



Material Contravention Statement

Proposed Strategic Housing Development (SHD)

Cartronroy, Kilnafaddoge, Lissywollen and Ardnaglug
(townlands), Athlone, Co. Westmeath

Avenir Homes Limited

December 2021

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01. Introduction

1.1 Purpose of Statement

HW Planning have been appointed by Avenir Homes Limited to prepare this statement to address potential development matters associated with the proposed Strategic Housing Development at Cartrontroy, Kilnafaddoge, Lissywollen and Ardnaglug (townlands), Athlone, Co. Westmeath that may be considered to materially contravene the Westmeath County Development Plan 2021-2027, Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024.

Section 8(1)(iv)(II) of the Act of 2016 specifies that 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), then the SHD application must include a statement indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2) (b) of the Act of 2000. This statement addresses the possibility that the proposed development could be deemed by An Bord Pleanála to represent a material contravention of some of the policies and objectives contained in the Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024.

Ultimately it is a matter for An Bord Pleanála to determine whether the proposed development does in fact materially contravene the relevant Development Plan / Town Plan. However, for the purposes of this planning application, the applicant has identified the aspects of the proposed development that may be considered a material contravention.

1.2 Development Description

The proposed development of a Strategic Housing Development (SHD) which will consist of the construction of a mixed-use residential development of 122 no. residential units with ancillary creche, 46 no. student apartments consisting of 283 bed spaces, and all associated site development works. The proposed development makes provision for 60 no. dwelling houses comprising 38 no. 2-storey 3-bed townhouses, 7 no. 2-storey 4-bed townhouses, 7 no. 3-storey 4-bed townhouses, 6 no. 2 storey 4-bed semi-detached and 2 no. 2 storey 4-bed detached. The proposed development includes 62 no. apartments / duplexes to be provided as follows: Block R1 containing 38 no. apartments (16 no. 1 bed units and 22 no. 2 bed units) in a 3-6 storey building, and Block R2 containing 20 no. duplex units (10 no. 2 bed units and 10 no. 3 bed units) over 4 storeys with 4 no. apartments (4 no. 2 bed units) in one 5th storey feature area. The proposed student accommodation makes provision for 283 no. bed spaces in 3 no. blocks to be provided as follows: Block S1 containing 18 apartments with 117 bed spaces over 5-6 storeys, Block S2 containing 16 apartments with 107 bed spaces over 6-7 storeys, and Block S3 containing 12 apartments with 59 bed spaces over 4-5 storeys.

The proposed development will provide for two new vehicular accesses as well as pedestrian entrances onto Lissywollen Avenue east-west access road (as permitted under An Bord Pleanála Reference ABP-309513-21). Minor modifications to ABP-309513-21 are

proposed to cater for these access points, alterations to cycle/pedestrian paths, the removal of a central island to facilitate the south-eastern entrance, and provision of bus stop infrastructure. Ancillary site works include public and communal open spaces, hard and soft landscaping, pedestrian / cycleways, car parking, cycle parking, bin storage, public lighting, roof mounted solar panels, ESB substation and supporting distribution kiosks, and all other ancillary works above and below ground. The proposal includes pedestrian and cycle linkages onto the Old Rail Trail Greenway to the south and Blackberry Lane (L40061) to the west.

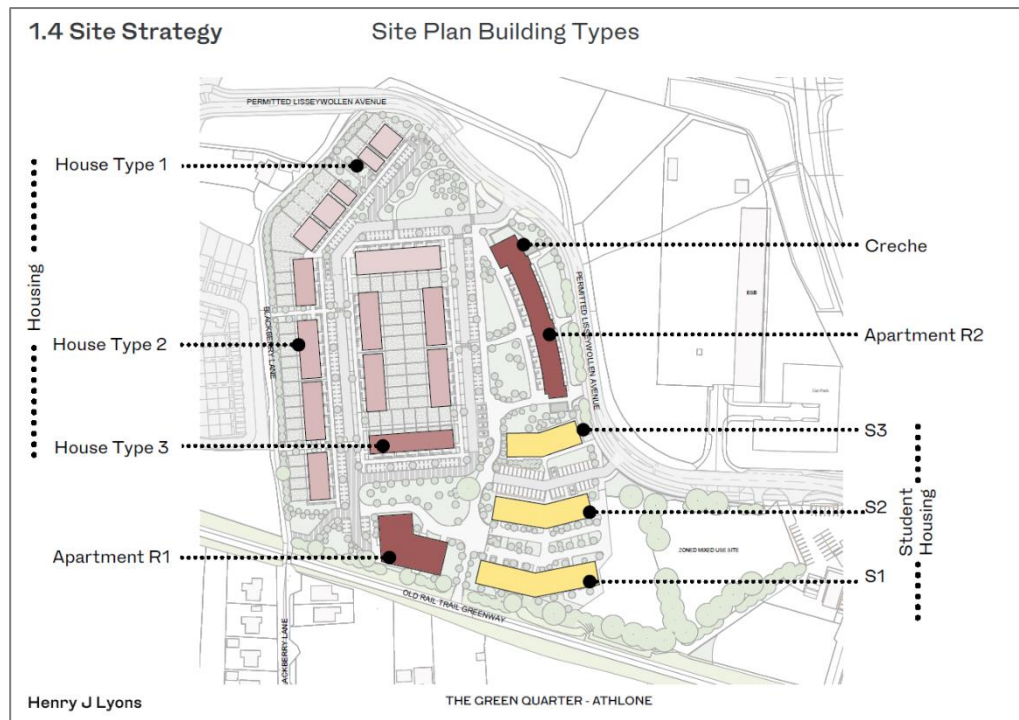


Figure 1.1 Site Layout Plan with key figures of proposed development

1.3 Specific Zoning Objective

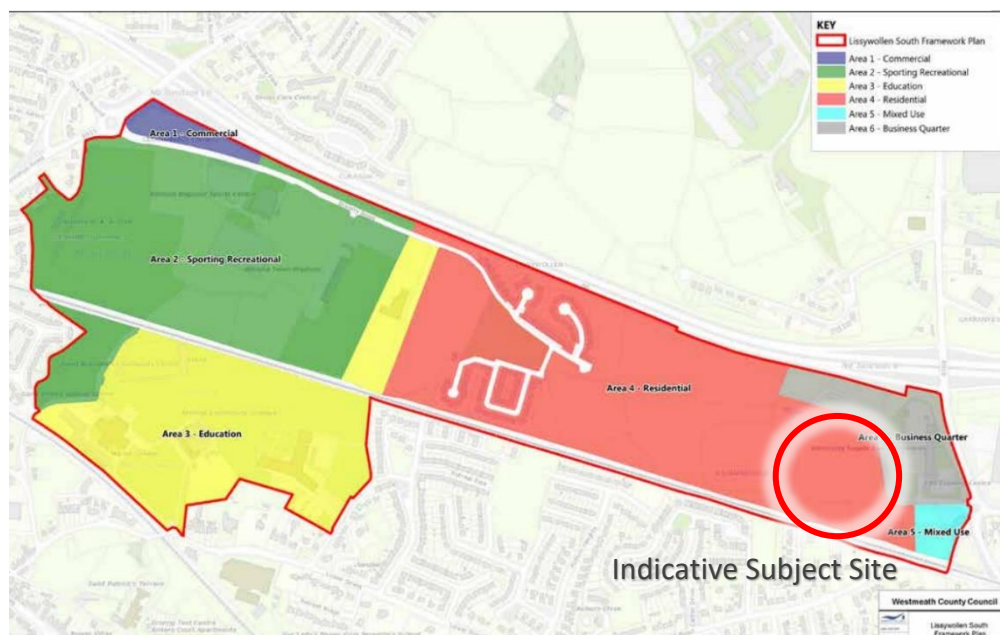


Figure 1.2 Zoning Objective for the subject lands – Map 1 (page 33) Lisseywollen South Framework Plan

While the subject side is zoned for residential use, it straddles the boundary between Proposed Residential Parcel 2 and Proposed Residential Parcel 4 in Figure 6 of the Lissywollen South Framework Plan (LSFP), which sets out to provide for a number of distinct new neighbourhoods. Both are located immediately to the north of the Old Rail Trail Greenway.

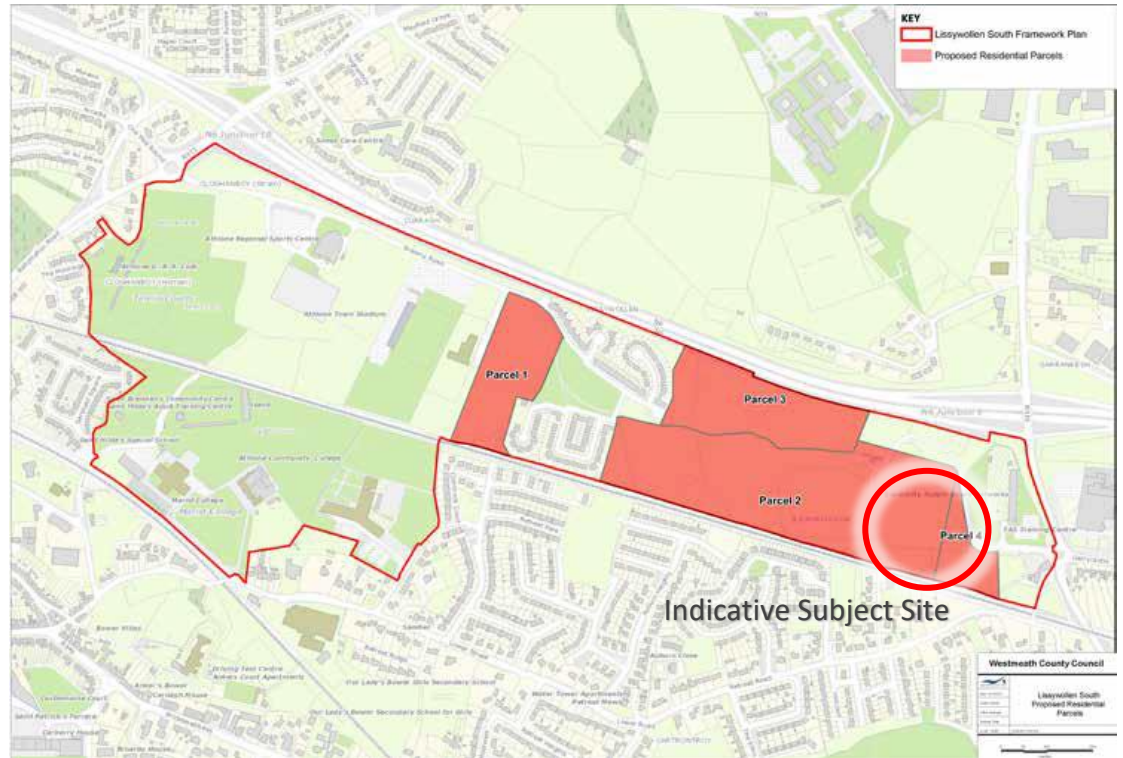


Figure 1.3 Zoning Objective for the subject lands – Figure 6 (page 18) Lissywollen South Framework Plan

The Key Site Objectives in relation to Parcel 2 and Parcel 4 are listed in Tables 1.1 and 1.2 below

Objective No.	It is an objective of Westmeath County Council:
P2-KS01	To ensure high quality tree lined streetscape is achieved along the new East West Avenue/urban boulevard – Lissywollen Avenue through distinctive high quality street furniture, lighting, paving and public artwork that creates a distinctive character associated with this peri-urban location.
P2-KS02	To promote the creation of a high quality public realm by establishing a high quality of design in architecture and landscape architecture.
P2-KS03	To create and improve a hierarchy of inter-connecting green spaces which link existing public open space with the Regional Sports Centre complex through the provision of safe pedestrian and cycle routes through the area, having regard to the Landscape Framework & Access Strategy.
P2-KS04	To provide a series of pocket parks as informal recreational spaces.

P2-KS05	To provide a childcare facility to serve new residential communities and the adjacent Business Park.
P2-KS06	To provide a public park along the eastern end of Parcel 2 to serve new residential development, the student quarter and adjoining business district.
P2-KS07	Consideration may be given to higher density units adjoining existing public open space area to the east of Parcel 1, provided that the residential amenity of adjacent dwellings is protected.

Table 1.1 Key Site Objectives for Parcel 2 (based on Table 8 of the LSFP)

Objective No.	It is an objective of Westmeath County Council:
P4-KS01	To support the provision of high-quality, professionally managed and purpose built third-level student accommodation adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area.
P4-KS02	To promote modern architectural expression in the design of higher density buildings and apartments. In particular where the buildings define public spaces, the design creates architectural individuality, the material choice is varied and includes high quality and durable finishes that complement the public realm.
P4-KS03	To provide satisfactory arrangements for the future management of multiple unit developments as an integral part of a scheme planning proposal to ensure that residential amenities are protected in the management of completed developments.
P4-KS04	To promote Athlone as an international student destination and to support and encourage the provision of necessary infrastructure such as high quality, custom-built and professionally managed student housing.
P4-KS06	To promote, support and capitalise on the opportunities presented by the major public investment in the development of the National Cycle Network running through the plan area.
P4-KS07	To facilitate sustainable transport links between the proposed student quarter, AIT campus and the town centre
P4-KS08	To provide a landmark building in Parcel 4 to signify entry into the Regional Centre of Athlone for users of the National Greenway.
P4-KS09	To conduct a survey for bats and badger setts by a suitably qualified ecologist in advance of any development proposal within this parcel.

. Table 1.2 Key Site Objectives for Parcel 4 (based on Table 8 of the LSFP)

1.4 Potential Contraventions of Existing County Development Plan and / or Local Area Plan

HEIGHT

The height range in the proposed development graduates from 2 – 3 storey housing, 3 – 6 storey apartment buildings and 4 - 7 storey student accommodation. Section 5.6.3 of the ATDP identifies sites within the town centre which can be considered for tall buildings, ie over 3 - 4 storeys in height. These are delineated on Map Ref: ATC_07 'Building Height Policy Map'. While the proposed scheme includes heights in excess of 4 storeys it is not located within the ATDP's building height policy area within which tall buildings will be considered.

DENSITY

While the Westmeath County Development Plan 2021 – 2027 acknowledges that higher densities will be applied to the higher order settlements of Athlone and Mullingar, it does not specify a specific density range. The Athlone Town Development Plan 2014-2020 (ATDP) sets out a density range of 30-35 dwellings per hectare in outer suburban / greenfield sites unless otherwise prescribed in Local Area Plans. In line with this the LSFP, states that:

'In general, a residential density of 35 units per hectare shall apply across the Framework Plan; higher densities may be permitted in areas adjoining public open spaces or where prescribed in Parcel 4 – Student Quarter.'

As noted above, the subject site straddles Parcel 2 and Parcel 4, with the residential mix including student accommodation to reflect this. The schedule of areas in Section 2.6 of the accompanying Design Statement prepared by Henry J. Lyons Architecture, sets out the overall density of the proposed scheme as 70 units per hectare. This is based on a calculation of 2 no. student bedspaces equating to 1 no. unit. If the student accommodation element is excluded the density of the residential units is 40 units per hectare. Both these densities are in excess of the 30 – 35 or 35 units per hectare stipulated in the ATDP and the LSFP, although it is noted that the latter states that densities in excess of 35 units per hectare may be permitted in certain prescribed areas.

OPEN SPACE

Policy O-AM11 in the LSFP sets out:

'To prohibit the siting of rear elevations/gardens onto public open spaces, streets and the N6 national route.'

In the proposed layout the houses along the western boundary of the scheme back onto Blackberry Lane, an historic road, identified in the LSFP Built Heritage Map, which the enclosed Landscape Design Strategy proposes to develop as a biodiversity and public foraging corridor. This arrangement could be perceived as not meeting this requirement in the strictest sense.

Policy O-LUF7 sets out

'To ensure a continuous frontage and passive supervision over open spaces and green links, in particular, along the Old Rail Trail Greenway.'

The proposed layout while allowing for passive surveillance of the Old Rail Trail Greenway, in order to protect and retain existing hedgerows, does not include continuous frontage

onto the greenway. This arrangement could also be perceived as not meeting this requirement if interpreted in a specific manner.

NON-CONTRAVENTION

In the interest of clarity, we ask the Board to note that we consider the following items do not contravene the LSFP:

- While Map 1 (page 33) of the LSFP identifies the entire subject site as falling within Residential Zoning, Figure 6 breaks this zoning down into specific parcels. The guiding principles and key site objectives for the smaller eastern Parcel 4 are set out in Section 4.6 of the Framework Plan and focus on supporting the provision of high-quality purpose-built student accommodation at this location. The proposed student housing element is being brought forward consistent with this. The Board will note that the indicative boundaries of Parcel 4 in the framework are somewhat irregular in shape. In pre-planning discussions, as well as their opinion at pre-consultation stage, the Council confirmed that the framework is flexible and advisory in nature. As such, some residential buildings encroach on the indicative lines of the neighboring 'student area' at this location. This was seen as preferable in the context of creating a coherent and strong architectural masterplan which complies in principle with the zoning. Given the general residential zoning of the overall site as identified in Map 1 of the LSFP and the flexible nature of the Framework Plan, it is considered that the approach is wholly appropriate.
- Objective P2-KSO6 of the Framework Plan includes an objective to provide a public park along the eastern end of Parcel 2. The requirements for same are not defined in any prescriptive manner, rather an audit of existing local amenities has been undertaken alongside the identification of future residential, student and business need to develop an appropriate approach. This has culminated in the creation of a series of linked spaces as part of a modern parkland approach. Please refer to submitted Landscape Design package which addresses this policy requirement.

02. Policy Background

Local Policy

2.1 Westmeath County Development plan 2021 – 2027

The Westmeath County Development Plan 2021 – 2027 acknowledges that higher densities will be applied to the higher order settlements of Athlone and Mullingar in line with the DoEHLG Guidelines for Sustainable Residential Development in Urban Area. Specifically, Policy P-RD1P sets out:

‘To promote higher residential density development in town centres and in particular Athlone and Mullingar, including on brownfield and infill sites subject to Development Management Standards being met and existing residential amenity not being compromised. In circumstances where public transport services are available car parking standards may be relaxed.’

2.2 Athlone Town Development plan 2014 – 2020 (ATDP)

DENSITY

Table 3.3 Densities for New Residential Developments in the ATDP sets out a density range of 30-35 dwellings per hectare in outer suburban / greenfield sites unless otherwise prescribed in Local Area Plans.

Location for new Residential Development	General Density Parameters
Town Centre & Brownfield Sites	Site Specific 35 per ha
At strategic locations including public transport nodes	35 units per ha
Inner suburban/Infill	Site Specific
Outer Suburban/Greenfield	30-35 per ha
Outer edge of Urban/Rural Transition	20-35 per ha

Figure 2.1 Extracted from Table 3.3 LSFP

HEIGHT

Section 5.6.3 of the ATDP sets out the Building Heights Guidelines for Athlone with the Council identifying the following sites within the town centre as suitable for tall buildings i.e. a building of over 3 to 4 storeys.

- Site 1 Existing garage and adjoining lands adjacent to the Railway Station/Bus Station.
- Site 2 Site currently occupied by Dunnes Stores with frontage onto John Broderick Street and Dublin Gate Street.

- Site 3 Ranelagh site on the west bank identifies sites within the town centre which can be considered for tall buildings, ie over 3 - 4 storeys in height.

Policy P-CA2 has the following specific objective:

'To restrict the development of tall and higher buildings to identified sites within the town centre.'

Policy P-PM3 has the following specific objective:

'To ensure new development respects the existing streetscape and that taller buildings will only be permitted on identified sites, in compliance with the Building Heights Policy for the town, and subject to meeting the criteria set out in the Development Management standards.'

These are delineated on Map Ref: ATC_07 'Building Height Policy Map' (ref Figure 2.2). To ensure that higher buildings in established areas respect the surrounding context.

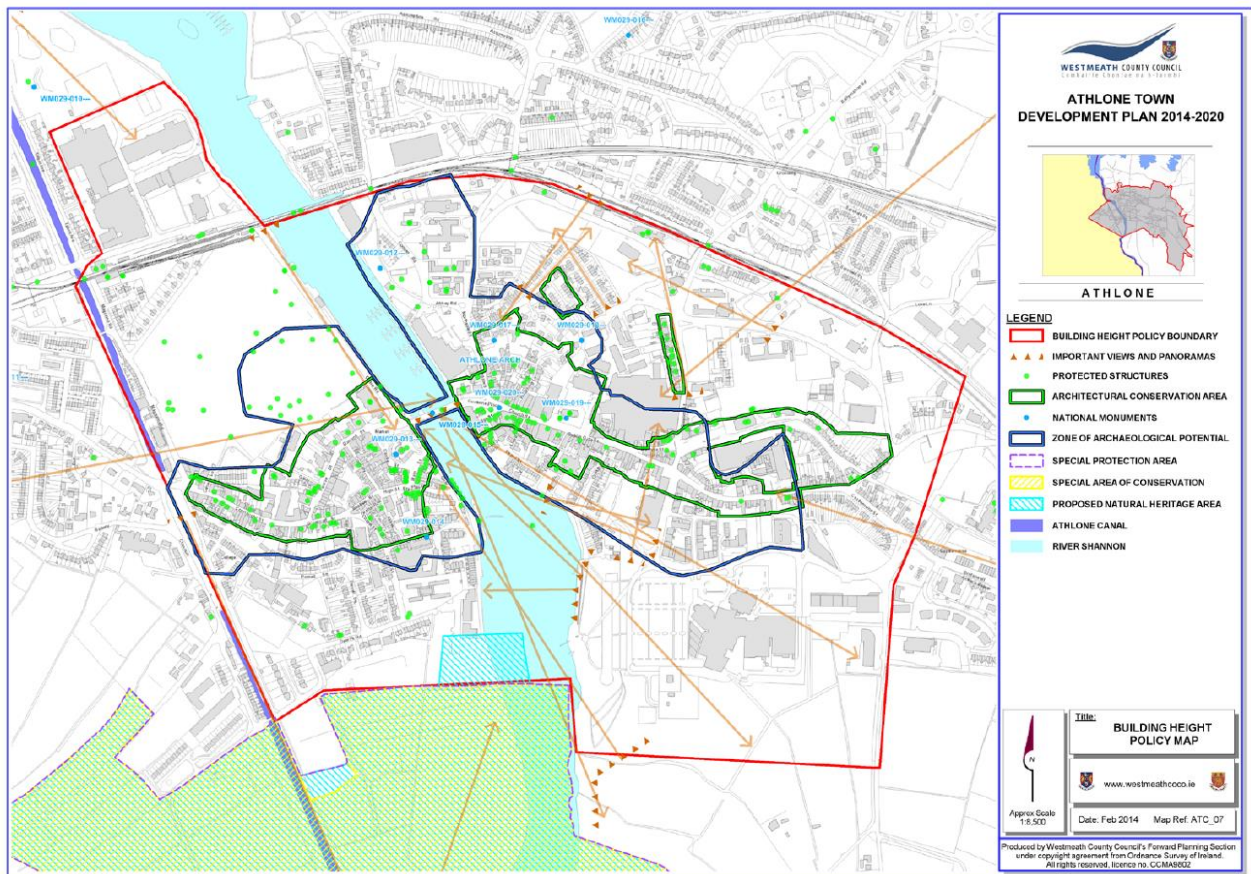


Figure 2.2 ATDP Building Height Policy Map

2.3 Lissywollen South Framework Plan 2018 - 2024

DENSITY

Section 5.2.3 sets out the policy of the Council in relation to density. In general, a residential density of 35 units per hectare shall apply across the Framework Plan with higher densities being considered in areas adjoining public open spaces or specifically in Parcel 4 in relation to the Student Quarter.

In addition, the P2-KS07 Key Site Objectives in relation to Parcel 2 states:

P2-KS07	Consideration may be given to higher density units adjoining existing public open space area to the east of Parcel 1, provided that the residential amenity of adjacent dwellings is protected.
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HEIGHT

Section 3.5.4 states:

'Variation in form, height and design detailing of key corner buildings and buildings which terminate vistas will be promoted, both within housing layouts and also at identified sites. Key areas for innovatively designed buildings and form will be at the following locations:

- *Landmark Building in the Student Quarter*
- *'Gateway' entrances/Urban Design Gateways to the site, via the main arterial road.*
 - *Significant junctions along the proposed Lissywollen Avenue. Corner sites where buildings turn the corner and address both streetscapes.*
- *Within the new residential parcels; each parcel can accommodate variations in height and form.*
- *Community/Recreational buildings.'*

In addition, the LSFP includes the following specific policies:

P4-KS08	To provide a landmark building in Parcel 4 to signify entry into the Regional Centre of Athlone for users of the National Greenway.
O-LUF13	To consider opportunities for higher buildings where they provide a clear benefit for legibility and identity for the area, and where they are compatible with the skyline and development management standards prescribed in the Athlone Town Development Plan 2014-2020.
O-LUF14	To promote the development of a landmark building within the Student Quarter to denote this important entry point to Athlone.

OPEN SPACE

Policy **O-AM11** in the LSFP sets out:

'To prohibit the siting of rear elevations/gardens onto public open spaces, streets and the N6 national route'.

Landscape policy in the LSFP include:

O-LUF1 *To protect and supplement existing landscape features of amenity and biodiversity value such as established field boundaries, significant hedgerows and stands of trees, and to incorporate same into the new urban structure.*

O-LUF5 To promote biodiversity by surveying and protecting existing areas of biodiversity value and provide for new and extended areas of biodiversity, where identified.

O-LUF7 To ensure a continuous frontage and passive supervision over open spaces and green links, in particular, along the Old Rail Trail Greenway.

O-LUF11 To prohibit the siting of rear elevations/gardens onto public open spaces, streets and the N6 national route.

National Policy

The key National Policies of relevance to the proposed development are considered to be

- Project Ireland 2040: National Planning Framework.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments (2018 & 2020); and.
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

2.4 Project Ireland 2040: National Planning Framework

One of the principal goals of the NPF is to deliver compact growth through the activation of strategic areas and achieving effective density and consolidation. Promoting the compact growth approach rather than a continued sprawl of urban development, is listed as the Framework's top priority and will be achieved by future developments complying with the following National policy Objectives

National Policy Objective 3A- Deliver at least 40% of all new homes nationally, within the built up footprints of existing settlements.

National Policy Objective 11

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.

National Policy Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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 heights.

2.5 Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas 2009

DENSITY

The subject site can be described as being an 'Outer Suburban/Greenfield Site' in the context of settlement of Athlone. Regarding these sites, Section 5.11 of the SRDUA states

"These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.

.....the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally."

2.6 Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020)

HEIGHT

The Guidelines state the following in respect of the application of blanket height and separation distances policies:

'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 of the site where it can be demonstrated

2.7 Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)

HEIGHT

The Guidelines introduced Special Planning Policy Requirements (SPPRs) which were broader in focus than those contained in the *Sustainable Urban Housing: Design Standards for New Apartments (2018)*.

- SPR1 - In accordance with Government policy to support increased building height 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 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.
- SPR3 - It is a specific planning policy requirement that where:

- » 1. an applicant for planning permission sets out how a development proposal complies with the criteria below; 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.

Development Management Criteria

In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the following 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.
 - » 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.
 - » 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.
- At the scale of district/ neighbourhood/ street
 - » The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape:
 - » The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered.
 - » 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 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 proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.
- At the scale of the site/building
 - » The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
 - » 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.
- Specific Assessments
 - » To support proposals at some or all of these scales, specific assessments may be required, and these may include: 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.
 - » 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.
 - » An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links. An assessment that the proposal maintains safe air navigation.
 - » Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.

03. Possible Material Contravention

3.1 Provisions in the Act

In accordance with Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board may grant permission for a proposed strategic housing development that materially contravenes the Development Plan or Local Area Plan, other than in relation to zoning. Section 9(6)(a) states:

“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 a part of it, contravenes materially the Development Plan or Local Area Plan relating to the area concerned.”

Section 9(6)(c) of the 2016 Act, states that the Board may only grant permission for a development that materially contravenes a Development Plan (other than in relation to the zoning of the land) where it considers that, if section 37(2)(b) of the Planning & Development Act of 2000 were to apply, it would grant permission for the proposed development.”

Section 37(2)(b) of the Planning Act, 2000, 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,*
- (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,*
- (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.”*

3.2 Justification for the Proposed Development

The policies and objectives of the ATDP and the LSFP which the proposed development may contravene are outlined below followed by an interpretation of how Section 37(2)(b) considerations apply to this case.

HEIGHT

Policy P-CA2 of the ATDP sets out the following specific objective:

'To restrict the development of tall and higher buildings to identified sites within the town centre.'

Since the subject site is not within the areas listed or delineated in the ATDP Building Height Policy Map (ref Section 2.2 above) as an area where buildings of over 3 / 4 storey in height will be considered, it may be deemed by An Bord Pleanála that the proposed development contravenes the building height policy of the ATDP. However, it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of two separate Section 37(2)(b) criteria:

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

(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,

We consider that Section 37(2)(b)(ii) applies as there appears to be conflicting objectives in the ATDP and the LSFP in relation to taller buildings outside the town centre. While not supported in the ATDP, the LSFP allows for increased density/height in the student quarter of the site and specific provision is made for the creation of a landmark / gateway building in Parcel 4 (Objective P4-KS08) to 'signify entry into the Regional Centre of Athlone for users of the National Greenway'. These objectives are reiterated in policies O-LUF13 and O-LUF14.

Furthermore, we also consider, that criteria 37(2)(b)(iii) applies in that the proposed increased height is in compliance with the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and meets the criteria set out in SPR3. Details of this are set out in the enclosed Planning Statement and statement of consistency prepared by HW Planning.

We also note that Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020) advocates greater flexibility and a move away from rigid blanket standards:

'2.23 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.'

The Westmeath County Council's Opinion (dated 02/09/2021) supports this approach and states that:

'the proposed building heights which range from 2 storeys to 7 storeys are consistent with national guidelines 'Urban Development and Building Heights

Guidelines (2018). And the provisions of the Lissywollen South Framework Plan and therefore acceptable in principle to the Planning Authority’.

The ATDP (2014 – 2020) pre-dates the Section 28 Ministerial Guidance document - the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and the Sustainable Urban Housing: Design Standards for New Apartments (March 2018 & 2020). These Guidelines contain unequivocal support for increased heights and compact developments, particularly in accessible urban areas. The application includes a detailed assessment of how the proposed development complies in full with Section 3 criteria for increased building heights as contained in the Urban Development and Building Heights Guidelines for Planning Authority.

DENSITY

The ATDP¹ sets out a density of 30-35 units/hectare as appropriate for outer suburban / greenfield sites. Separately the LSFP states that in general, a residential density of 35 units per hectare shall apply across the Framework Plan area. As noted above, the overall density of the proposed scheme at 70 units per hectare exceeds these values. However, again it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of two separate Section 37(2)(b) criteria:

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

(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.

As noted the subject site straddles Parcel 2, earmarked for general residential development and Parcel 4, where the policy focus is on student accommodation.

Market Residential Units

While the overall density of the scheme is 70 units per hectare, if the student accommodation element is excluded the density of the residential units is 40 units per hectare. Based on the criteria in the Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas 2009 (SRDUA), the subject site can be categorized as being an ‘Outer Suburban/Greenfield Site’ in the context of settlement of Athlone. The SRDUA considers that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities should be encourage.

In addition, the P2-KS07 Key Site Objectives in relation to Parcel 2 makes provision for higher density units adjoining existing public open space area in Parcel 2, where it is ensured that the residential amenity of adjacent dwellings is protected. The density across the site increases in a southward direction, with higher density units concentrated to the south overlooking the Old Rail Trail Greenway and the east overlooking the linked public amenity areas in line with this policy.

¹ As set out in Table 3.3 of the ATDP

Based on the above we consider that the increase in residential density is supported by the SRDUA and the specific policies in the LSFP in relation to Parcel 2 and therefore meets Section 37(2)(b) criteria (ii) and (iii).

Student Accommodation

When the student accommodation in parcel 4 is taken into consideration, an overall site density of 70 units per hectares is arrived at. The LSFP sets out that higher densities may be permitted in areas adjoining public open spaces or where prescribed in Parcel 4 – Student Quarter', with the P4-KS02 Key Site Objectives in relation to Parcel 4 stating

'P4-KS02 To promote modern architectural expression in the design of higher density buildings and apartments. In particular where the buildings define public spaces, the design creates architectural individuality, the material choice is varied and includes high quality and durable finishes that complement the public realm.'

We consider that both the student accommodation and market residential accommodation in Parcel 4, as conceived by Henry J. Lyons Architecture, comprise high quality design which are positioned to define the public open spaces and meet this requirement, therefore the increase in density is warranted.

Based on the above we consider that the increase in density is supported by specific policies in the LSFP in relation to Parcel 4 and therefore meets Section 37(2)(b) criteria (ii).

OPEN SPACE

In relation to the backing of proposed housing onto Blackberry Lane, a proposed biodiversity and public foraging corridor, this arrangement could be perceived as not meeting the requirement of Policy O-AM11 in the LSFP.

'To prohibit the siting of rear elevations/gardens onto public open spaces, streets and the N6 national route.'

However, this approach has consciously been adopted by Henry J. Lyons Architecture, in liaison with Forestbird Design Landscape Architecture, with the view to maintaining the historic character and biodiversity value of Blackberry Lane. By aligning the frontage of these houses with this lane, it was felt that it would necessarily alter the role of the lane to that of a road with multiple vehicular access points. The housing alignment has been consciously oriented to protect this legacy feature and allow the historic lane to maintain its character, with planting enhancements proposed to bolster its role as a biodiversity corridor and public foraging route, for pedestrian and cyclist use only, with access from the proposed scheme and the nearby greenway. As the accompanying Design Statement prepared by Henry J. Lyons Architecture states:

'The lane which is the remnant of an historic road and field structure should be celebrated and revitalised as a route, amenity space and connection node.'

We consider this approach is supported by the LSFP Landscape and Urban Form Objectives as set out in Section 3.5.5 of the plan. In particular Policy O-LUF1 sets out to protect and supplement existing landscape features of amenity and biodiversity value and policy O-LUF5 which aims to protect existing areas of biodiversity value.

In this context it is considered that the proposed development can be viewed positively and granted planning permission by An Bord Pleanála under the provision of Section 37(2)(b) criteria (ii).

We note also LSFP Policy O-LUF7, with an objective to ensure a continuous frontage and passive supervision over open spaces and green links, in particular, along the Old Rail Trail Greenway. There may be different interpretations in respect of this. The proposed layout does not include continuous built form onto the greenway to the south and this arrangement could also be perceived as not meeting this requirement if interpreted in its strictest sense. Firstly, the applicant does not legally own the land between the subject site and the surfaced greenway which inhibits such an approach in practical term². Secondly, the blanket removal of the strong treeline/hedgerow boundaries would conflict with the requirements of Policy O-LUF1:

'To protect and supplement existing landscape features of amenity and biodiversity value such as established field boundaries, significant hedgerows and stands of trees, and to incorporate same into the new urban structure'

The design approach has been developed on balance of issues identified. The proposed layout includes two no. east-west residential and student accommodation blocks which provide frontage for passive surveillance of the Old Rail Trail Greenway in line with O-LUF7, whilst the existing trees/hedgerows will be primarily retained to preserve key distinguishing character and biodiversity value in accordance with O-LUF1. Based on the above it is considered that the proposed development can be considered positively and granted planning permission by An Bord Pleanála under the provision of Section 37(2)(b) criteria (ii).

3.3 Application of Section 37 (2)(B) Considerations to the Proposed Development

Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, provides the Board with the ability to grant permission for a proposed strategic housing development that materially contravenes the Development Plan or Local Area Plan, other than in relation to land use zoning. As demonstrated in the accompanying Statement of Consistency the proposed development is consistent with the zoning objective for the site in that it provides for a residential development with student accommodation and makes provision for improvements to the local road network, which have been agreed with Westmeath County Council.

Section 9(6)(c) of the 2016 Act, states that the Board may only grant permission for a development that materially contravenes a Development Plan where it considers that, if Section 37(2)(b) of the Planning & Development Act of 2000 were to apply, it would grant permission for the proposed development. Section 37(2)(b)(ii) and (iii) of the Planning Act, 2000, provides the Board with the ability to grant permission for a proposed development, which materially contravenes the Development Plan, where the Board considers that:

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

² A letter from the Director of Services, Transportation, Planning and Economic Development is enclosed with the Planning Statement which confirms that neither Irish Rail or Westmeath County Council can provide consent for works in this area.

(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 proposed development is considered to be consistent with current Government policy for the sustainable delivery of housing to meet population growth projections, as articulated in NPF and RSES objectives for the Eastern and Midlands Region. The proposed development is consistent with National Policy Objectives 3(a), 11 and 35, which prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location and increased densities in settlements.

The proposed development is consistent with relevant Ministerial Guidelines issued in accordance with Section 28 of the Planning and Development Act, 2000 and which are

- Sustainable Urban Housing: Design Standards for New Apartments (2018 & 2020); and
- Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).

The proposed development is in accordance with SPR1 and SPPR 3 of Urban Development and Building Heights Guidelines for Planning Authorities (December 2018), which specify that it is Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city core, and that planning authority may approve such development, even where specific objectives of the relevant development may indicate otherwise when the assessment criteria are met, such as in the present case.

The height and density of the proposed development is also in accordance with specific policies within the LSFP, specifically P4-KS08, O-LUF13 and O-LUF14 in relation to increased height and P2-KS07 and P4-KS02 in relation to increased density.

Furthermore, the relaxation of the LSFP Landscape and Urban Form Objectives and Access and Movement Objectives in relation to a requirement for frontage onto Blackberry Lane and the Old Rail Trail Greenway are supported by the O-LUF1 and O-LUF-5 policies within the LSFP which aim to protect existing landscape features of amenity and biodiversity value such as the Blackberry Lane and the hedgerows to the south of the site and incorporate them into the new urban structure. We consider the proposed scheme strikes an appropriate balance between these conflicting objectives.

04. Conclusion

On the basis of the reasons and considerations set out in the report above, we consider that sufficient justification is available for An Bord Pleanála to grant permission for the proposed development in accordance with Section 37(2)(b)(ii) and (iii) of the Planning Act, 2000, if the Board considers the development contravenes the height, density and open space policies of the Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024.

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