

An  
Bord  
Pleanála

**Board Direction**  
**BD-010887-22**  
**ABP-312581-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/06/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

#### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) The location of the site at the edge of the built-up area of Athlone, within the area of the Athlone Town Development Plan 2014-2020 incorporating the Lissywollen South Framework Plan 2018-2024 and on lands zoned 'Proposed Residential' under the Athlone Town Development Plan 2014-2020;
- (b) The policies and objectives of the Westmeath County Development Plan 2021-2027 and the Athlone Town Development Plan 2014-2020 incorporating the Lissywollen South Framework Plan 2018-2024;
- (c) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (e) The provisions of Project Ireland 2040 National Planning Framework which identifies the importance of compact growth;

- (f) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (g) The provisions of the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- (h) The provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (i) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (j) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020;
- (k) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (l) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in 2009;
- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area;
- (o) The provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;
- (p) The submissions and observation received;



- (q) The Chief Executive Report from the Westmeath County Council; and
- (r) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the

direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- (b) The location of the site on lands zoned 'Proposed Residential' under the Athlone Town Development Plan 2014-2020, incorporating the Lissywollen South Framework Plan 2018-2024 and the results of the Strategic Environmental Assessment of the plan;
- (c) The pattern of development in the surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.
- (e) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Construction and Environmental Management Plan, the Traffic and Transport Impact Assessment, the External Noise Impact Analysis, and the Flood Risk Assessment included in the Engineering Services Report.

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



### **Conclusions on Proper Planning and Sustainable Development:**

The Board 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 suburban 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, would be acceptable in terms of pedestrian and traffic safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Athlone Town Development Plan 2014-2020 that incorporates the Lissywollen South Framework Plan 2018-2024 in relation to residential density and building height and design and Objective O-AM11 to prohibit the siting of rear elevations/gardens onto public open spaces, streets and the N6 national route. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Athlone Town Development Plan 2014-2020 and Lissywollen South Framework Plan 2018-2024 would be justified for the following reasons and considerations.

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

In relation to section 37(2)(b)(ii):

There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, in relation to:

- With reference to residential densities, there are conflicting objectives between the Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024, that lead to a disconnect between target residential densities for the site.
- With reference to design and layout, Objective O-LUF1 of the Lissywollen South Framework Plan 2018-2024, 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, and objective 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 conflict with objective O-LUF7 of the Framework Plan, to ensure a continuous frontage and passive supervision over open spaces and green links, specifically in relation to the provision of a biodiversity corridor at Blackberry Lane and the layout of the proposed residential units in this area of the development site.

In relation to section 37(2)(b)(iii):

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2 of the Guidelines, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to residential density, regard is had to the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031, Project Ireland 2040



National Planning Framework and in particular National Policy Objectives 3c and 35, and the provisions of Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in December 2020.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, and the Outline Construction Environmental Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of clarity and of protecting the environment and in the interest of public health.

3. Prior to commencement of any works on site, the developer shall submit to, and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, and dispose of any contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence

from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.

**Reason:** To ensure the eradication from the development site of invasive plant species and to protect biodiversity.

4. The proposed development shall be amended as follows:

- Blocks R1 and S1 shall be relocated 3 metres northwards, away from the southern site boundary to the Old Rail Trail Greenway.
- A revised design solution for the play area and boundary treatment of the creche shall be agreed to the satisfaction of Westmeath County Council.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenities and in order to ensure the protection of the existing trees and hedgerow at the greenway.

5. Details of works to the public road to facilitate the proposed development, including the detailed design of the proposed pedestrian, vehicular and cycle access to Lissywollen Avenue and the works to the junction of Lissywollen Avenue and the R916, as well as the proposed works to Blackberry Lane, shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development and shall be completed prior to the occupation of any unit within the development. All works to the public roads / footpaths shall be completed to the satisfaction of the Planning Authority. A finalised Road Safety Audit shall be submitted to the planning authority for agreement.

**Reason:** In the interests of proper planning and development and to ensure the timely provision of roads, pedestrian and cycle infrastructure.

6. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into



an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

7. The student accommodation within the proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), and shall not be used for any other purpose without a prior grant of planning permission for change of use.

**Reason:** In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

8. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interests of clarity and public health.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

11. The site shall be landscaped in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site and details of children's play features and boundary treatments. Full details of the treatment of the ground floor private open spaces shall be submitted to the planning authority for agreement in writing prior to the commencement of development.

**Reason:** In order to ensure the satisfactory completion of the development.

12. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the lower ground level car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

13. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling,



walking and carpooling by residents/ occupants/ staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. Proposals for a development naming and unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

16. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with the planning authority prior to installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interests of amenity and public safety.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) shall be the responsibility of a legally constituted management company. A management



● scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

- (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the matters outlined in the submission received from Inland Fisheries Ireland. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

23. The applicant shall submit proposals for noise mitigation measures to address noise impacts on residential amenities from adjacent roads to the planning authority for agreement in writing prior to the commencement of development, due to the proximity of the N6 Athlone Relief Road. The proposed mitigation measures shall be based on a noise risk assessment and an Acoustic Design



Statement (ADS). The detail of the ADS should be commensurate with the level of risk identified in the noise risk assessment.

**Reason:** In the interests of residential amenities.

24. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

25. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the

Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

27. The developer shall pay the sum of € 29,078 euro (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works to Blackberry Lane. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning



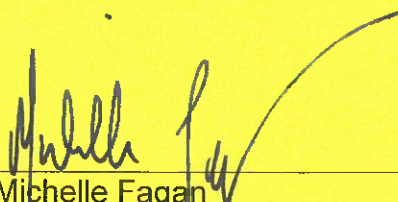
authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions\*\*\* of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Board Member**

  
Michelle Fagan

**Date:** 16/06/2022

