

# STATEMENT OF MATERIAL CONTRAVENTION

## Bancroft View SHD

Lands on Greenhills Road (north of Bancroft Park, south/west of Hibernian Industrial Estate and east of Airton Road junction), Tallaght, Dublin 24

MAY 2022

SUBMITTED ON BEHALF OF:  
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## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this Statement of Material Contravention on behalf of our clients, Greenhills Living Limited, to accompany a planning application to An Bord Pleanála for a proposed Strategic Housing Development at Lands on Greenhills Road (north of Bancroft Park, south/west of Hibernian Industrial Estate and east of Airton Road junction), Tallaght, Dublin 24.

The subject application involves a parcel of land located at the intersection of Greenhills Road and Airton Road, Tallaght, Dublin 24, and comprises an area of approximately 0.8 ha (1.98 acres). The site consists of a hard-standing surface to the north which is used for car parking and a greenfield to the south. The subject site is devoid of any built form with the exception of an existing ESB substation. The proposed development, as designed by C+W O'Brien Architects, involves the demolition of the existing substation and removal of the billboard structure on site and the construction of a mixed-use development comprising 197 no. apartments, a creche and 4 no. commercial units within 4 no. blocks ranging in height from 7-8 storeys with an eighth-floor level roof terrace. The 197 no. apartment units will be comprised of 79 no. one-bedroom units, 105 no. two-bedroom units and 13 no. three-bedroom units, all of which have direct access to private amenity space, in the form of a balcony, and shared access to 2 no. resident's lounges a gym and 1,490.8sq.m of communal amenity space.

It is respectfully requested, that An Bord Pleanála has regard to the following justification for a potential material contravention of the South Dublin Development Plan 2016-2022 and Tallaght Town Centre Local Area Plan 2020-2026 (as the documents relate to building height, plot ratio, unit mix and car parking provision), having regard to the fact that the proposed development is by definition 'of strategic importance', the pattern of development approved in the area and having regard to the compliance of the proposed development with national planning policy and section 28 Guidelines as outlined herein.

These include the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2020, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, which fully support and reinforce the need for urban infill residential development at appropriate heights and densities on sites in close proximity to public transport and within existing urban areas whilst also encouraging a reduction in the number of car parking spaces provided within highly accessible locations.

## 2.0 Legislative Context

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

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

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

- (i) the proposed development is of strategic or national importance,*
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

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

It is respectfully requested that An Bord Pleanála, should they determine the proposal materially contravenes the South Dublin Development Plan 2016-2022 and Tallaght Town Centre Local Area Plan 2020-2026, have regard to the rationale provided in the subsequent sections. It is considered that the policies and objectives stated in the Section 28 Government Guidelines, including the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2020, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, provide justification for the proposed building height.

These policies, among others, are discussed in the below justification section. Further to this, the proposal can also be justified having regard to the strategic importance of Strategic Housing Developments and the permissions recently granted in the area.

### 3.0 Potential Material Contravention

#### 3.1 Building Height

Section 2.3 'Urban Framework' of the Tallaght Town Centre Local Area Plan 2020-2026 presents the Overall Urban Structure diagram for Tallaght. The subject site, as identified on this diagram, is designated for buildings rising from 4 storeys to a maximum of 6 storeys in height

The proposed development varies in height. The scheme rises from 7 storeys to a maximum of 8 storeys, and a maximum height of 30.33 metres (from street level to the top of the parapet), which exceeds the maximum height of 6 storeys as set out under the Tallaght Town Centre Local Area Plan 2020-2026

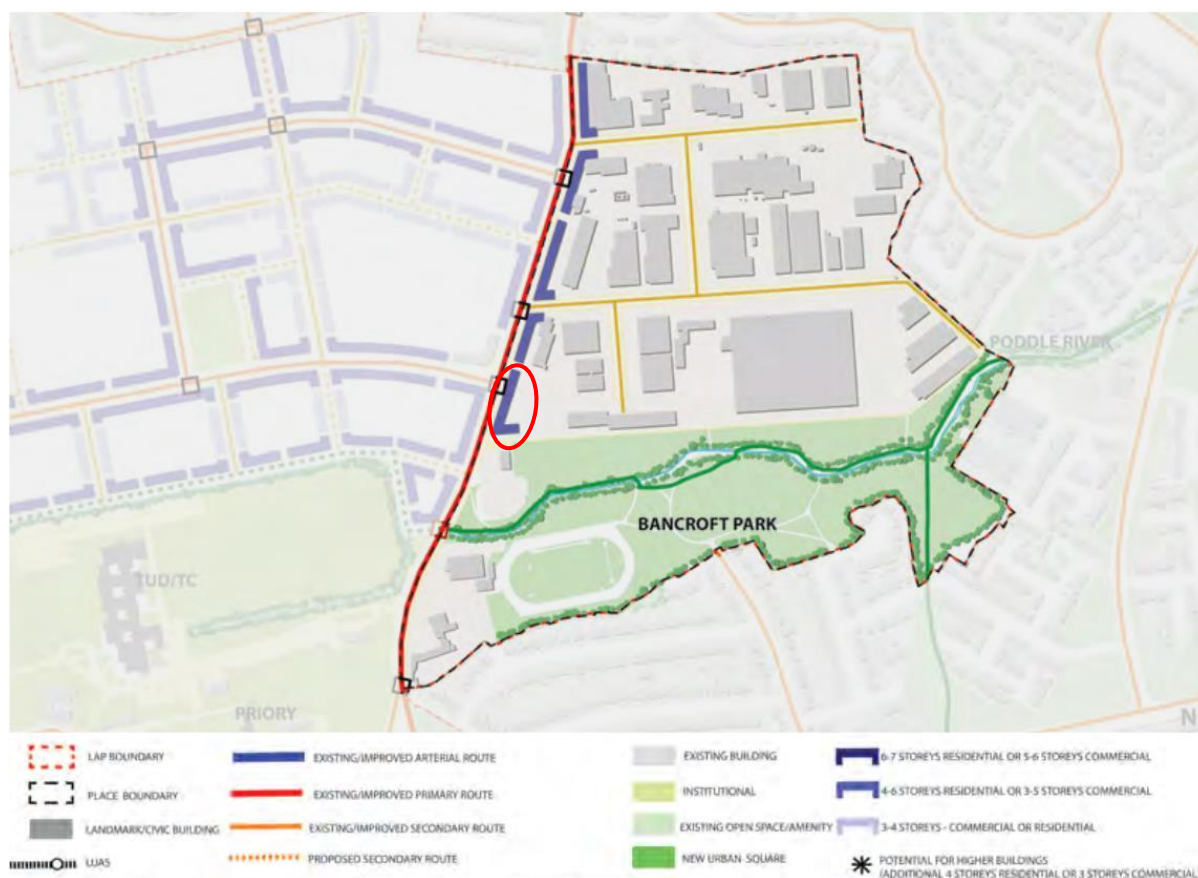


Figure 1.0 Overall Urban Structure Diagram included in Figure 2.4 in Section 2.3 of the LAP (subject site identified with red circle).

### 3.2 Plot Ratio

Section 2.6.1 'Plot Ratio' of the Tallaght Town Centre Local Area Plan 2020-2026 includes a table which sets out a range of appropriate plot ratios across the plan lands and 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.'*

The recommended plot ratios for the Greenhills area is 0.75-1.0, increasing to 1.5 where it is demonstrated that the site is within 500m walking distance of high-capacity public transport.

The proposed development has a plot ratio of 2.68 which exceeds the maximum plot ratio of 1.5 as set out under the Tallaght Town Centre Local Area Plan 2020-2026

### 3.3 Unit Mix

Section 5.2.1 'Housing Mix' of the Tallaght Town Centre Local Area Plan 2020-2026 includes Objective RE 2, the wording of which is 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.'*

Of the 197 no. residential units proposed under the subject application, 6.6% have a minimum of 3 no. bedrooms and, as such, the development falls short of the required quantum of 3 no. bedroom units.

### 3.4 Car Parking

Section 11.4.2 'Car Parking Standards' of the South Dublin County Development Plan 2016-2022 has regard for vehicular parking rates for non-residential and residential developments.

The **maximum** parking rates associated with new residential developments, as set out in Table 11.24 of the South Dublin County Development Plan 2016-2022 are as follows:

- 1 no. space per 1 bed apartment in Zone 1 and 0.75 spaces in Zone 2;
- 1.25 spaces per 2 bed apartment in Zone 1 and 1 space in Zone 2;
- 1.5 spaces per 3+ bed apartment in Zone 1 and 1.25 spaces in Zone 2

The proposed development, on the basis of its proximity to a bus stop served by a high frequency bus route, is situated in Zone 2. Having regard to the above standards, the following table provides a breakdown of the **maximum** no. of parking spaces permissible for the proposed development scheme.

	No. of 1 Bed Apartments	No. of 2 Bed Apartments	No. of 3+ Bed Apartments	Applicable No. of Maximum Spaces
Proposed Development	79 (x 0.75 spaces) = 59.25	105 (x 1 spaces) = 105	13 (x 1.25 spaces) = 16.25	<b>180.5</b>

Figure 2.0 Table showing the breakdown of car parking spaces required to serve the proposed development scheme

Whilst 180.5 no. spaces are the maximum number of spaces permissible to serve the proposed scheme, we note that a provision of X no. spaces has been achieved.

Notwithstanding the shortfall of X no. spaces proposed under the subject scheme relative to the advised maximum number of spaces, the Applicant has taken the conservative approach in considering the quantum of parking proposed to reflect the material contravention of the Development Plan.



## 4.0 Justification for Potential Material Contraventions

### 4.1 Building Height

The proposed height of the development is in excess of the development plan standards. The proposal comprises a part seven, part eight, with ninth floor level roof terrace and reaches a maximum height of 30.33 metres (from street level to the top of the parapet). The development's highest built form element is located within the south-western corner of the site as to avoid any undue impact on the surrounding properties. The design of the development and the variety in height proposed along each boundary has addressed the context of the existing development adjoining the site. It is considered that the proposed transition in height from west to east is in keeping with the surrounding context of immediately abutting lots and represents an appropriate design response to the parallel running Greenhills Road. In this regard it is considered that the increase in height in part of the site is considered acceptable and an appropriate response to the surrounding developments in the area.

The site is located in an evolving area that, whilst predominantly occupied by commercial development at present, is responding to national policy guidance and providing for extensive redevelopment to accommodate residential development. An apartment scheme, which includes 6 no. blocks of four to eight storeys, is located to the immediate west of the subject site and straddling the corner of Airton Road and Greenhills Road



Figure 3.0 Aerial view, showing subject site outlined in red and apartment buildings of 4 – 8 storeys permitted within the immediate vicinity on the opposite side of Greenhills Road.

Further to the above, we note that the subject site is situated in close proximity to a number of Dublin Bus/Go-Ahead Ireland services operating in the vicinity of the site including nos. 27, 54a, 65, 75, 75a, 76, 76a, 77a, and 175 are all within 5 minutes' walk of the site. The no. 27 that operates directly past the site runs services every ten minutes until at least 7pm Monday to Saturday and every 15 minutes on Sundays. Together these bus services provide links to Dublin City Centre, Connolly Train Station, Dún Laoghaire, Chapelizod, Walkingstown, Crumlin, Fairview, Dundrum, University College Dublin among other locations.

The Tallaght Town Centre Local Area Plan 2020-2026 acknowledged that deviations in prescribed building heights can be permitted in the interest of placemaking and improving legibility stating that:

*'Landmark Buildings are permissible at key locations that will punctuate urban areas. 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. A 2–4 storey increase on the above typical levels of the LAP Heights Strategy may be considered for key or landmark sites or where sites exceed 2 ha in area and can establish its own identity.'*

As per the above commentary, a 2-4 storey increase on the typical levels identified in the Overall Urban Structure diagram for Tallaght can be considered for sites which reflect key/landmark sites. It is considered that the blocks, which rise to a maximum height of eight storeys, with eighth floor roof terrace, are appropriately situated to accommodate a building of landmark height and design given its prominent position on the junction of Airton Road and Greenhills Road and the fact that it commands a significant vista to Airton Road and Bancroft Park. Further to the above commentary regarding landmark buildings, the LAP states that 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.*

It is considered that the subject site is appropriately located to provide for an increase in building height given the evolving nature of the immediate area with the aforementioned local apartment scheme providing direct precedent for increased building height at this location. The reduction in building height from west to east across the subject site indicates due regard for the prominence of Greenhills Road in the hierarchy of the local public realm. With regards to daylight and sunlight access, it is considered that the recessing centrally of the proposed blocks from the site boundaries provides an appropriate design response which ensures that the future development of immediately adjoining sites is not compromised as a result of the proposed scheme.

Given the achieved setback and the nature of adjoining sites, it is not considered that the proposal will have any undue impact on the amenity value of localised private/open spaces. With regards to potential overbearing impacts, it is considered that the height and design of the subject proposal provides a strong urban edge to Greenhills Road which, in contributing to the efficient development of the subject site, provides a localised planning gain in the form of improved site legibility.

It is considered that the subject proposal provides a valuable contribution to the immediate public realm in the form of improved permeability and upgrades to the quality of pedestrian infrastructure along the western boundary of the subject site. The provision of ground floor level commercial units will contribute to the greater animation of Greenhills Road whilst the wider scheme will contribute to the passive surveillance of the immediate and wider area. As stated previously the subject site is located within close proximity to a significant quantum of public transport services including Bus and Luas routes. The LAP provides further opportunity to justify increased building heights as per the below commentary:

*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.*

Notwithstanding the recreational development to the immediate south of the subject site, it is considered that the application site is representative of a corner site in that it reflects the true south-western corner of the Hibernian Industrial Estate. It is considered that the architectural form and design achieved by C+W O'Brien Architects provides for a high standard of development with appropriately robust materials utilised to provide an appropriate extent of development on this landmark site.

## 4.2 Plot Ratio

The proposed plot ratio is inconsistent with the guidance contained within Section 2.6.1 'Plot Ratio' of the Tallaght Town Centre Local Area Plan 2020-2026, which states that a plot ratio of 1.5 is the maximum permissible upon the subject site. The proposed development, which has a plot ratio of 2.68, exceeds the maximum plot ratio permitted at this location.

Notwithstanding this exceedance, it is considered that the increase in plot ratio is intrinsically linked to both the height and density of the proposed scheme and, for the reasoning presented in Sections 4.1 and 5 of this report, is justified on the basis of ensuring the efficient and sustainable development of the subject site.

## 4.3 Unit Mix

The proposed unit mix is inconsistent with Objective RE 2 of the Tallaght Town Centre Local Area Plan 2020-2026, which requires a minimum of 30% of the proposed residential units to accommodate a minimum of three bedrooms. The proposed development provides 6.6% of the total units as three-bedroom units thus falling short of the minimum provision of 30%. The scheme has been designed having regard to the Sustainable Urban Housing: Design Standards for New Apartments 2020. Specific Planning Policy Requirement (SPPR) No. 1 of the Apartment Guidelines (2020) supersedes Objective RE 2 of the Tallaght Town Centre Local Area Plan 2020-2026 stating the following:

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

Given that the proposed development is consistent with the Apartment Guidelines (2020), the unit mix proposed under the current application is considered appropriate.

## 4.4 Car Parking

As stated previously, the Applicant has taken the conservative approach in considering the quantum of parking proposed to reflect the material contravention of the Development Plan in that the proposed quantum of 78 no. vehicular parking spaces falls short of the permitted maximum number of vehicular parking spaces (180.5 spaces) guided by the South Dublin County Development Plan 2016-2022. As the parking standards of the development plan are maximum by nature, a deviation from these standards is not considered to represent a material contravention of the plan.

Furthermore, it is noted that the Development Plan allows for a reduction in the quantum of vehicular parking spaces as per the following commentary from Section 11.4.2 'Car Parking Standards':

*The maximum provision should not be viewed as a target and a lower rate of parking may be acceptable subject to:*

- *The proximity of the site to public transport and the quality of the transport service it provides. (This should be clearly outlined in a Design Statement submitted with a planning application),*
- *The proximity of the development to services that fulfil occasional and day to day needs,*
- *The existence of a robust and achievable Workforce Management or Mobility Management Plan for the development,*
- *The ability of people to fulfil multiple needs in a single journey*
- *The levels of car dependency generated by particular uses within the development,*
- *The ability of residents to live in close proximity to the workplace,*
- *Peak hours of demand and the ability to share spaces between different uses,*

- *Uses for which parking rates can be accumulated, and*
- *The ability of the surrounding road network to cater for an increase in traffic.*

*These criteria should be addressed as part of any Traffic and Transport Assessment and/or Workforce Plan in order to provide full justification for the number of spaces proposed.*

The enclosed Traffic and Transport Assessment, as prepared by Jennings O'Donovan, has considered the above criteria so as to justify the subject proposal. In addition, it is also noted that the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 refer to a reduction in car parking standards. The guidelines address car parking and include an objective to 'Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.'

Section 4.18, 'Car Parking', of the Apartment Guidelines acknowledges that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. Section 4.19 the guidelines notes that:

*'In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas. These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops.'*

Upon consideration of existing public transport facilities, including Dublin Bus/Go-Ahead Ireland Route Nos. 27, 54a, 65, 75, 75a, 76, 76a, 77a, and 175 within 5 minutes walk of the site and LUAS services within 10-15 minute walk of the site, it is considered that the extent of vehicular parking provided under the subject proposal is appropriate.

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

A justification for the potential material contravention of the Dublin City Development Plan 2016-2022 is set out below, under the relevant parts of Section 37(2)(b) of the 2000 Act.

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

The proposed development comprises of inter alia the provision of a mixed-use development featuring 197 no. residential apartments and an extent of commercial accommodation on a site of 0.8 hectares. The proposed development falls within the definition of a Strategic Housing Development in accordance with the definition of same provided under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.

On this basis it is submitted that the proposed development is, of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland.

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

The following section shall demonstrate how the proposed building height is justified in the context of recent National Planning Policy and Section 28 Government Guidelines.



### 5.2.1 Project Ireland: National Planning Framework 2040

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

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

- National Policy Obj. 3a** *Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.*
- National Policy Obj. 3b** *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*
- National Policy Obj. 13** *In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.*
- National Policy Obj. 35** *Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*

To enable brownfield development, planning policies and standards need to be flexible, focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas.

The proposed building height is considered appropriate given the brownfield nature of the subject site and the location of this under-utilised site, in close proximity to Dublin City Centre and multiple public transport services. The site benefits from access to a number of high-frequency bus routes within close proximity. The subject site is situated directly across from a bus stop served by Dublin Bus Route 27, which provides access to Dublin city centre as well as Tallaght Town Centre and the LUAS Red Line. Further bus routes to the city centre via the Tallaght Quality Bus Corridor are provided in Tallaght Village, which is a 10-minute walk to the south of the subject site. It is noted that Greenhills Road forms part of Bus Connects plans for the Tallaght area, improving access to Dublin city centre via bus.

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

### 5.2.2 Urban Development and Building Heights - Guidelines for Planning Authorities, 2018

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

The Height Guidelines emphasise the policies of the National Planning Framework to greatly increase levels of residential development in urban centres and to increase building heights and overall density, and to ensure that the transition towards increased heights and densities are not only facilitated but actively sought out and brought forward by the planning process and particularly at Local Authority level and An Bord Pleanála level. The Height Guidelines, 2018, state that the:

*‘Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.’*

The Guidelines also note that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured. Chapter 3 of the Height Guidelines, 2018 expressly seeks increased building heights in urban locations:

In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is, therefore, a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.

Under Section 28(1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála will be required to have regard to the guidelines and apply any specific planning policy requirements (SPPR’s) of the guidelines in carrying out their function. The Height Guidelines state that

*‘the preparation of development plans, local areas plans, and Strategic Development Zone Planning Schemes and their implementation in the city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights’.*

The Height Guidelines note Local Authorities have set generic height limits within their functional areas and state the following:

*‘Such limits have resulted from local-level concerns, like maintaining the character of an existing built-up area, for example. However, such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes.’*

The Guidelines state that it is appropriate to support heights of at least six storeys at street level with scope for greater height subject to design parameters. This is contrary to the height limitations provided in the Dublin City Development Plan 2016–2022. It is further stated that in some cases Development Plans have set out overly restrictive maximum heights limits which leads to development being displaced to less suitable locations resulting in a lost opportunity for key urban areas. Section 2.8 of the Guidelines identifies examples of locations with potential for comprehensive development which could accommodate a cluster of tall buildings with brownfield former industrial districts being cited as an example.

The subject lands comprise a brown field site within Dublin which represent a serious underutilisation of zoned and serviced land within a city centre environment. The sites proximity to public transportation and central Tallaght present an opportunity to regenerate the local area.

Chapter 2 of the Guidelines sets out the following Specific Planning Policy Requirement:

### **Specific Planning Policy Requirement 1**

*In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*

We would contend that the height limits set out in the Tallaght Town Centre Local Area Plan 2020-2026 are contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans.

Chapter 3 of the Guidelines sets out the following Specific Planning Policy Requirement:

### **Specific Planning Policy Requirement 3**

*It is a specific planning policy requirement that where;*

- (A) 1. *an applicant for planning permission sets out how a development proposal complies with the criteria above; and*  
2. *the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*
- (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 guideline these are not required to be reviewed.*

Section 3.2 'Development Management Criteria' of the guidelines state that applicants shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála, that proposals satisfy development criteria at a set of relevant scales. We note the subject proposal's compliance as follows:

#### **5.2.2.1 At 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.*

As stated previously, the site benefits from an excellent public transport network. There are regular bus services, including Dublin Bus/Go-Ahead Ireland Routes within 150 metres of the subject site. These services provide strong access links to Dublin City Centre, wider employment/recreational centres within Dublin, links to inter-county rail services and Dublin Airport. In addition, we note that the accessibility of the subject site has been extensively detailed in the Traffic and Transport Assessment prepared by Jennings O'Donovan as is submitted with this application.

*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.*

We note the Architect's Design Statement prepared by C + W O'Brien Architects as is submitted with this application. This document details the way the design of the proposed building has considered the topography of the immediate area and existing built form to provide an appropriately designed contemporary development. We note that the subject site is not located within an architecturally or culturally sensitive area and is not surrounded by any unique locational characteristics, key landmarks, or key viewpoints.

A Landscape and Visual Impact Assessment (LVIA) has been prepared by Cummane Stratton Reynolds and is submitted as part of this application. The LVIA states that the proposed development is a dramatic change in scale and character to existing developments but that this change is part of beneficial change and place making for the Tallaght urban area and the new prospect of the changed urban skyline and street enclosure / definition is regarded as a positive expression of placemaking in a sub-urban area in transition.

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

The positioning of the eight-storey elements, which represents the maximum height of the proposal, has been arranged to offer maximum separation from any adjoining amenities which could be considered sensitive and to make the most appropriate use of the site's prominent position in the hierarchy of the immediate area. This height is concentrated along the western site boundary with the scheme's height tapering down as it moves to the east. Section 7.7 of the enclosed Statement of Consistency & Planning Report considers the proposed development in the context of the 12 no. design criteria referenced within the Urban Design Manual 2009.

The contemporary form of the proposal will provide visual interest within the immediate area whilst the enhanced public realm, public open space and improved permeability accommodated at ground level represents a direct contribution to local place-making fulfilling the above direction to incorporate new streets and public spaces with the massing of the development appropriate to enclose the central courtyard and providing a valuable public space. The proposed development includes upgrades to the immediate public realm on Greenhills Road comprising improvements to footpaths along with landscaping and additional planting.

#### **5.2.2.2 At Scale of the District / Neighbourhood / Street**

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

The high standard of architectural design achieved in the current proposal has had due regard to the guidance contained within national planning policy in relation to the densification of brownfield sites. The proposal has been designed so as to ensure no undue impacts on existing residential amenity will occur as a result of the development, having regard to the results of the various analysis documents prepared in respect of this application, including Architect's Design Report and Daylight/Sunlight Assessment. The improvement of the immediate public realm is considered to represent a planning gain for the immediate area, whilst the extent of amenity spaces provided within the scheme, for future residents, allows variation in the day-to-day life of residents.

The provision of ground level commercial units fronting onto the improved public realm, together with enhanced permeability within the immediate area, will directly contribute to the vitality and viability of the local centre. Moreover, the contemporary architectural finish will represent a focal point for the wider area and will add visual interest to the local streetscape.

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

A comprehensive Architect's Design Statement, prepared by C + W O'Brien Architects, demonstrates the rationale for the design of this high-quality scheme of contemporary architecture. The final design avoids long, uninterrupted walls of building fronting on the immediate public realm and is, instead, appropriately broken up to allow for views into and out of the central courtyard to the local public realm with the design unrepresentative of monolithic architecture.

*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).*

The scheme ensures active surveillance of public and communal open spaces throughout the development. It is considered that the scale of the proposal is appropriate with the heights of the blocks purposefully organised and stepped down to minimise any potential overbearing impacts on existing built form whilst allowing for the appropriate enclosure of the central courtyard for the benefit of future users.

Moreover, we would note the enclosed Flood Risk Assessment, as prepared by FDA Consulting, which has been prepared having due regard to the provisions of the "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).

*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.*

The proposed development includes upgrades to the immediate public realm and provides a high standard of contemporary architectural design. It is considered that the height in conjunction with the materials of the proposed building together result in the creation of a landmark development which will add legibility to the immediate area and act as a focal point along Airton Road.

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

The subject proposal provides an appropriate mix of uses as permitted on the site by the applicable 'REGEN' zoning objective. It is considered that the extent of residential accommodation achieved under the subject proposal allows for the efficient use of the site with the associated amenities and commercial units provided at ground floor level providing an active frontage for the benefit of the adjoining public realm.

With regards to dwelling typology, it is considered that the provision of apartment units is the only means of achieving a sufficient density on this well-serviced site and the Build-To-Sell residential model ensures the swift occupation of the development once approved and constructed for the benefit of the quickly evolving landscape of Tallaght.

### **5.2.2.3 At Scale of the Site / Building**

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

In response to the above, we note that the organisation of building heights across the subject site and appropriate separation from site boundaries, with maximum heights achieved along the western site boundary, so as to ensure that shadows are primarily cast within the site as opposed to adjoining sites. As detailed in the enclosed Architectural Design Statement prepared by C + W O'Brien Architects, the massing of the proposal carefully considers and minimizes the effects of over shadowing into the communal amenity courtyards and adjoining site to the North.

The orientation of the blocks provides the opportunity for direct sun light to penetrate into the communal podium garden level. The orientation of the building also creates pleasant spaces for people to stop, rest and communicate along the commercial street frontage.



The enclosed Daylight & Sunlight Report, as prepared by Passive Dynamics, confirms that the design of the proposal ensures appropriate access to daylight/sunlight for future residents of the scheme whilst having no undue impact on adjoining sites with regards to overshadowing impacts. It is considered that the massing and form of the scheme has been appropriately organised to minimise impacts to views, with the subject proposal considered to allow for the creation of a landmark viewpoint in its own right.

*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'. 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.*

As per the above, the Daylight & Sunlight Report prepared by Passive Dynamics concludes that no material impacts will occur on neighbouring properties. The Daylight & Sunlight Report has been prepared on the basis of the Building Research Establishment's Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (the BRE Guidelines). In this regard, we would note that the Daylight & Sunlight Report assumes that 85.3% of combined kitchen/living/dining spaces across the subject scheme meet and exceed the required 2.0% standard as relates to Average Daylight Factor (ADF) whilst 93.4% of units are assumed to meet and exceed the required 1.5% standard in relation to this design element of the BRE guidelines.

It is considered that this level of compliance is appropriate and does not necessitate the provision of specific compensation with regards to individual residential units. The proposal has also been assessed pursuant to daylight standard EN17037 for completeness, even though there is no express requirement to do so in the Apartment Guidelines, Building Height Guidelines or any other planning guidelines. The spatial daylight autonomy results are positive and show that 91.4% of spaces meet the aforementioned European Standard EN17037.

We note good levels of compliance under this non-mandatory standard, although the targets are very challenging and the development does not achieve 100% compliance. With respect to any compliance shortfall against this new standard, we note there is almost full compliance under the British implementation of the European standard, which is adjusted for residential development and is more closely related to the BS 8206-2:2008 standard cited in the Apartment Guidelines and Building Height Guidelines than the EN17037 standard proper.

We also note good levels of compliance under the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and the BS 8206-2: 2008 – 'Lighting for Buildings – Part 2 Code of Practice for Daylighting'. Finally, we note the following positive characteristics of the development: all units will be provided with a balcony; the development will create generous public and communal open space; the development will result in a significant improvement to the streetscape and deliver an overall high-quality development in a currently vacant site.

It is thus considered that appropriate and reasonable regard has been taken with regards to the quantitative performance approach to daylight provision within the proposed scheme. The proposal contributes to comprehensive urban regeneration of the immediate area allowing for the succinct and contemporary upgrade of a prominent yet underutilised site which commands a significant viewpoint.

#### **5.2.2.4 Specific Assessments**

*Specific impact assessment of the micro-climatic effects such as downdraft. 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.*

In response to the above item, we note the provisions of the enclosed Microclimate Report as prepared by AWN Consulting.

*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.*

As detailed in the Ecological Impact Assessment prepared by Openfield Ecology, there was no evidence of badgers, deer or hare on site, there is no suitable habitat for otter, pine marten or red squirrel. With regards to bats, we note a bat survey was carried out by Wildlife Surveys Ireland and this notes that bat activity on site was low with no bat roosts identified.

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

The above criteria is not considered to be applicable to the subject proposal given the limited height of proposed built form.

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

All requirements of the Irish Aviation Authority (IAA) will be complied with during the construction and operation phases of the proposed development and consultation with the IAA will continue as required during these phases to ensure proper implementation of any measures. Furthermore, we note the provisions of the enclosed Aeronautical Assessment as prepared by Dwyer Jones.

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

An architectural Design Statement has been prepared by C + W O'Brien Architects and is submitted with this application.

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

The project ecologist, Openfield Ecology, has prepared an Ecological Survey and an Appropriate Assessment Screening for the proposed development as opposed to a Strategic Environmental Assessment (SEA).

SEA is an alternative process used to evaluate the environmental effects of proposed policies, plans and programmes. A SEA Report was undertaken for the implementation of the South Dublin County Development Plan 2016-2022, to which the proposed development is subject to, and which has been referenced where appropriate in the documentation. An assessment against Schedules 7 and 7A of the Planning and Development Regulations, 2001 (as amended), is also enclosed with this application – as prepared by AWN Consulting.

As presented above, the subject proposal is considered to be of appropriate scale relative to the local town, neighbourhood and site and the relevant specific assessments have been commissioned to duly assess the proposal. We are of the opinion that the building heights set out in the Tallaght Town Centre Local Area Plan 2020-2026 are unduly conservative and represent an inefficient use of zoned land and, moreover, are contrary to the objectives of the Urban Development and Building Height Guidelines, 2020.

### **5.2.3 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020**

The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, build upon the provisions of the NPF by moving away from blanket restrictions on height in certain locations in favour of an evidence-based approach on performance criteria. The Guidelines were subsequently revised in 2020.

The Apartment Guidelines provide clear guidance with regard to the types of location which are considered suitable for higher density residential development such as 'Central and/or Accessible Urban Locations' and 'Intermediate Urban Locations'. It is considered that the subject site falls into the category of 'Central and/or Accessible Urban Locations' as set out below.

The Apartment Guidelines state that Central and/or Accessible Urban Locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, and are classified as follows:

- *'Sites within walking distance (i.e. up to 15 minutes or 1,000- 1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*
- *Sites within reasonable walking distance (i.e. up to 10 minutes or 800- 1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and*
- *Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services'.*

The subject site therefore constitutes a 'central and / or accessible urban location', as defined within the 2020 Apartments Guidelines, as it satisfies the above 3 no. criteria, the subject site's proximity to Dublin City Centre and public transport services having been discussed previously in Section 5.2.1. The building height limitations specified in the Tallaght Town Centre LAP conflict with the provisions set out in the Apartment Guidelines which promotes increased densities at well served urban sites.

#### **5.2.4 Housing for All - A new Housing Plan for Ireland**

The 'Housing for All - A new Housing Plan for Ireland' was published in September 2021 as part of the Irish Government's 'Our Shared Future' programme which, in turn, sets out the Government's mission to tackle the housing crisis. The objective of the plan is to ensure that everybody has:

*'access to sustainable, good quality housing to purchase or rent at an affordable price, built to high standard, and located close to essential services, offering high quality of life.'*

The plan seeks to increase new housing supply to an average of at least 33,000 new units per year with specific pathways outlined to achieve the four overarching objectives of the plan which are:

- *Supporting Homeownership and Increasing Affordability;*
- *Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion;*
- *Increasing New Housing Supply; and*
- *Addressing Vacancy and Efficient Use of Existing Stock.*

We submit that the proposal is consistent with the above policy as it provides an appropriate quantum of residential accommodation on a zoned and serviced suburban site. The provision of residential units on site, in the manner proposed under this application, supports homeownership and affordability, results in increased social housing provision and provides for the efficient use of zoned and serviced land. The increased building height of 30.33 metres will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Housing for All - A new Housing Plan for Ireland

#### **5.3 Part (iv) - Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted in the area since the making of the development plan**

We would contend that permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan. The pattern of development and permissions granted in the area of the subject site are key considerations in the rationale for the current Strategic Housing Development proposal. The pattern of development in the surrounding area are of relevance to the current development proposal.

The following strategic housing development has been approved on the site to the immediate west of the subject site. With a maximum height of 8 no. storeys, exceeding the maximum height outlined in the Tallaght Town Centre Local Area Plan 2020-2026, this sets a direct precedent for the subject proposal:

**Former Gallaher's Cigarette Factory site, at the junction of Airton Road and Greenhills Road, Tallaght, Dublin 24**

**ABP. Ref. 306705** Planning permission granted by An Bord Pleanála on 16<sup>th</sup> June 2020 for a Strategic Housing Development comprising the demolition of existing factory/warehouse buildings on site and construction of 502 no. apartments and associated site works.

The following commentary contained within the Inspector's report is considered relevant to the assessment of the subject planning application:

*'I consider that the site is well positioned to accommodate the height and scale of development proposed given its prominent corner location.'*

*'It is considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.'*

Based on the above commentary, it is considered that the site, subject to this planning application at the junction of Airton Road and Greenhills Road is a suitable site to accommodate a development of increased height and density, in accordance with the recent grant of permission at the adjoining site.

The following figures illustrate the development approved under ABP Ref. 306705.



Figure 4.0 Site layout plan of development approved under ABP Ref. 306705. We note the approximate location of the site (yellow star) which pertains to this application.



Figure 5.0 Computer-generated image of development approved under ABP Ref. 306705, viewed from Greenhills Road.

In terms of car parking, the identified scheme at the Former Gallaher's Cigarette Factory site proposed 202 no. spaces to serve the 502 no. apartments. This equates to 0.4 spaces per unit. This is similar to the ratio of car parking spaces to apartment units proposed under the subject proposal (0.395). The Board Inspector noted the following in their report:

*'The development is therefore promoting itself as a sustainable urban scheme and the need for car parking is therefore reduced. Residents of the scheme will be well aware that car parking is limited and that alternative forms of transport will be required. The nature and location of the development is therefore acceptable in terms of reduced car parking provision.'*

It is contended that the subject proposal provides a sufficient quantum of car parking spaces to serve the proposal.

## 6.0 Conclusion

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

It is respectfully submitted that should An Bord Pleanála consider the proposed development a material contravention of the South Dublin County Development Plan 2016-2022 that an appropriate justification is set out within this statement demonstrating that the proposed building height, plot ratio, unit mix and car parking provision is appropriate having regard to the policies and objectives set out within the Section 28 Guidelines, as well as the strategic nature of the development and the emerging pattern of development approved in the immediately surrounding area.

Kevin Hughes MIPI MRTPI  
Director for HPDC Ltd.