figures of 6.8% and 9.1% in the PM peak hour. The CS Consulting MMP note these figures as maximum demand and are considered to be 'worst case scenarios' as they assume:
- all public transport users among development residents will make their outgoing journeys in a single hour between 08:00 and 09:00;
  - all public transport users among development residents will make their return journeys in a single hour between 17:00 and 18:00; and
  - development residents will use only radial bus routes into and out from Dublin city centre, and will not use orbital bus routes (e.g. route no. 75/75a between Dún Laoghaire and Tallaght).
- 3.85. It is also noted that *'the true capacities of Luas Red Line tram services at times of peak demand are greater than those given here'* with conservative capacity figures provided in the MMP in line with the worst case scenario approach.
- 3.86. Please refer to Section 6.0 of the accompanying MMP for further details.
- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*
- 3.87. The proposed development is not located in an area of particular architectural sensitivity. We enclose a Design, Townscape and Visual Assessment (DTVA) prepared by City Designer. The report was prepared by a suitable practitioner and in accordance with reference to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment 2013 (GDTVA), the Visual Representation of Development Proposals Technical Guidance Note 2019 and relevant national, regional and local planning policies as set out at section 2 of the assessment.
- 3.88. The DTVA highlights the current character of the site. The surrounding area is characterised by mainly commercial / industrial uses, with more modern residential developments located adjacent to the northwest corner at Belgard Square East and to the east at Belgard Road. This is indicative of the ongoing transformation of the wider area in accordance with the provisions of the development plan and LAP.
- 3.89. The DTVA notes the key design objective of reinstating the urban grain of Belgard Road and Blessington Road and *'to provide this prominent site with a building of high*

*quality design and that marks the north-eastern gateway to Tallaght Town Centre, while presenting an appropriate scale and mass to the building's contexts'.*

3.90. The nature of roads infrastructure is a key characteristic of the site's immediate environs and the wider urban area, with generous separation distance between the northern elevation of the proposed development and the closest neighbouring buildings to the north and also between the eastern elevation and buildings adjacent to the east. The proposed development introduces a modern element of design and the DTVA recognises the high quality of architecture, find its *'effects on views are generally of a beneficial nature'*.

3.91. The DTVA assesses the proposed development in the context of the Development Management Criteria, noting that:

*'... it successfully integrates into and enhances the character of the local context, providing strong and attractive frontages on to the adjoining street network, and reinstating the urban grain in this part of Tallaght, its form, mass and scale appropriate to its context....'*

3.92. Due to the site's prominent position in the urban structure of the LAP, at the eastern gateway to the town centre from the primary street of Belgard Road the proposed development has the potential to change the character of an important part of the townscape noted by the DTVA which states:

*'... in distant views; it is of high quality design; and it acts as a local landmark building improving legibility along this part of Belgard Road and confidently marking the north-eastern gateway to Tallaght's civic centre'.*

3.93. The LAP requires landmarks to be 'designed in a manner that is distinctive from surrounding buildings both in terms of architectural treatment and use of materials' and to 'incorporate high quality public realm treatment in terms of surrounding street planting, furniture, lighting and materials etc.'. The DTVA considers that *'the proposed development meets this expectation of exceptional design quality, and offers significant public realm improvements and a vibrant ground floor experience with multiple uses'* and states that *'there is much about the site location and context which lends itself to an urban marker of the scale proposed'* being situated at a key road junction at the eastern gateway to Tallaght new town centre and bounded by the primary route of Belgard Road and to the north by Blessington Road and will punctuate an urban area. The DTVA also states that the *'proposed development also responds positively when assessed against emerging policy in the draft South Dublin CDP 2022'* and functions as *'a secondary landmark'* in the context of the building height strategy of the draft Plan.

3.94. The visual appearance of the proposed development has been assessed from 16 views set out in the DTVA, which refers to the high-quality design of the scheme in terms of material finishes and palette. The assessment concludes that in each of the views *'it has been possible to be positive about the scheme, in terms of its height, massing, elevational compositions, materiality and landscaping'*. The report notes 11 key views which *'fully illustrate these successes'*.

3.95. Please refer to the DTVA prepared by City Designer for further details.

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

*and form to respond to the scale of adjoining developments and create visual interest in the streetscape.*

- 3.96. The LAP promotes more intensive land-uses in the areas than the traditional low rise industrial uses, which have a low density of workers. These transitional and transformational areas will accommodate higher density residential, and employment uses within appropriately balanced mixed-use developments which make optimum use of brownfield lands at accessible locations. The LAP states that higher and medium intensity areas should be located primarily around the existing retail and administration centre including 'The Centre' neighbourhood. Section 2.6 of the LAP makes provision for increased building heights within 100m of a 'high frequency bus stop (i.e. 10-minute peak hour frequency)'. The subject site is located c. 75 metres from a bus stop with a high frequency (10-minute peak hour) service no. 27 on Blessington Road.
- 3.97. The proposed development makes a positive contribution to place-making in accordance with the design principles of the LAP. The scheme incorporates vastly improved landscaped buffer edges with the public realm to the north, west and east and makes provision for improved pedestrian and cyclist connectivity. The proposal includes a tertiary route through the southern part of the site, connecting Belgard Road and Belgard Square East and a 'town link' branching north through an area of public open space in the centre of the site, all of which will promote and enhance pedestrian and cyclist connectivity and sustainable modes of travel as well as contributing to green infrastructure and network of public open space.
- 3.98. The improved public realm incorporating landscaping, planting and visitor bicycle parking contributes to a sense of identity for the development in the streetscape and will characterise a key entry point to Tallaght town centre to the west. The proposed densities and heights will accentuate the site's gateway location and complement existing building heights whilst incorporating an element of height which defines the eastern edge of the town centre and successfully addresses the junction of Blessington Road and Belgard Road, providing legibility and uniform building lines to the urban grain and introducing a positive addition to the streetscape.



**Figure 2.2: Verified View No. 12 (City Designer DTVA)**

- 3.99. The stepped approach in the building's height strategy provides visual interest to the design whilst respecting the amenity of neighbouring properties to the south and west and complementing existing building heights on adjacent sites. This is illustrated in the verified view 12, looking south from Belgard Square North.
- 3.100. As generally outlined above the approach to height responds to the existing, permitted and the emerging urban context. The variation in massing, height and an articulated façade results in a high-quality design and attractive palette which mitigate visual impact in the urban context. The use of glazing throughout and particularly at upper floor levels ensure the building has a light appearance with the local environment and creates visual interest in the streetscape.
- 3.101. As such the proposed development helps achievement of LAP Objective UF4, which states:
- To ensure that development is laid out in a series of blocks and plots that are legible, permeable and appropriate in land use, scale, building height, street widths, urban grain and street frontages*
- 3.102. The LAP guides future development in the area, which is changing rapidly. The proposed development provides a positive contribution to the area through active frontage, improved public realm and maintaining the LAP urban structure. The LAP highlights the largescale regeneration of the Tallaght LAP lands as a key objective. This will give rise to a new built form that will be different to the type of buildings that predominate in the area. The proposed development will assist with the wider regeneration of the lands through the efficient use of a vacant brownfield site which is cleared and ready for development.
- At the scale of district/ neighbourhood/ street
- The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape*
- 3.103. As discussed above and as noted in Figure 2.2 and the accompanying verified views in the City Designer DTVA, the proposed development will make a positive contribution to the urban neighbourhood and streetscape. The scheme responds appropriately to existing 6-7 storey building heights at Tuansgate to the west and residential and commercial retail uses across Belgard Road to the east and complements these height profiles.
- 3.104. The proposal seeks to consolidate and improve the urban grain at Blessington Road, including provisions for a new cycle lane at this location as well as at the western perimeter at Belgard Square East. This is complemented by additional tree planting and soft landscaping at the public realm edges of the site and an improved pedestrian network through the area. This is provided for by the introduction of a tertiary route through the southern part of the site for priority pedestrian and cycle use as well as a 'town link' branching north through the central area of public open space to Blessington Road.
- 3.105. The height strategy steps up moving north towards Blessington Road which provides for excellent access to sunlight and daylight for residents and also within external communal and public open spaces. This will also provide attractive aspects south towards the Dublin mountains.

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

- 3.106. The proposed development is set out in 3 no. blocks, and the carefully modulated approach provides for variety and interest in the elevations by providing varying height and features to enhance the architectural quality of the buildings, with balcony design and layout varying ascending the building. The mix of palette and building materials contributes to visual interest, with a focus on vertical components of design and projecting building lines to improve aspects and promote variety. Double storey featured glazing at the northeast perimeter responds appropriately to the junction of Blessington and Belgard Road and will animate this façade in a suitable manner, with commercial and retail uses at ground floor level.
- 3.107. The materials and finishes of the proposed blocks will be designed to a high architectural standard and are consistent with existing and emerging permitted developments in the area. The façades have been animated and articulated by the introduction of balconies which are both extruded to give depth to the facades. An effective variation in building height provides greater variety to the design and appearance of the buildings and provides a distinct character to the scheme.
- 3.108. At street level emphasis has been placed on communal entrances to residential blocks as well as commercial units to provide an active, animated streetscape and promote activity and dynamic use, with the central area of public open space encouraging permeability through the site, social interaction and use throughout the year. Building heights step down to the central open space to create a sense of enclosure and providing passive surveillance whilst avoiding overbearing effects.

*The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).*

- 3.109. The landscape strategy positively responds to the site's location through the creation of a series of south facing communal areas at ground level at the southern perimeter and at various roof terraces which benefit from southerly aspects and attractive vistas to the Dublin / Wicklow mountains to the south.
- 3.110. The landscaped courtyards and roof gardens strengthen green infrastructure provision through vegetation, enhancing biodiversity and creating habitats. SUDS features are incorporated into landscaping features and the central courtyard of public open space benefits from a sense of enclosure provided by the surrounding blocks.
- 3.111. The landscaped courtyards and roof gardens strengthen green infrastructure provision through vegetation, enhancing biodiversity and creating habitats. SUDS features are incorporated into landscaping features and the central courtyard of public open space benefits from a sense of enclosure provided by the surrounding blocks. A Flood Risk Assessment has been undertaken in accordance with The Planning System and Flood Risk Management (FRM), Guidelines for Planning Authorities (2009) and its Technical Appendices.
- 3.112. As confirmed within the accompanying FRA, the proposed development is located in Flood Zone C. The proposed residential development is considered as 'Highly Vulnerable' in the context of the Guidelines which is 'appropriate' when located in Flood Zone C. The FRA notes that the site is not considered to be at risk from fluvial, coastal

and groundwater flooding, with any potential risk from pluvial flooding mitigated by attenuation measures and surface water systems proposed on site. Please refer to the FRA incorporated into the CS Consulting FRA for further details.

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

3.113. The proposed development makes a positive contribution to the legibility of the area through the proposed recessed building height at the northeast corner of the site. This provides a definitive edge to the site at this location and addresses the urban grain of Blessington Road as well as the primary route of Belgard Road, providing character to the gateway entrance to Tallaght town centre, as noted in the DTVA.

3.114. Furthermore, active frontages at ground floor level and new pedestrian connections through the site to the north, west and eastern elevations promotes sustainable modes of travel consistent with the principles set out in the LAP and facilitates safe routes to the surrounding local area. As a result, the proposal will create a new identity and character to one of Tallaght's key town gateways and provide a definitive and robust edge to the eastern perimeter of the town centre area.

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

3.115. In keeping with the Town Centre zoning of the site it is proposed to provide a high-quality mixed-use development at a strategic gateway location to Tallaght town centre. The scheme provides a primarily residential led development with retail, professional services / office and café/restaurant uses, coworking spaces, public open space and crèche.

3.116. The proposed retail units complement the existing retail offering in the area, complementing the residential amenities and services provided within the development. Commercial uses provide passive surveillance to the public realm and streetscape, as well as to the public open space in the centre of the site in combination with resident amenity areas, encouraging activity and use by a wide range of demographics.

3.117. The wider Tallaght area comprises predominately traditional suburban housing estate of semi-detached and detached houses. The scheme provides for both a mix of unit types and a mix of uses ensuring a mixed-use scheme consistent with the site's town centre zoning.

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

3.118. As outlined previously the buildings range in height from 6–12 storeys in order to both provide for increased density and optimal use of land but also introduce a definitive built feature of height at the northeast corner of the site marking the eastern edge of the Tallaght town centre area.

3.119. The development increases in height from a predominantly 6 storey Block C at the southern perimeter, extending gradually moving north to 11 and 12 storeys at the northern perimeter at Blessington Road. The building height strategy optimises the site's southerly aspect and will provide attractive aspects of the Dublin mountains to

the south. The lower buildings at the southern part of the site will ensure good levels of sunlight penetration to the public open space at the central courtyard as well as the roof terraces at various levels throughout the development.

- 3.120. The blocks are orientated to ensure a high level of light penetration into the units and maximise solar gains and optimum growing environments for roof gardens and sedum roofs/ wildflower areas. Massing and scale are varied and broken down to avoid monolithic or dominant blocks. Height increases moving north aligning with the principles of the LAP, with increased heights in the northeast corner, creating a strong urban edge to the Blessington Road and Belgard Road junction.

*Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.*

- 3.121. Three comprehensive Daylight and Sunlight Reports prepared by BPG3 are included in this submission to ABP which demonstrates the proposed development achieving a high level of performance in regard to daylight and sunlight access in the context of the Building Height Guidelines SPPR3.

- 3.122. In respect of Average Daylight Factor, 89% of the rooms assessed were found to either meet or exceed recommended target values. This is an improvement to the scheme as submitted at pre-application stage where 83% of rooms were achieving recommended target values.

- 3.123. In addition, an assessment (BPG3 Report 1 of 3) has been undertaken on potential impacts on neighbouring development. In terms of 'skylight', 99 of 104 rooms assessed would comply with guidelines, with minor impacts where rooms fall short. Where these shortfalls occur, BPG3 consider these to be attributable to 'self-shading caused by overhanging balconies' making it 'unduly difficult to demonstrate full compliance with BRE recommendations'. BPG3 has also assessed the impact of the proposal on sunlight availability to a neighbouring outdoor area, demonstrating 'full compliance with BRE guidelines' in this respect.

- 3.124. An assessment of sunlight to amenity spaces has been undertaken, with 83% of all external amenity spaces achieving at least 2 hours of sunlight on 21<sup>st</sup> March (BPG3 Report 2 of 3) in accordance with BRE Guideline recommendations, with neighbouring amenity space, with neighbouring amenity space achieving 85% compliance (BPG3 Report 1 of 3).

- 3.125. The proposed internal layout has been carefully considered with regard to seeking to achieve the best possible results for daylight / sunlight levels. The orientation of the room layouts has been carefully considered to ensure that the best amenity value is obtained for the residents, with block layouts and height strategy designed to optimise light access to apartments and amenity areas.

- 3.126. The reports conclude that:

*'When assessed in the round it is reasonable to conclude that the development proposed demonstrates substantial levels of conformity with daylight guidelines.'*

- 3.127. The proposed development has also been assessed pursuant to daylight standard EN17037 for completeness (BPG3 report 3 of 3), even though there is no express requirement to do so in the Apartment Guidelines, Building Height Guidelines or any

other planning guidelines. The BPG3 report 3 notes good levels of compliance under this non-mandatory standard. With respect to any compliance shortfall against this new standard, we note high compliance under the existing daylight standards cited in the Apartment Guidelines or Building Height Guidelines. Compensatory measures are set out at pages 13 and 14 of the BPG3 Report 3 of 3. Finally, we note that all units are provided with a balcony, generous public and communal open space provision, improvement to the streetscape and the overall high quality of the development.

- 3.128. Please refer to the 3 no. reports prepared by BPG3 which accompany this submission for further details.

*Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.*

- 3.129. The assessment has been undertaken in respect of the 2% target for open plan living/kitchen/dining spaces, as well as in respect of the 1.5% target for living rooms and 1% for bedrooms in accordance with BS 8206-2. Please refer to the accompanying report by BPG3 for further details.

- 3.130. The proposed development, in compensation for units which do not achieve the target values ADF targets, provides for an over provision (when compared to the minimum standards) of communal open space. A significant provision of tenant amenities and services are also provided.

- 3.131. Please refer to pages 12, 60 and 65 of the BPG3 Daylight Adequacy Report (2 of 3) for further details on compensatory measures in terms of daylight and sunlight.

- 3.132. In terms of neighbouring VSC, the BPG3 report (1 of 3) found that 99 of 104 windows tested were found to retain skylight access levels. Where adjacent properties fall short of recommended targets, compensatory measures are provided at page 21 of the report:

- *A residential offer which will help to address housing shortages in the immediate neighbourhood.*
- *The provision of additional public amenity space in the immediate neighbourhood.*
- *Improved street frontage and concomitant passive supervision along public roads and footpaths.*

### Specific Assessments

*Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.*

- 3.133. A Wind and Microclimate Report has been carried out by B-Fluid and accompanies this submission. The report concludes *'the development is designed to be a high-quality environment for the scope of the use intended of each areas/building... [and]*

*does not introduce any critical impact on the surrounding buildings, or nearby adjacent roads'*

*In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.*

3.134. Environmental Assessments including Appropriate Assessment Screening or and Ecological Impact Assessment Report (including Bat Survey) have been prepared by Enviroguide consultants and accompany this submission.

3.135. The Appropriate Assessment Screening Report prepared concludes that:

*'On the basis of the screening exercise carried out, it can be concluded, on the basis of the best scientific knowledge available, that the possibility of any significant effects on any European sites, whether arising from the project itself or in combination with other plans and projects, can be excluded. Thus, there is no requirement to proceed to Stage 2 of the Appropriate Assessment process; and the preparation of a Natura Impact Statement (NIS) is not required.'*

3.136. The Ecological Impact Assessment states that:

*'It is considered that as the mitigation measures proposed to protect the local biodiversity within the vicinity of the Proposed Development are carried out in full, there will be no significant negative impact to any valued habitats, or individual or group of species as a result of the Proposed Development. With the successful implementation of these measures and proposed works, to be carried out in accordance with the landscape plan, there will be no significant negative ecological impacts arising from Construction and Operational Phases of the Proposed Development.'*

3.137. In relation to flight lines, the EclA notes:

*'The Site itself is not deemed to be located in a sensitive area in terms of bird flight paths i.e., it is not located along the coast, or near any Special Protected Areas (SPAs) designated for wetland bird populations and is in itself not deemed to represent suitable ex-situ feeding/roosting habitat for any such species, as the most dominant habitat on Site is built land.*

*In addition, the Proposed Development entails the construction of 6-12 storey structures, and as such, the risk of migrating birds colliding with the structures due to their height is deemed to be negligible as migrating species tend to commute far above this level with Swans and Geese flying up to 2500ft (ca.750m) during migration along Irish Coasts (Irish Aviation Authority, 2020).'*

3.138. In relation to bats, the EclA notes:

*'An extremely low rate of bat activity was recorded during the May 2021 and May 2022 bat surveys, both of which were undertaken in ambient weather conditions – possibly due to the highly urbanised surrounding landscape and lack of woodland area within the wider landscape. Optimum bat roosting, commuting and foraging routes and opportunities are very limited. One Leisler's Bat was recorded passing over the Site during the entirety of the 9th of May 2021 survey, and one Leisler's Bat and two passes of Common Pipistrelle were recorded on the 16th of May 2022.'*

*An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.*

- 3.139. A telecommunications report has been prepared by ISM Ireland and accompanies this application. The report notes that in order to *'provide an adequate allowance for the retention of and future telecommunication channels that may be impacted by the height and scale of the Development, the Applicant is seeking planning permission to install 4No, 300mm microwave link dishes mounted on 2No. steel support poles affixed to the lift shaft overrun on Block B'*. The report concludes that *'the proposal being made by the Applicant within its submission to An Bord Pleanála allows for the retention of important Telecommunication Channels, such as Microwave links, to satisfy the criteria of Section 3.2 of the Building Height Guidelines (2018)'*.

*An assessment that the proposal maintains safe air navigation.*

- 3.140. The proposed development is under a flight path to Casement Aerodrome's Runway 28, and proximate to the Tallaght Hospital helipad. These considerations have been fully addressed in the Aeronautical Assessment Report prepared by O'Dwyer & Jones DP which concludes:

*'We consider that the proposed mixed-use development at the Belgard Square East site complies with all aviation and aeronautical requirements affecting the location, (including all aviation provisions in the upcoming [Draft] SDCC CDP 2022-28). We have provided an advance copy of the aeronautical assessment of this site to the Irish Aviation Authority, and to the Department of Defence & Air Corps.'*

*An urban design statement including, as appropriate, impact on the historic built environment.*

- 3.141. As set out in the DTVA there is limited potential for the proposed development to affect the surrounding areas including protected structures or items of historical significance. The nearest part of the Tallaght ACA to the site is St Maelruain's Church and graveyard, which is some 150m to the east, with existing commercial and residential development occupying lands between the site and ACA. The DTVA considered a positive visual intervention of the proposed development when considered from the church and graveyard. Please refer to the accompanying Design Statement prepared by Henry J Lyons and the Design, Townscape and Visual Impact Assessment prepared by City Designer for further details. An Archaeology Report prepared by IAC is also submitted with the application.

*Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.*

- 3.142. An Appropriate Assessment Screening and Ecology Impact Assessment have been prepared by Enviroguide. An EIA Screening Report and Article 299B Statement has also been included within this development proposal prepared by AWN.

#### iv. Pattern of Development & Permissions Granted

- 3.143. It is considered that the proposed development is also justifiable in the context of Part iv. of Section 37(2)(b) of the Act which states that:

*'permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan'*

3.144. It is noted that the following planning permissions have been issued by An Bord Pleanála in the local area since the making of the Tallaght LAP.

ABP-306705-20

3.145. The former Gallaher's Cigarette Factory site is located 850m northeast from the subject site, at the junction of Airton Road and Greenhills Road, Tallaght, Dublin 24. On 16th of June of 2020 permission was granted via the SHD process for the demolition of the existing factory and construction of 502 apartments.

3.146. The development applied for consisted of the following:

- Demolition of existing factory/warehouse buildings on site (total floor area circa 10,076.8 square metres).
- Construction of 502 number apartments (comprising 197 number one-bed; 257 number two-bed; and 48 number three-bed units) within six number blocks ranging in height from four to eight storeys. All residential units provided with associated private balconies/terraces to the north/south/east/west elevations.
- Provision of residential amenity facilities, three number retail units, creche, and services/bin store areas (total non-residential floor area circa 1,839 square metres).

3.147. The permitted development comprised of building heights of 4-8 storeys and a density of 202 units per hectare.

ABP-308398-20

3.148. An Bord Pleanála granted permission for the demolition of existing industrial buildings and the construction of 252 no. build to rent apartments with private open space, communal amenity space, a gym and all associated site works on 28<sup>th</sup> January 2021 on a site at Units 66 and 67 Fourth Avenue, Cookstown Industrial Estate, Tallaght, Co. Dublin. The site is c. 900 metres / 11 minutes walking distance from the subject

3.149. The permitted density was 292 unit per hectare and building heights of up to 9 storeys.

ABP-309916-21

3.150. On 21<sup>st</sup> September 2021, An Bord Pleanála issued a grant of permission for development comprising the demolition of the existing buildings, construction of 170 no. Build to Rent apartments, creche and associated site works on a site at Glen Abbey, Belgard Road, Cookstown Industrial Estate, Dublin 24, approximately 750 metres north of the subject site. The proposal extended to 4-7 storeys over basement and a net density of 256 units per hectare.

3.151. The proposal was a material contravention of the Tallaght Local Area Plan in terms of height, density and plot ratio. In granting permission, the Board had regard to: the provision of Project Ireland 2040 National Planning Framework with regard to compact growth and the provision of new homes within existing settlements, the Dublin Metropolitan Area Strategic Plan, the provision of the Urban Development & Height Guidelines and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines 2020, the pattern of existing and permitted development in the area and the planning history of the wider area.

Summary in Relation to Section 37 (2)(b) (ii), (iii) & (iv)

- 3.152. In relation to Section 37(2)(b)(ii) Policy Objectives **QDP14 Objective 1** and **UC6 Objective 3** of the draft South Dublin CDP are considered to conflict with **CS6 Objective 4** of the draft County Development Plan as they relate to the proposed development in terms of height, plot ratio and density.
- 3.153. While QDP14 Objective 1 requires proposed development to align with the content of a LAP (which the proposed development may be considered to materially contravene), CS6 Objective 4 promotes higher density development (50+ units per hectare) subject to meeting qualitative standards at appropriate locations in urban built-up areas near urban centres and/or high-capacity public transport in line with prevailing Section 28 Guidelines and where it can be demonstrated that the necessary infrastructure is in place or can be provided to facilitate the development.
- 3.154. The Tallaght LAP sets clear restrictions on the height and plot ratio/density at the site which conflicts with the content of the draft CDP and the Sustainable Urban Residential Development Guidelines and Apartment Guidelines which promote higher density, apartment development at a 'central and/or accessible urban location' such as the subject site. On this basis, there are clearly conflicting objectives in the development plan as it relates to the subject site which is subject to restrictions on height and plot ratio as set out in the Tallaght LAP.
- 3.155. It is submitted that the LAP strategy in relation to plot ratio and height is inconsistent with the draft Plan and direction of national planning policy in particular the Urban Development and Height Guidelines which acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built up area in accordance with National Planning Policy. The Tallaght LAP clearly sets out numerical height limitations at the site.
- 3.156. In relation to Section 37(2)(b)(iii), it is considered that permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, inter alia. The Government published the Urban Development and Height Guidelines (December 2018). The Guidelines are intended to set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040.
- 3.157. The Guidelines emphasise the policies of the NPF to greatly increase levels of residential development in urban centres and significantly increase building heights and overall density and to ensure that the transition towards increased heights and densities is not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level.
- 3.158. The Guidelines acknowledge that Planning Authorities have set generic maximum height limits that can undermine wider national policy objectives to provide more compact forms of urban development and continue an unsustainable pattern of urban sprawl, rather than consolidating and strengthening the existing built-up area in accordance with National Planning Policy.
- 3.159. Within the NPF, the proposed development helps support NPO 33 which aims to support sustainable development and at an appropriate scale of provision relative to location and NPO 35 which aims to: "*Increase residential density in settlements,*

*through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”*

- 3.160. As widely reflected in the submitted documentation the proposed development has considered its scale and intensity carefully, with development density having been reduced to that proposed at pre-application stage. While the proposed plot ratio, density and height may be above the limits set out in the LAP, the high-quality design, massing and block layout, as well as enhance permeability and green infrastructure mean the scheme will have a positive impact on the character and context of the area.
- 3.161. In relation to Section 37(2)(b)(iv), the above permissions granted in Tallaght following the making of the Tallaght LAP demonstrate the implementation of national policy in respect to increased building heights and density. The proposed development is consistent with the pattern of development and permissions granted in the area since the making of the Tallaght LAP.

#### **4.0 UNIT MIX**

- 4.1. Objective RE 2 of the Tallaght LAP sets out a descriptive unit mix, as follows:

*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.*

- 4.2. The proposed development consists of 99 no. 1-bed, 203 no. 2-bed and 8 no. 3-bed units which contravenes Objective RE 2 of the LAP.
- 4.3. Policy H1: Housing Strategy and Interim Housing Needs Demand Assessment (as set out in the draft South Dublin CDP 2022) also sets out a similar descriptive unit mix:

*H1 Objective 13: Proposals for residential development shall provide a minimum of 30% 3-bedroom units unless it can be demonstrated that:*

- *there are unique site constraints that would prevent such provision or*
- *that the proposed housing mix meets the specific demand required in an area, having regard to the prevailing housing type within a 10-minute walk of the site and to the socio-economic, population and housing data set out in the Housing Strategy and Interim HNDA.*

- 4.4. It is noted that this Policy has been subject to amendment in the Proposed Amendments issued by SDCC in March 2022 (in respect of BTR development) which has been retained in the CE Report issued by SDCC in May 2022, as discussed in the accompanying JSA Statement of Consistency. However, in the instance that the amendment is not adopted into the final version of the 2022 Plan, the proposal may be considered a material contravention.

#### Local Area Plan Provisions

- 4.5. The LAP promotes an overall dwelling mix in order to achieve a balanced range of dwelling types and sizes to support a variety of household types in compliance with national planning guidelines for residential development including apartments and houses. Section 5.2.1 of the LAP provides detail in relation to housing mix. The unit mix should contribute to the overall dwelling mix in the locality and should contribute to the delivery of a mixed and balanced community.

- 4.6. Objective RE 1 sets out the following overall objective for the LAP stating:

*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.*

- 4.7. We note Objective RE 2 which sets out a descriptive unit mix, as follows:

*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.*

- 4.8. Objective RE 3 states:

*It is an objective of the Council to support new and innovative ways to meet housing demands in the County while also ensuring that there is an appropriate mix of tenure and dwelling types provided to meet the needs of the current and future population of Tallaght.*

- 4.9. Ultimately the goal of the LAP is to enable people to establish their roots in the area and enable young families to continue residing in the area as their family grows.

- 4.10. The proposed development consists of a unit mix of 99 no. 1-bed (32%), 203 no. 2-bed (65%) and 8 no. 3-bed (3%) apartments and may be considered a material contravention of the LAP on this basis.

#### **Justification for Material Contravention: Unit Mix**

- 4.11. The following demonstrates how the proposed development is justified by reference to sub-paragraphs:

*'Part (iii) - permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government'*

#### **Part iii. Section 28 Guidelines**

- 4.12. The following demonstrates how the proposed development is justified by reference to sub-paragraph *'Part (iii) - permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government'* of Section 37(2)(b).

- 4.13. The updated Sustainable Urban Housing Design Standards for New Apartments were published in December 2020. These guidelines were issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply the specific planning policy requirements (SPPRs) which take precedence over any conflicting,

policies and objectives of development plans, local area plans and strategic development zone planning schemes.

- 4.14. The proposed development provides for 310 no. build to rent apartment units comprising:

	Quantity
1 bed units	99 No. (32%)
2 bed units	203 No. (65%)
3 bed units	8 (3%)
Totals	310 (100%)

- 4.15. As set out above the LAP and draft Plan requires a minimum of 30% 3 bed units. The proposed unit mix is in contravention of Objective RE 2 of the Local Area Plan and a potential contravention of the draft Plan Policy H1 Objective 13. As stated in the Design Standards for New Apartments 'there is a need for greater flexibility, removing restrictions that result in different approaches to apartment mix on the one hand, and to other forms of residential accommodation on the other'.

- 4.16. SPPR 8 states that:

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

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

*Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;*

*There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;*

*The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*

*The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations".*

- 4.17. As set out in the Guidelines, where SPPRs are stated, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.

### Summary in Relation to Section 37(2)(b)(iii)

- 4.18. As outlined in SPPR 8, it is noted there are no restrictions on dwelling mix for a BTR development. The proposed development provides for 99 No. (32%) 1-bed, 203 No. (65%) 2-bed and 8 No. (3%) 3-bed units which is considered to provide a balanced mix of units notwithstanding the absence of restrictions on unit mix. This unit size is considered suitable for the area given the high concentration of tradition detached and semi-detached house and increasing trend towards smaller households in Ireland.
- 4.19. As set out in SPPR 8, BTR developments are exempt from unit mix requirements. On this basis, planning permission may be granted for a material contravention having regard to Section 37 (2)(b)(iii).

## **5.0 TENURE – BUILD TO RENT**

- 5.1. The LAP Overarching Objectives sets out the following in respect of tenure:

***Deliver sustainable residential communities:** To strengthen Tallaght's appeal in terms of residential and community facilities and ensure the balanced provision of residential tenures, community facilities and services for the existing and future residents in order to promote health and wellbeing, social inclusion and quality of life.*

- 5.2. Objective RE 5: Security of Tenure states:

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

- 5.3. Accompanying text at Section 5.2.2 (page 92) of the LAP notes:

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

- 5.4. Draft South Dublin CDP 2022 Policy QDP10: Mix of Dwelling Types seeks to:

*"**QDP10 Objective 1:** To ensure that new residential developments provide for a wide variety of housing types, sizes and tenures in line with the South Dublin County Housing Strategy 2022-2028."*

- 5.5. Section 8.3.1 of the draft Housing Strategy (Appendix 11 of the draft Plan) states:

*"... development comprising residential use will be required to provide a minimum of 30% 3-bedroom units as part of the proposed scheme. In recognition that each area has specific socio-economic differences and thus different housing demands, development proposals may justify any deviation from the minimum 3-bedroom mix, based on the socio economic and demographic context within a 10-minute walking distance from the site."*

- 5.6. The proposed development, which consists of a mix of residential tenure providing BTR accommodation and 10% social housing, is in contravention of Section 5.2.2 of

the LAP which encourages the provision of at least 30% owner occupied units across the LAP area. The proposed tenure may also be considered to be in contravention with Policy QDP10 and Section 8.3.1 of the draft Housing Strategy as it requires the provision of 30% 3-bedroom units as part of residential development.

#### Local Area Plan Provision

- 5.7. The LAP states that the type of accommodation to be provided within the plan lands should be appropriate to the needs of the people.
- 5.8. The LAP aims to avoid an over proliferation of a single housing tenure in new housing developments, development proposed must make provision for a balanced mix of private, build to rent and social housing to accommodate the needs of a mixed and balanced community.
- 5.9. The LAP acknowledges there is a role for BTR in Tallaght as part of a mixed and balanced housing supply. BTR can provide a viable long-term housing solution for households where homeownership.
- 5.10. JSA has undertaken an assessment of the local area within a 10-minute walking distance of the site based on CSO Census data for 2016. This indicates that the study area includes c. 61% of households as 'owned with mortgage or loan' or 'owned outright', with 'rented from private landlord' comprising c. 22% of the total. This demonstrates that the area has the capacity to absorb additional private rental households in order to provide a balance of tenures in the area.
- 5.11. The study area has seen a c. 13.4% increase in population to 2016, with a higher proportion of 25-44 and 65+ demographics compared to state totals, with younger adults and older down-sizers typically expected to occupy BTR developments. In this respect, the proposal is considered to respond appropriately to the emerging demographic in the study area. Statistics also demonstrate a growth in professional and managers in the area who may be suited to BTR schemes.
- 5.12. It is noted that the proposed development provides 1, 2 and 3-bedroom units, with all 2-bedroom apartments designed to accommodate 4 people, alongside 3-bed units that provide for larger family sizes. This responds to the household size in the Tallaght-Springfield Electoral Division at the 2016 Census which demonstrates a low proportion (5.1%) of 1-person households, and 3 and 4 person households (totalling c. 15%) compared to the wider study area. The proposed development will provide for additional 1-bed apartments as well as providing 4-person 2-bed units and 3-bed units which will assist in increasing the proportion of 3 and 4 person households in the area.
- 5.13. Please refer to Section 6.99 to 6.104 of the accompanying JSA Statement of Consistency for further details.

#### Justification for Material Contravention: Tenure

- 5.14. The following demonstrates how the proposed development is justified by reference to sub-paragraph '**Part (iii)** - *permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government*' of Section 37(2)(b).

- 5.15. The National Planning Framework sets out the benefits of apartment development towards a sustained increase in urban housing output and achieving a long term move towards a smaller average household size and a higher proportion of rented sector households:

*“While apartments made up 12% of all occupied households in Ireland and 35% of occupied households in the Dublin City Council area in 2016 (Census data), we are a long way behind European averages in terms of the numbers and proportion of households living in apartments, especially in our cities and larger towns. In many European countries, it is normal to see 40%-60% of households living in apartments.*

*To more effectively address the challenge of meeting the housing needs of a growing population in our key urban areas, it is clear that we need to build inwards and upwards, rather than outwards. This means that apartments will need to become a more prevalent form of housing, particularly in Ireland’s cities.*

*This is underpinned by on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, greater mobility in the labour market and a **higher proportion of households in the rented sector.***

*The economics of apartment construction can be more challenging than that of conventional housing. However, through more effective land management, regeneration and development initiatives, and new planning, regulatory and funding approaches to apartment development, meeting the housing requirements arising in major urban areas for people on a range of incomes will be a major priority for this Framework and the actions flowing from it.”*

- 5.16. The proposed development is suitably placed to accommodate and contribute to a higher proportion of households in the rented sector being located in a town centre and very accessible to high-quality and high-capacity public transport, consistent with the aims and objectives of the NPF.
- 5.17. As set out in ‘Housing for All – A New Housing Plan for Ireland’, the rented sector is a key component of the Government’s overall response to solving the housing crisis. Real Estate Investment Trusts (REITS) and other institutional investors were highlighted as having been successful at raising development finance and having the potential to invest significantly in built-to-rent projects. As evident to date this has been the case, with BTR developments delivering significant quantities of houses to the market. As outlined in presentation to the IPI by Mitchell McDermott (May 2020)<sup>3</sup> apartment developments experienced a 130% increase in permissions to 21,000 in 2019. BTR providers are having a positive impact on the market. This can be attributed to the positive impact that the Design Standards for New Apartments have had on viability of schemes.
- 5.18. Work undertaken by the Economic and Social Research Institute (ESRI) indicates housing demand arising from approximately 600,000 new households in Ireland up to 2040. The National Planning Framework (NPF) has clearly signalled a shift in Government policy towards securing more compact and sustainable urban development. The Design Guidelines for New Apartments highlight that it is therefore critical to ensure that apartment living is an increasingly attractive and desirable housing option for a range of household types and tenures.

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<sup>3</sup> Viability & Feasibility in Planning presentation given by Paul Mitchell on behalf of Mitchell McDermott 15 May 2020. [https://www.ipi.ie/sites/default/files/accordion-files/mitchell\\_mcdermott\\_ipi\\_pres\\_on\\_viability\\_reduced\\_file\\_size\\_0.pdf](https://www.ipi.ie/sites/default/files/accordion-files/mitchell_mcdermott_ipi_pres_on_viability_reduced_file_size_0.pdf)

5.19. BTR schemes are generally more suited to younger residents and smaller families, therefore considering the general trend towards smaller households (as set out in the NPF) and a decline in home ownership against rental tenures there is significant demand for BTR in the area. The excellent provision of transport connections, education facilities, healthcare and employment zones in combination with the existing demographic profile of the area mean the scheme is appropriate for the area and well positioned to meet market demand.

5.20. BTR developments are defined in the Sustainable Urban Housing Design Standards for New Apartments as:

*“Purpose-built residential accommodation and associated amenities built specifically for long term rental that is managed and serviced in an institutional manner by an institutional landlord”.*

5.21. The Apartment Guidelines support the provision of BTR accommodation at Section 5.1, recognising the potential role it can play in Ireland and stating that BTR Housing Developments are:

*‘Larger-scale apartment developments that typically include several hundred units and are designed and constructed specifically for the needs of the rental sector are a prominent feature of housing provision in many countries. These types of housing developments also have a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. They can provide a viable long term housing solution to households where home-ownership may not be a priority, such people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy.’*

5.22. In relation to the requirements of BTR schemes, SPPR 7 states that:

*“BTR development must be:*

*Described in the public notices associated with a planning application specifically as a ‘Build-To-Rent’ housing development that unambiguously categories the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that the status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;*

*Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:*

*Residential Support Facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/ repair services, waste management facilities, etc.*

*Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/ lounge areas, work/ study spaces, function rooms for use as private dining and kitchen facilities, etc.*

- 5.23. In response to SPPR7 (a), the public notices explicitly identify the proposal as comprising a Build-to-Rent proposal. (b) A draft covenant is submitted with the application.

*Resident Support Facilities & Amenities*

- 5.24. The proposed development will include a range of dedicated residential support facilities including gym, yoga deck, residents' lounges and various coworking spaces across the 3 no. blocks, as well as external communal open space at the southern perimeter and a range of roof terraces which enhances amenities available to residents. A creche is also provided. The proposed development includes the essential facilities to meet the needs of future residents. These spaces are directly accessible from a number of entrances at ground floor level at Belgard Road, Blessington Road and Belgard Square East. Residential entrances are included adjacent to amenity spaces and commercial uses, promoting activity and passive surveillance. The generous provision of commercial activity including restaurant/café, professional services/office and retail consolidate and enhance amenity provision within the scheme. The development is also well located with a significant number of community, educational, healthcare and employment services within walking distance.
- 5.25. Please see the AWN Operational Waste Management Plan in respect of waste management facilities which are at ground floor level and provide for segregation of waste and recyclables. A BTR Operational Management Plan has also been prepared by Hooke & MacDonald and accompanies this submission.
- 5.26. As evident above the ancillary facilities and necessary supporting documentation are fully provided as part of this application, including a range of secured car and bicycle parking distributed throughout the site.
- 5.27. SPPR 8 states that:

*"For proposals that qualify as specific BTR development in accordance with SPPR 7: No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;*

*Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;*

*There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;*

*The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations".*

- 5.28. Compliance with the Apartment Guidelines 2020 is set out in detail in the accompanying Statement of Consistency. In terms of car parking, and in compliance with SPPR8 (iii), the proposed development includes a 'significantly reduced' provision on the basis of the scheme's BTR nature. A total of 130 no. car parking spaces are provided at basement level, complemented by 5 no. set down spaces adjacent to the creche, 1 no. disabled access space along the tertiary route and set down spaces at the tertiary route and Belgard Square East, equating to a ratio of c. 0.4 spaces per unit. The CS Consulting Traffic & Transport Assessment specifically addresses the car parking provision for both residential and commercial spaces. The proposed development will also provide a range of transportation options including 8 no. car sharing club vehicles.
- 5.29. Approximately 38% of apartments exceed the minimum standards set out in the Apartment Guidelines, notwithstanding the SPPR8 provision. Please refer to the accompanying HQA prepared by Henry J Lyons for further details.

#### Summary in Relation to Section 37 (2)(b)(iii)

- 5.30. As set out in 'Housing for All – A New Housing Plan for Ireland', the rented sector is a key component of the Government's overall response to solving the housing crisis:

*'In the 2016 Census figures, the private rental sector accounted for nearly 18.2% of all tenures. This underlines the importance of the private rental sector to our housing system.'*

- 5.31. The NPF and the Apartment Guidelines recognise the potential contribution of BTR to the provision of a higher proportion of households in the rented sector and provide a long-term viable solution to accommodation in Ireland.
- 5.32. The proposed development will include a range of dedicated residential support including gym, yoga/ meditation space, residents' lounge and various coworking spaces across the 3 no. blocks, as well as external communal open space at the southern perimeter and a range of roof terraces which enhances amenities available to residents. Ancillary facilities and necessary supporting documentation are fully provided as part of this application. A rationale for the nature of amenities and services provided is enclosed within the accompanying BTR Management Plan prepared by Hooke & MacDonald.
- 5.33. In summary, the proposed development is in compliance with National Planning Policy and Section 28 guidance, notably the Sustainable Urban Housing Design Standards for New Apartments (2020) in particular SPPR 7 and SPPR 8. This planning application is fully by this policy and will provide a high-quality development as evident in the range of supporting documentation enclosed.

## **6.0 PUBLIC OPEN SPACE**

- 6.1. We note the following objectives in relation to provisions of Policy COS5: Parks and Public Open Space – Overarching:

***"COS5 Objective 1: To support a hierarchy of multi-functional, accessible parks and public open spaces across the County in line with Table 8.1, based on existing populations and planned growth in accordance with the overall standard of 2.4ha per 1,000 population."***

**COS5 Objective 4:** To require the provision of public open space as part of a proposed development site area in accordance with the Public Open Space Standards (minimum) set out in Table 8.2.

**COS5 Objective 5:** The Council has the discretion to accept a financial contribution in lieu of any remaining open space requirement to achieve the overall standard of 2.4 ha per 1,000 population, such contribution being held solely for the purpose of the acquisition or upgrading of small parks, local parks and neighbourhood parks subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 8.1.

- 6.2. The proposed development includes c. 1.03 ha of public open space which falls short of the overall standard and may be considered to be a material contravention.
- 6.3. In the event of a shortfall in public open space of one the criteria, a financial contribution can be made in lieu under the provisions of Objective COS5 Objective 5 at the discretion of the planning authority for the purpose of the acquisition or upgrading of small parks, local parks and neighbourhood parks and in exceptional circumstances to allow provision or upgrade of Regional Parks. The applicant is agreeable in principle to a financial contribution in lieu if required necessary.

#### Draft South Dublin Development Plan 2022-2028 Provisions

- 6.4. Accompanying text within Chapter 8 states:

*"The overall standard for public open space is 2.4 hectares per 1,000 population. This will be applied to all developments with a residential element. Within that standard, there are specified percentages as set out in Table 8.2 which must, as a minimum, be provided on site. Only in exceptional defined circumstances, as set out in the objectives below, will flexibility be provided for."*

**Table 8.2:** Public Open Space Standards

Land Use	Public Open Space Standards (minimum)
Overall Standard	2.4 Ha per 1,000 Population
New Residential Development on Lands Zone RES-N	Minimum 15% of site area
New Residential Development on Lands in Other Zones including mixed use	Minimum 10% of site area
Institutional Lands / 'Windfall' Sites	Minimum 20% of site area

- 6.5. Based on the above, the requirement of public open space for the subject site under COS5 Objective 5 and 6 equates to 1.15 ha [ $24 \times (302 \times 1.5) + (8 \times 3.5) = 11,544$  sqm] considering the mix of units proposed. This would equate to a size greater than that of the net site area. The proposed development provides for a total of 1,026 sqm (0.103 ha) of public open space and may be considered to be a material contravention of the draft Plan in this regard. It is noted however that the proposed development includes c. 11% of public open space in accordance with Table 8.2.

### **Justification for Material Contravention: Public Open Space**

- 6.6. The following section shall demonstrate how the quantum of open space is justified in the context of Section 37 (2)(b)(iii) of the 2000 Act which states that permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, inter alia, for the reasons set out below in the context of current National Planning Policy, namely Sustainable Residential Development in Urban Areas Guidelines (2009). The proposed development will provide for a high quality of open space in accordance with the guidelines on Sustainable Residential Development in Urban Areas (2009). In Section 4.20 the Guidelines states:

*“In other cases, such as large infill sites or brown field sites public open space should generally be provided at a minimum rate of 10% of the total site area; and;”*

- 6.7. Given the context of the site in close proximity to Tallaght Town Centre and its current vacant condition, the subject site clearly meets the description as ‘infill/brownfield’ site. As such 10% open space requirement is the applicable standard.

- 6.8. We note Section 4.21 of the Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (May 09) state:

*“It will be necessary for planning authorities to take a more flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards outlined above. Where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution towards public open space or recreational facilities in the wider area in lieu of public open space within the development.”*

- 6.9. Parkhood have prepared a detailed landscape strategy, summarised as follows within Cameo & Partners Design Statement:

*“The landscape design aims to create a sense of connectivity between spaces and promotes a sense of place and well-being within the mixed-use residential development.*

*The design will create high quality public space including carefully designed public realm and a pedestrian connection through the site. A pocket courtyard park on the ground floor and roof terrace gardens will ensure that residents on all levels readily have access to exterior garden spaces. The creche outdoor spaces have been carefully sheltered from the view and noise from the street with a planting buffer.*

*The design includes an open space for natural play, passive and active recreation thanks to flexible lawn area, but also social/communal interaction for a diverse type of user.”*

- 6.10. The proposed development clearly meets the requirements of the Sustainable Residential Development in Urban Areas (2009) through the provision of c. 11% of the site area as public open space. The proposed development also provides significant public gain through the provision of a tertiary route to the south resulting in the delivery of an important pedestrian and cycle linkage with the area.

- 6.11. Furthermore, the Social Infrastructure Assessment prepared by JSA and enclosed with this application notes the existing provision of open space and recreation facilities in

the wider Tallaght area. Within the immediate context we note the following large open spaces close to the proposed development such as Bancroft Park, Sean Walsh Park and the playing pitches at TU Dublin, Tallaght Campus located directly to the east.

- 6.12. Further detail in regard to the compliance of the scheme with Sustainable Residential Development in Urban Areas (2009) are set out in the HJL Design Statement and further addressed on the open space provision as set out within Landscape Design & Access Statement and drawings prepared by Parkhood.

## 7.0 SEPARATION DISTANCES

### Draft South Dublin Development Plan 2022-2028

- 7.1. **Section 13.5.4 Residential Standards: Separation Distances and Block Layout** states that:

*'Section 10 of the Urban Design Manual (2009) addresses privacy and amenity. A separation distance of 22 metres should generally be provided between directly opposing above ground floor windows to maintain privacy. Reduced distances will be considered in respect of higher density schemes or compact infill sites where innovative design solutions are used to maintain a high standard of privacy.'*

- *A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design.*
- *In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.*
- *In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.'*

- 7.2. The proposed development includes separation distances of c. 31 metres between Blocks A and B across the central courtyard. Approximately c. 11 metres separation distances are included at the southern ends of Blocks A and B to Block C which may be considered to be a material contravention of Section 11 of the CDP.
- 7.3. The proposed development may be considered suitable for reduced distances in the context of Section 13.5.4 as it is a higher density development (342 units per hectare), will implement compact growth at an infill site and includes design solutions (such as translucent glazing) to maintain a high standard of privacy. The provision of the tertiary route through the southern part of the site requires the splitting of blocks which consequentially reduces separation distances at this location. The proposed development includes a comprehensive daylight analysis in the form of 3 reports provided by BPG3 which notes that 89% of all assessment windows achieve recommended target values. Please refer to BPG3 reports for further details.

### **Justification for Material Contravention: Separation Distances**

- 7.4. The following demonstrates how the proposed development is justified by reference to sub-paragraph '**Part (iii)** - permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government' of Section 37(2)(b).

- 7.5. It is considered that the separation distances proposed are justified in the context of National Strategic Outcome 1 of the National Planning Framework as well as:
- NPO 3a seeks to deliver 40% of new homes within urban settlements
  - NPO 4 create attractive, liveable and well-designed high quality urban places
  - NPO 13 which encourages compact growth and building height at urban locations
  - NPO 33 priorities new homes at locations that can support sustainable development at an appropriate scale
  - NPO 35 which promotes increased residential density in settlements to reduce vacancy and promote regeneration
- 7.6. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) promotes residential development of a minimum of 50 units per hectare within public transport corridors, which is applicable to the subject site.
- 7.7. The proposed development is located at a 'central and/or accessible urban location' in the context of the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020*, which are considered suitable for higher density development that may wholly comprise of apartments.
- 7.8. Sections 2.23 and 2.24 of the Apartment Guidelines address Building Design with specific reference to separation distances:
- "The National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. In particular, **general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.***
- While it would not be appropriate for these Guidelines to indicate performance criteria for building height or building separation distance relative to location, it is recognised that **there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities.** This is subject to separate guidance to planning authorities with regard Urban Development and Building Heights, issued in December 2018."*
- 7.9. It is clear from national policy and section 28 guidelines that prescriptive separation distances are discouraged and should be replaced by performance-based criteria appropriate to location. The proposed development includes a higher density scheme at an urban location which achieves the objectives of national policy and the Apartment Guidelines by including higher density apartment development at a central and accessible location to assist in the increase of apartment development in Dublin.

Summary in Relation to Section 37 (2)(b)(iii)

- 7.10. It is considered that the proposed development will implement a high-quality scheme in accordance with the provisions of the NPF, the SRD Guidelines 2009 and the Apartment Guidelines 2020 which promote increased density and the optimum use of brownfield, infill lands at accessible locations to deliver residential development. The NPF and Apartment Guidelines also require the replacement of blanket restrictions on building separation distance with performance based criteria.
- 7.11. Where the separation distances fall below the general requirement of 22 metres set out in the draft CDP 2022, windows have been designed to be translucent and high

level on the southern ends of Blocks A and B to mitigate overlooking potential, with the majority of these windows serving bathrooms.

- 7.12. Section 13.5.4 Residential Standards: Separation Distances and Block Layout considers that in certain instances reduced distances may be acceptable '*depending on orientation and location in built-up areas*'. The proposed development is located at an infill location in a built-up area and will promote compact growth. The architectural solution maintains a high standard of privacy, as detailed within the accompanying HJL drawings and the BPG3 daylight and sunlight reports which note that subject rooms achieve good levels of average daylight factor in accordance with the BRE recommended guide, with a c. 89% overall compliance achieved.

## 8.0 CONCLUSION

- 8.1. It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the South Dublin Development Plan and the Tallaght Town Centre Local Area Plan, an appropriate justification is set out within this statement demonstrating that the proposed building heights, plot ratio tenure and unit mix in this development are appropriate for the subject site.
- 8.2. In relation to building height, the proposal which provides overall heights of 6 to 12 no. storeys is supported by current national planning policy which emphasises the need for increased density at appropriate locations such as the subject site. The current limitation of building height as set out in the Local Area Plan is inconsistent with the Building Height Guidelines, as higher density development cannot be achieved without the provision of taller buildings at appropriate locations within suitable areas. The subject site constitutes a suitable site for higher buildings owing to its proximity to public transport and its location at the eastern gateway to Tallaght town centre.
- 8.3. The proposal meets all criteria outlined in national planning policy and Section 28 Guidelines, particularly the Building Height Guidelines 2018, in terms of suitability for high density development incorporating taller buildings and constitutes a secondary landmark building in the context of the draft Plan and the Guidelines. The site is located adjacent to a high-quality public transport corridor, located within a LAP in close proximity to Tallaght Town Centre and will punctuate an urban area.
- 8.4. 'Plot Ratio', along with 'height and built form', are some of the key development parameters used by the LAP to determine and assess the intensity, scale and bulk of development. The proposed development is a high quality architectural approach to the site and seeks to achieve optimal use of land and sustainable urban densities whilst making a positive visual intervention to the local area. While limits in terms of height and plot ratio are exceeded, the development supports the achievement of key national, regional and local objectives and will facilitate compact growth and optimal use of a brownfield, infill site which is cleared and ready for development.
- 8.5. As set out in SPPR 7 and SPPR 8 of the Design Standards for New Apartments (2020) there is no restrictions on dwelling mix for a BTR development. The proposed development provides for 99 no. (32%) 1-bed, 203 No. (65%) 2-bed apartments and 8 No. (3%) 3-bed apartments which is considered to provide a balanced mix of units in accordance with the Apartment Guidelines. This unit size is considered suitable for the area given the high concentration of tradition detached and semi-detached house and increasing trend towards smaller households in Ireland.
- 8.6. Whilst the proposal does not provide 2.4ha of public open space per 1,000 population, which would be unachievable at the site, c. 11% of the net site area is provided as

public open space. This will ensure a high-quality environment for residents as well as enabling the optimal use of the brownfield site for a mixed-use scheme which will implement compact growth and add positively to the streetscape and public realm at the location as well as including community facilities and retail use.

- 8.7. Reduced separation distances are considered appropriate in order to facilitate the objectives of the Tallaght LAP for site by the implementation of a tertiary route, as well as implementing compact growth and increased density at a central and accessible location consistent with the NPF NPO13 and Apartment Guidelines 2020.
- 8.8. It is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed height in this instance. There is ample justification for An Bord Pleanála to permit a material contravention of the Development Plan and Local Area Plan in terms of allowable height, plot ratio, tenure, unit mix, public open space and separation distances having regard to Section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act, 2000 (as amended).