

Eoin O'Sullivan

From: Evan Walsh <evan@brockmcclure.ie>
Sent: Thursday 21 December 2023 16:06
To: Appeals2
Cc: Laura Brock
Subject: Appeal Response - (ABP - 318510 - 23) First Party Response to Third Party Appeal by DM Leavy
Attachments: Appeal Response (ABP. 318510 - 23) - DM Leavy.pdf; Appeal Response (ABP - 318510 - 23) Supporting Drawings.pdf

Dear Sir/Madam,

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, are instructed by our client Marina Quarter Limited, Digital Office Centre, Block B, Maynooth Business Campus, Straffan Road, Maynooth, Co. Kildare, W23 W5X7, to lodge this first party response to a third-party appeal made by DM Leavy (ABP Letter dated 28th November 2023), regarding a residential development granted permission by Westmeath County Council, on lands at Cornamaddy, Athlone, Co. Westmeath (WMCC Ref. 22/577/ ABP. 318510). The development is described as follows:

'The development will comprise of a residential development and public open space comprising the following: Amendments to permitted application WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 for the removal of 38 no. permitted units (not constructed) to be replaced by: Construction of 70 no. residential units comprising: 4 no. 2 bed terraced houses (c.78 sq.m each), 60 no. 3 bed semidetached (c. 96-116 sq.m each) and 6 no. 4 bed semidetached houses (c. 147 sq.m each) with associated private gardens. The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 no. remaining units retained as permitted under WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 will remain unchanged. All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a sections of the distributor road permitted under WMCC Reg. Refs 14/7103 ABP Ref. PL25.244826 and 22/253 to the east of the site. All associated site development works, services provision, drainage works, public open space (c.1.03ha), landscaping, boundary treatment works, public lighting, associated esb substation cabinets, bin stores, car and bicycle parking provision'.

The response to the DM Leavy appeal of the scheme has been prepared with inputs from Marina Quarter Limited, Brock McClure Planning & Development Consultants and McCann FitzGerald.

As per the appeal notification letter issued by ABP this response is now emailed to appeals@pleanala.ie. This appeal response is submitted to An Bord Pleanala within 4 weeks from the date of notification of appeal received from An Bord Pleanala on the 28th of November 2023.

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

Evan Walsh

Senior Executive Planner



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**First Party Response to Third Party
Appeal – DM Leavy**

**Residential Development on lands at
Cornamaddy,
Athlone,
Co. Westmeath**

**WMCC Ref. 22/577
ABP Ref. 318510-23**

On behalf of

Marina Quarter Limited

21st December 2023



Planning and Development Consultants
63 York Road,
Dun Laoghaire,
Co. Dublin

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1 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, are instructed by our client **Marina Quarter Limited, Digital Office Centre, Block B, Maynooth Business Campus, Straffan Road, Maynooth, Co. Kildare, W23 W5X7**, to lodge this first party response to a third party appeal made by DM Leavy (ABP Letter dated 28th November 2023), regarding a residential development granted permission by Westmeath County Council, on lands at Cornamaddy, Athlone, Co. Westmeath (WMCC Ref. 22/577/ ABP. 318510). The development is described as follows:

'The development will comprise of a residential development and public open space comprising the following: Amendments to permitted application WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 for the removal of 38 no. permitted units (not constructed) to be replaced by: Construction of 70 no. residential units comprising: 4 no. 2 bed terraced houses (c.78 sq.m each), 60 no. 3 bed semidetached (c. 96-116 sq.m each) and 6 no. 4 bed semidetached houses (c. 147 sq.m each) with associated private gardens. The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 no. remaining units retained as permitted under WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 will remain unchanged. All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a sections of the distributor road permitted under WMCC Reg. Refs 14/7103 ABP Ref. PL25.244826 and 22/253 to the east of the site. All associated site development works, services provision, drainage works, public open space (c.1.03ha), landscaping, boundary treatment works, public lighting, associated esb substation cabinets, bin stores, car and bicycle parking provision'.

This response to the DM Leavy appeal been prepared by the applicant, design team and McCann FitzGerald for the benefit of An Bord Pleanála. A response to items raised in the appeal is provided in Section 5 of this report.

This appeal response is made in writing and is submitted to An Bord Pleanála within 4 weeks from the date of notification of appeal received from An Bord Pleanála on the 28th of November 2023.

The structure of this response is as follows:

Site Context – A brief overview of the site location and characteristics.

Application Lodged – A summary of the application originally lodged to Westmeath County Council.

Planning Authority Decision – Details of the time line associated with the decision to grant permission for the development by Westmeath County Council.

First Party Response to Third Party Appeals – An itemised response from the applicant, design team to all appeal items raised by Stand DM Leavy in the lodged 3rd Party Appeal document.

Conclusion – Concluding comments from Applicant and Design Team regarding the lodged 3rd party appeal, and a request for An Bord Pleanala to uphold the decision of Westmeath County Council to grant permission for the development.

Appendix 1 – Solicitors Response Document prepared for An Bord Pleanala by McCann FitzGerald

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

2 Site Context

The land subject to the originally lodged planning application is located at Cornamaddy, Athlone, Co. Westmeath, approximately 2km to the northeast of Athlone Town Centre. The site is generally bounded by surrounding greenfield lands to the immediate north, east and west, with an existing residential housing development 'Drumaconn' bounding the site to the southeast.

The access and egress road for the development is partially in existence, currently providing access and egress to the constructed 'Drumaconn' residential development off the Ballymahon Road - N55. This road will be extended as part of the permission granted under WMCC reg ref. 14/7103, and further extended into the development site as part of the application lodged to WMCC under WMCC reg. ref. 22/253. The subject development offers a further extension to the Distributor Road through the Cornamaddy lands, extending the road westwards from the section of road included in the planning application lodged to WMCC reg ref. 22/253.

It is envisioned that the section of the distributor road provided as part of the subject application will contribute towards the deliverance of the entirety of the distributor road, envisioned to traverse the central portion of the Cornamaddy lands as they are developed.

The development is located on greenfield lands that have been subject to surrounding previous grants of permission for residential development by Westmeath County Council and An Bord Pleanala and has been earmarked for new residential development since the early 2000's. It is noted that the applicant has begun construction on the Cornamaddy lands, granted as part of previous project phases.

The subject site is on the north eastern periphery of Athlone Town, with the town main street located approximately 2km to the south west of the development site, which is ideally located for residential development, outside the town centre but close to facilities and services. There are schools, supermarkets, a library and restaurants all within walking distance of the proposal site.

Aside from availing of the many amenities that Athlone to the south west of the subject site has to offer, the development site is proximate to several retail and retail warehousing services including SuperValu and Spar on the Ballymahon Road and Blyry Industrial Estate, which is highly accessible and a short walk from the subject site.

While the site is located within a comfortable walking distance of Athlone Town, it also benefits from nearby transport links. The site is well served by a number of reasonably frequent bus services departing from Athlone bus station approximately 2km to the south west of the site offering the following services:

- Route 72 to Limerick Train Station
- Route 70 to Green Bridge
- Route 440 to the Rail Walk
- Route 461 to Roscommon
- Route 466 to Longford
- Route 73 to Waterford City
- Route 70 to Mullingar
- Route 65 to Kilnacloy

The closest bus stop to the site is located approximately 900 metres to the south west of the site along the N55 and is served by the A2 Bus Eireann route which offers connections to Bealnamulla in Roscommon. It is noted that indicative locations for future bus stops along the proposed section of the Distributor Road were included on the drawings submitted to the Planning Authority for consideration as part of this application pack.

The subject site expands across residential and open space zoned areas. The site is located across lands with the following zoning objectives, as per the Athlone Town Development Plan 2014-2020:

- **Residential o-LZ1** – *‘To provide for residential development, associated services and to protect and improve residential amenity’.*
- **Open Space o-LZ8** – *‘To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas.’*

The proposal offers a residential development featuring a mix of unit types and sizes and will provide appropriate open space areas in accordance with the requirements of the Athlone Town Development Plan and Westmeath County Development Plan. The proposal represents a suitable response to the mix of zoning objectives on site and provides a high-quality residential development in an accessible location, in line with guidance for the provision of new residential units outlined in national policy.

3 Application Lodged

Marina Quarter limited applied for a 5-year permission for development at this site of total 10.87ha on lands located at Cornamaddy, Athlone, Co. Westmeath on the 22nd of December 2022. The site is generally bounded to the west by greenfield lands and Cornamagh Cemetery, to the north by greenfield lands, to the south by greenfield lands and the Ballymahon Road (N55) and to the east by the existing Drumaconn housing estate. The application site layout as originally lodged to Westmeath County Council is shown below for the benefit of An Bord Pleanála:



Figure 1: Originally Lodged Site Layout Plan

The application was originally lodged to Westmeath County Council comprised of the following:

- Amendments to permitted application WMCC reg Ref. 14/7103/ ABP Ref. PL25.244826 for the removal of 38 no. permitted units (not constructed) to be replaced by: Construction of 70 no. residential units comprising: 4 no. 2 bed terraced houses (c.78 sq.m each), 60 no. 3 bed semidetached (c. 96-116 sq.m each) and 6 no. 4 bed semidetached houses (c. 147 sq.m each) with associated private gardens.

- The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 no. remaining units retained as permitted under WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 will remain unchanged.
- All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a sections of the distributor road permitted under WMCC Reg. Refs 14/7103/ ABP Ref. PL25.244826 and 22/253 to the east of the site.
- All associated site development works, services provision, drainage works, public open space (c.1.03ha), landscaping, boundary treatment works, public lighting, associated esb substation cabinets, bin stores, car and bicycle parking provision.
- This development will form part of a larger/future phase of the development.

4 Planning Authority Decision

Westmeath County Council made the decision to request Further Information for the development on the 24th of February 2023 regarding 9 no. items. This Further Information Request was responded to on the 15th of June 2023. Westmeath County Council then requested Clarification of Further Information regarding 3 no. items. This CFI request was responded to on the 6th of September 2023 (following a grant of an extension to the FI response period).

Subsequently, it was considered by Westmeath County Council that any concerns and queries in respect of the proposed development had been adequately addressed, and planning permission was granted for the development on the 31st of October 2023. The site layout plan as per the granted permission is shown below on Figure 2 for the benefit of An Bord Pleanála:

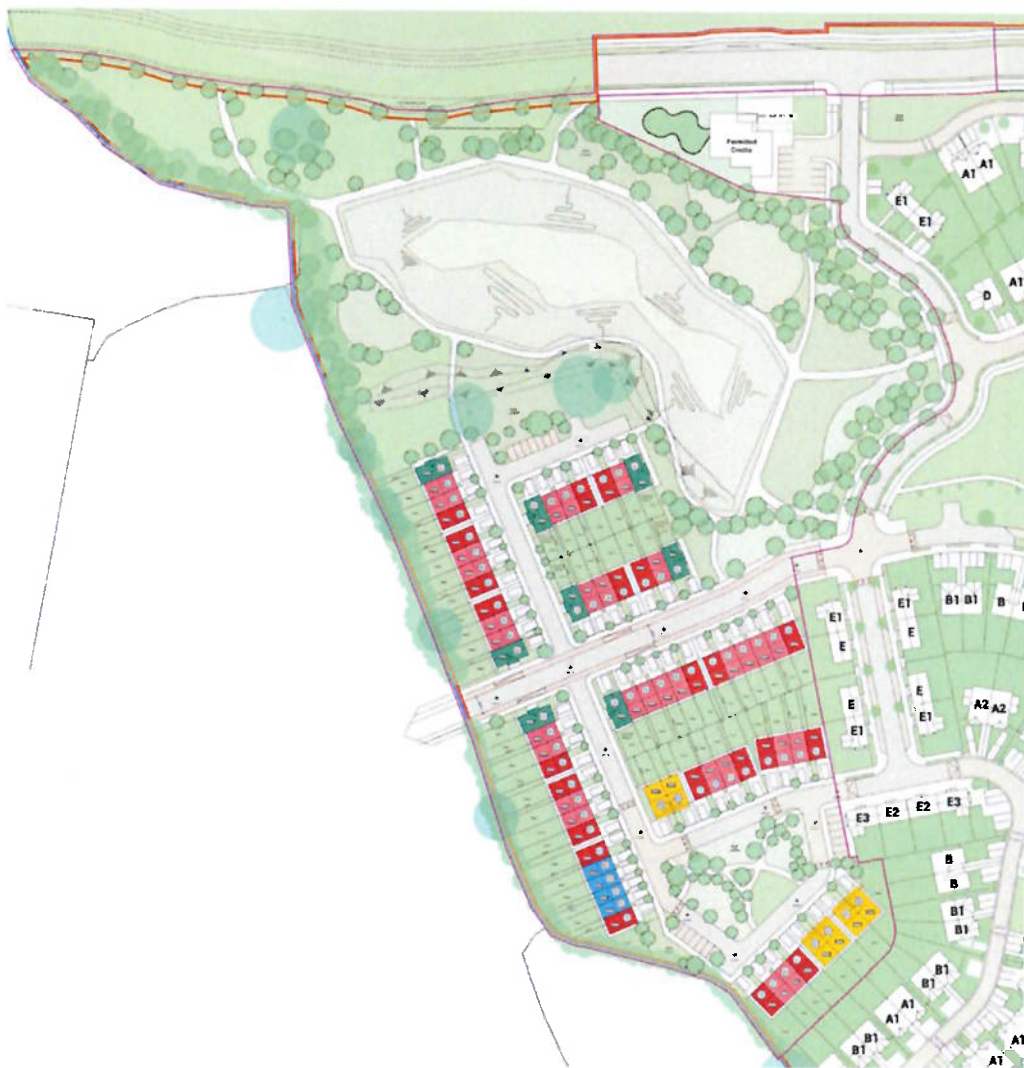


Figure 2: Granted Site Layout

5 First Party Response to Third Party Appeal

The decision from Westmeath County Council to grant permission for development under Reg Ref. 22/577 was subsequently appealed to An Bord Pleanála by 2 no. third parties as follows:

- Stand With Badgers
- DM Leavy

This First Party Response to Third Party Appeal has been prepared specifically to respond to the 3rd Party Appeal lodged to An Bord Pleanála by DM Leavy.

We note at this stage to An Bord Pleanála that no residents in the area immediately surrounding the development site have appealed Westmeath County Council's decision to grant permission for development. Through the Further Information and Clarification of Further Information stages it is considered that the applicant and design team have appropriately responded to any concerns or queries raised by third parties.

This appeal response has been prepared by Brock McClure Planning and Development Consultants with input from McCann Fitzgerald and Marina Quarter Limited to directly respond to all items raised by DM Leavy in their appeal of the scheme.

5.1 Applicants Request to An Bord Pleanála for Appeal Dismissal

In the first instance our client wishes An Bord Pleanála to be aware that DM Leavy, Proudstown Road, Navan, Co. Meath has repeatedly appealed schemes lodged by the applicant Marina Quarter Limited, a subsidiary of Glenveagh Homes Ltd and Glenveagh Homes.

As part of this Appeal Response, McCann Fitzgerald has prepared a response document. This is included as Appendix 1 of this report. At this point we request that An Bord Pleanála refers to the McCann Fitzgerald report included as Appendix 1 of the report and dismisses the appeal of the scheme from DM Leavy on this basis.

DM Leavy lives c. 97 kilometres from the application site, and not within the jurisdiction of Westmeath County Council. The content of the appeal does not raise any environmental concerns regarding the scheme, noting only general inconsistent comments regarding zoning and density of development. It is submitted that the appellant has no genuine concerns regarding the development, and this appeal has been lodged as part of an attack on schemes lodged by Marina Quarter Limited and Glenveagh Homes Ltd, of which Marina Quarter is a subsidiary, with the intent of the appellant being to delay development.

For the avoidance of doubt, Marina Quarter Limited can demonstrate that the appeal is targeted towards the applicant and not the development and is vexatious, and so An Bord Pleanála have powers to dismiss this appeal as per Section 138 of the Planning and Development Act 2000 (as amended) which states that:

138 (1) The Board shall have an absolute discretion to dismiss an appeal or referral –

(a) Where, having considered the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard in dealing with or determining the appeal or referral, the Board is of the opinion that the appeal or referral –

- i. Is vexatious, frivolous or without substance or foundation, or
- ii. Is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement by any person

The appellant DM Leavy, and Patrick Lynch, also of Proudstown Road, Navan, Co. Meath, have appealed 10 no. schemes, separate to the current appealed scheme, lodged by Marina Quarter Limited and Glenveagh Homes from 2021 to present as follows under a number of names, as now depicted on the below table:

Local Authority and Reference Number	Development Description	Appellant	ABP Ref.
Meath County Council Ref. 21304	The proposed development seeks to replace a permitted 4 storey apartment block containing 40 no. units (consisting of 17 no. 1 bed units, 20 no. 2 bed units and 3 no. 3 bed units) with 23 no. dwellings. The proposed dwellings consist of 20 no. two storey houses (17 no. 3 bed units and 3 no. 2 bed units) and a three-storey triple block of 3 no. 1 bed apartments.	Denis Leavy	310884
Meath County Council Ref. 22612	Alterations to development previously approved under Reg. Ref. TA160093 (An Bord Pleanála Ref PL17.247489) comprising: (i) the replacement of the centrally located three-storey building, accommodating a medical centre at ground floor level and 6 no. apartments at first and second floor level, and connecting two-storey creche facility with 1 no. two storey building comprising creche/ medical centre uses with associated vehicular parking (20 no. spaces), bicycle parking (10 no. spaces), set down parking areas (7 no. spaces), 8 no. single-storey one-bedroom maisonettes (3 no. House Type P1/3 No. House Type P2/1 no. House Type P3 / 1 no. House Type P4), 4 no. two-storey three-bedroom houses (3 no. House Type C1/1 no. House Type C2) and 3 no. two-storey four-bedroom houses (3 no. House Types C8); (ii) the revised layout of the southern spur estate, previously	DM Leavy	314242

	accommodating 35 no. houses, to provide 11 no. two-storey two-bedroom houses (House Type E1) and 59 no. two-storey three-bedroom houses (1 No. House Type F2, 3 No. House Type C2, 4 No. House Type F1, 8 No. House Type D1, 8 No. House Type D2 & 35 no. House Type C1;		
Meath County Council Ref. 22924	Construction of 138 no. residential units comprising: 6 no. one bed triplex units in 2 no. three storey blocks located in the north-western and south-western portions of the site. 32 no. duplex units in 2 no. three storey blocks located centrally in the northern portion of the site, comprising 16 no. two bed units and 16 no. three bed units. 24 no. two bed terraced houses. 10 no. three bed, 2 storey, terraced/semi-detached edge houses.	Denis Leavy	314744
Meath County Council Ref. 221558	Amendments to the south-eastern portion (0.71ha) of a residential development permitted under Meath County Council Reg. Ref. NA/181326. The proposed development seeks to replace a permitted 4 storey apartment block containnig 40 no. units (consisting of 17 no. 1 bed units, 20 no. 2 bed units and 3 no. 3 bed units) with 29 no. dwellings. The proposed dwellings consist of 14 no. two storey houses (11 no. 3 bed units and 3 no. 2 bed units), a three-storey triplex block of 3 no. 1 bed apartments and 12 no. 1 bed maisonette units in 3 no. 2 storey blocks.	DM Leavy	317374
Laois County Council Ref. 2360366	Demolition and site clearance of a disused farmyard, the construction of 195 no. residential units, 1 no. creche, 2 no. ESB kiosks and all associated site development works including footpaths, cycle paths, parking, fencing, drainage, bicycle and bin stores and landscaping/amenity areas at Dublin Road, Ballyroan (townland), Portlaoise, Co. Laois.	DM Leavy	318535
Westmeath County Council Ref. 21139	Construction of 83 no. residential units, 1 no pumping station and all associated ancillary development works including a shared cycle and pedestrian pathway which runs along the southern, western and northern boundary of the site, access footpaths, parking, drainage, landscaping and amenity areas.	Denis Leavy	313091

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Kildare County Council Ref. 23513	Construction of 237 No. residential units ranging in height from two-three storeys comprising 30 no. two-bedroom houses (c.86.8sq.m each), 124 no. three-bedroom houses (ranging in area from c.103sq.m to 114sq.m each), 13 No. four-bedroom houses (ranging from c. 151sq.m to 168sq.m) , 20 No. one-bedroom apartments (ranging in area from c.56.6sq.m each), 22 No. two-bedroom duplex apartments (ranging in area from c. 86.9sq.m to 89.0sq.m) and 22 No. three-bedroom duplex apartments (ranging in area from c.127sq.m to 139sq.m each); (2) Construction of a two storey creche (c.278sq.m in area) with associated external play area (c.85.8sq.m. in area)	Patrick Lynch	317923
Cork County Council Ref. 235707	Demolition of existing wall into the Castleredmond estate and the construction of 270 no. residential units, 43 no. garden sheds, 1 no. creche, 3 no. ESB substations, a temporary wastewater treatment plant, 1 no. temporary pumping station and all associated development works including footpaths, parking, drainage, bicycle and bin stores and landscaping/amenity areas at Castleredmond (townland), Midleton Co. Cork	Patrick Lynch	318403
Laois County Council Ref. 2360366	Demolition and site clearance of a disused farmyard, the construction of 195 no. residential units, 1 no. creche, 2 no. ESB kiosks and all associated site development works including footpaths, cycle paths, parking, fencing, drainage, bicycle and bin stores and landscaping/amenity areas at Dublin Road, Ballyroan (townland), Portlaoise, Co. Laois.	DM Leavy	318535
Meath County Council Ref. 23930	Construction of a residential development comprising 102 no. residential units, each served by private amenity space and on-curtilage/adjoining car parking bays - The breakdown of the residential units is as follows: 3 no. detached four-bedroom units (1 no. House Type C9 1 2 no. House Type C8); 40 no. semi-detached three-bedroom units (18 no. House Type D, 12 no. House Type F and 10no. House Type F2); 43 no. terraced two-bedroom units (43 no. House Type E); and 16 no. maisonette one-bedroom units (8 no.	Denis Leavy	318678

	House Type P1 / 8 no. House Type P2) - all houses are of two-storey height and all maisonettes are contained within 4 no. two-storey blocks (4 no. maisonettes per block); (ii) construction of a two-storey commercial building (579sq.m) accommodating creche (289sq.m) & medical centre (290sq.m)		
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Table 1: Applicants schemes appealed by Leavy/ Lynch from 2021 – 2023

It is considered by our client that appeals of schemes listed above represents an orchestrated attack against Marina Quarter Limited, a subsidiary of Glenveagh Homes, and Glenveagh Homes Ltd, from 2021 to present and further represents an abuse of the planning appeals system, utilising delays in An Bord Pleanala to frustrate the delivery of projects.

The appellant, in combination with appeals lodged by Patrick Lynch against developments by Marina Quarter Limited and Glenveagh Homes, is currently delaying the delivery of 1129 no. units that were granted permission by Local Authorities during a housing crisis in Ireland.

The parent company of Marina Quarter Limited, Glenveagh Homes, has brought high court proceedings (Record 2023 No.1353 P) against DM Leavy also known as Denis/ Denise Leavy and another appellant of Glenveagh developments, Patrick Lynch, also residing at Proudstown Road, Navan, Co. Meath, seeking damages for (a) malicious abuse of the statutory process, (b) conspiracy, (c) tortious interference with economic relations, and (d) tortious interference with contractual and business relationships. These proceedings are currently before the High Court.

We trust that this will be appropriately considered by An Bord Pleanala and the appeal will be dismissed on the basis of information provided above.

Further to this, section 5.2 below provides a direct response to the items noted by DM Leavy as reasons for appealing the Westmeath County Council decision to grant permission for the development.

5.2 Applicant Response to DM Leavy Appeal Content

DM Leavy lists the following as the reason for appealing the grant of permission issued by Westmeath County Council for the proposed development:

'There is currently no development plan in place for Athlone Town. The 2014-2022 plan expired over three years ago, so the appeal site is unzoned land and any application on it should be assessed accordingly. The Council has erred in law by applying the provisions of a lapsed development plan and considering the zoning of the site as residential. The site has no zoning, which typically means the default zoning is agriculture. Further, there are no provisions in the Westmeath County Development Plan 2021 – 2027 that apply a residential zoning to the site. The proposal is premature pending the publication of a new development plan and should be refused on that basis.

Setting Aside that it is unzoned land, the density of the proposed development, which is stated to be 25 units per hectare, is too low and should be at least 35 units per hectare. We cannot

continue a policy of unsustainable development and underutilisation of (assumed) residential zoned land.'

In response to this, the applicant and design team note that the Athlone Town Development Plan 2014-2020 is the most recent relevant statutory planning policy document that presents specific land zonings and development objectives for the subject lands. It is noted that this Development Plan is due to be replaced by a Joint Urban Area Plan 2024 – 2030 for Athlone Town and parts of Roscommon to the west of the Athlone. A pre – draft Issues Paper for this plan was published on the 7th of December 2023 at www.athlonejointplan.ie. At this stage there have been no draft zoning maps published for the subject lands. It is envisaged that a draft of the Athlone Joint Urban Area Plan 2024-2030 will be on public display end of Q1/ Q2 2024, inclusive of zoning maps.

The pre- draft Issues Paper for the Joint Urban Area Plan 2024 – 2030 states that:

'Athlone has experienced sustained population growth since 2016 with 22,869 persons living in the urban area in 2022. This positive growth trend aligns with the town's strategic population target of +30,000 persons by 2031. The Joint Urban Area Plan will have a strategic role in setting out sufficient amounts of land, including the identification of appropriate locations, to accommodate this population target and associated housing demand'.

It is then stated that:

'Established urban framework areas such as Monksland / Bellanamullia, Curragh / Lissywollen, Lissywollen South and Cornamaghy, in conjunction with a range of potential opportunity sites, have capacity to cater for a significant extent of residential development in the Plan area'.

From the above statements included in the Joint Urban Area Plan 2024-2030, is expected that the subject lands will be zoned for residential development given that they are currently zoned serviced lands. Historically the Cornamaddy lands have been earmarked for development for c. 20 years, and included as residential zoned lands in the following plans for the area:

- Cornamaddy Area Action Plan 2005
- Athlone Town Development Plan 2008 – 2014
- Athlone Town Development Plan 2014 – 2020

Should development be governed by the principle as noted in the DM Leavy appeal, noting that any lands without a current Development Plan in place should be deemed to be 'Agricultural lands', it would deem the entirety of the lands included within Athlone, as per the boundary of the Athlone Town Development Plan 2014-2020, as undevelopable until the new Urban Area Plan for Athlone is published. There is currently no definitive time frame in place for the publication of this document. It is submitted that this is an entirely unsustainable, inefficient, and improper approach to planning in Athlone, noted as one of Ireland's Key Growth Towns in the RSES, during a national housing crisis.

The development granted by Westmeath County Council was subject to an extensive pre planning and master planning process for the Cornamaddy lands, where the Council was consulted and informed of the applicant's development plans for the site from concept stage through to full application stage. The expiry of the Athlone Town Development Plan 2014-2020 was not raised as

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a concern by Westmeath County Council throughout the development process, or in the conditions attached to the grant of permission.

It is noted to An Bord Pleanála that the applicant and design team had careful consideration for objectives, policies and standards as outlined in the Westmeath County Development Plan 2021-2027 in the scheme design. Where there was conflict between policies and objectives included in the Athlone Town Development Plan 2014-2020 and the Westmeath County Development Plan 2021-2027, the applicant and design team adopted the standards for development as outlined in the current Westmeath County Development Plan 2021 – 2027.

In response to the appellant noting that the proposed density of the development is too low at 25 units per hectare, we submit that this directly contradicts the appellants concerns about any residential development taking place on the site due to the subject lands being within the development boundary of the expired Athlone Town Development Plan 2014-2020, as the appellant previously noted concerns that there was no current residential zoning on the site.

It is submitted that the appellant noting that no development should take place on the site, followed directly by the appellant noting that the residential density of the proposal is too low, shows a distinct lack of consistency in the grounds of their appeal and an approach that flies in the face of proper and meaningful engagement in a planning process.

The application granted by Westmeath County Council under WMCC Reg Ref. 22/577 was an amendment application, proposed to increase the number of units on the site from a previous grant of permission. Previously, permission for development had been granted on the site under WMCC Reg Ref. 14/7103 for 125 no. units' total. The subject development granted by Westmeath County Council increased the number of units on the site from 125 as granted under WMCC Reg Ref. 14/7103, to 157 no. units. As a result of this the residential density on the site increased from 20 no. units per hectare to 25 no. units per hectare, which was considered a positive contribution from the applicant and design team towards delivering higher density developments in line with national, regional, and local planning policies and objectives, whilst also maintaining a sustainable development type on the site.

The following assessment of site density was issued by Westmeath County Council in the Planners Report associated with their decision to grant permission for application Ref. 22/577, noting the density was wholly acceptable for the site:

'The proposed density is considered appropriate having regard to the character and context of the area, its outer suburban location, and ecological features within the landholding (Esker), and the proposed density as presented complies with National Policy Objective 33 that seeks to - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.'

The Draft Sustainable and Compact Settlement Guidelines were published August 2023 and are expected to be adopted December 2023/ January 2024.

Section 3.2.2 of the draft Sustainable and Compact Settlement Guidelines provides guidance on settlements, area types and density ranges. Section 3.2.2.2 provides specific guidance for Regional Growth Centres, Key Towns and Large Towns (10,000 + population). Athlone falls within this

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classification given its strategic location, recorded, and predicted population growth, and current population of 10,000 +.

Table 3.3 of section 3.2.2.2 of the Sustainable and Compact Settlement Guidelines provides areas and density ranges for large towns. The proposed development can be classified as a 'Large Town Suburban/ Urban Extension', and so the following guidance applies:

'Suburban areas are the low-density car-orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the built up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and edge locations of Regional Growth Centres, Key Towns and Large Towns, and that densities of up to 80 dph (net) shall be open for consideration at accessible urban locations (defined in Table 3.7).'

It is noted to An Bord Pleanála that the subject development granted by Westmeath County Council (WMCC Ref. 22/577) is not a standalone application and is part of a phased plan by the applicant to deliver a new residential neighbourhood on residential zoned lands at Cornamaddy. Therefore, the density of the proposal was not considered by WMCC as standalone, but as part of an overall development on the Cornamaddy lands, across multiple phases. The following phases have been granted permission for development by Westmeath County Council:

- **Phase 1 (WMCC Ref. 22/253)** – 75 no. units granted on 1.95ha of residential zoned lands.
- **Phase 2 (WMCC Ref. 22/340)** – Creche application (no residential units proposed).
- **Phase 3 (WMCC Ref. 22/577)** – Subject application, 70 no. units granted by WMCC. This application is an amendment of WMCC Ref. 14/7103. The subject amendment application in combination with the original application provide 157 no. units. A further amendment to WMCC. 14/7103 was granted by WMCC under Reg Ref. 2360047 (Phase 5) to provide 6 no. additional residential units. The total no. units provided by WMCC Ref. 14/7103, 22/577 and 2360047 is 163 no. on 6.40 ha of residential zoned lands.

The above permissions granted by Westmeath County Council represent a total development quantum of 238 no. units on 8.35ha of residential zoned lands providing a density of c.29 units per hectare total on the applicant's lands at Cornamaddy.

In addition to the above, there is currently an LRD application (WMCC Ref. 2360374) for 177 no. units on 5.27ha of residential zoned lands at Cornamaddy due for decision, which represents Phase 4 of the overall development on the applicants lands.

The above granted and proposed applications represent a total development quantum of 415 no. units on 13.62ha of residential zoned lands and will provide a total overall development density of: **30.5 units per hectare** on the applicant's landholding at Cornamaddy.

It is submitted to An Bord Pleanála that the overall development density of permitted/ proposed development is generally compliant with the draft Sustainable and Compact Settlement Guidelines guidance of 30-50 units per hectare for developments at suburban and edge locations of Regional Growth Centres, Key Towns and Large Towns.

(((((

It is also noted to An Bord Pleanála at this stage that the amendment area as granted by Westmeath County Council under WMCC Ref. 22/577 in isolation presents a density of c.35 units per hectare, providing 70 no. units on a nett site of 2.01 ha.

Drawings demonstrating the developable area for application Ref. 22/577, prepared by Doran Cray Architects have been included as part of this appeal response. For the convenience of An Bord Pleanála, the nett developable area of 2.01 ha used to calculate the density of 35 uph in isolation, is also shown on figure 3 below:

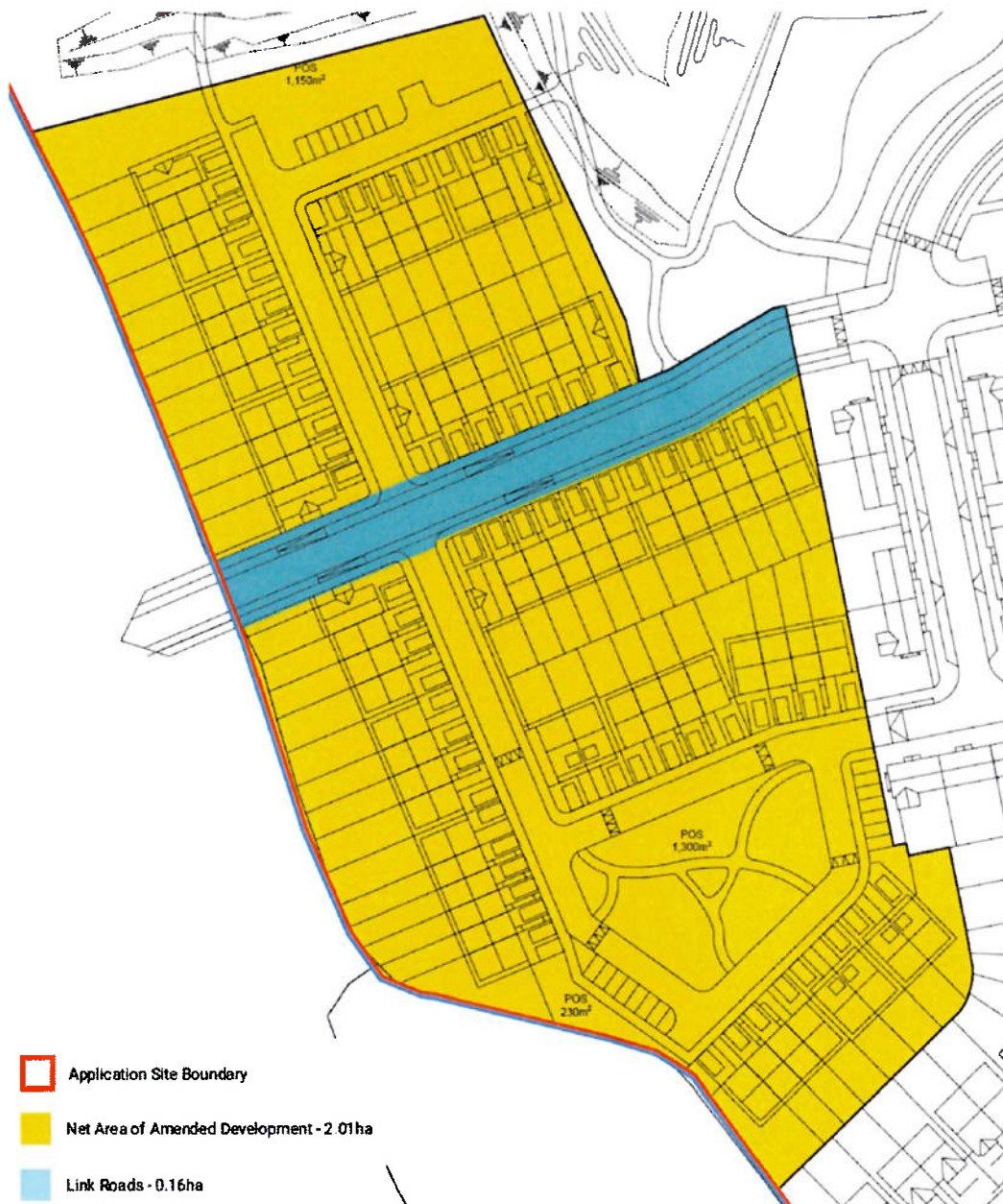


Figure 3: WMCC Ref. 22/577 – Nett Site Area

We refer An Bord Pleanála to the drawings prepared by Doran Cray Architects accompanying this Appeal Response Pack for more information regarding the nett site area.

5

6 Conclusion

In conclusion we submit to An Bord Pleanála that all reasons for appeal listed by DM Leavy were addressed throughout the application process, in the originally lodged Application Pack, Further Information Response Pack and Clarification of Further Information Response Pack.

It is submitted that the appeal lodged against the grant of permission by DM Leavy presents contradictory appeal grounds, with an aim to delay the development process.

We hereby request that An Bord Pleanála upholds the decision of Westmeath County Council to grant permission for application reference. 22/577.

7 Appendix 1 – McCann FitzGerald Appeal Response

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MCCANN FITZGERALD

OUR REF

YOUR REF

DATE

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ABP-318510-23

21 December 2023

BY EMAIL

Brock McClure Planning and Development Consultants

Our mutual client – Marina Quarter Limited, part of the Glenveagh group of companies By Email

An Bord Pleanála ref. no ABP-318510-23
Appeal against proposed residential development at Cornamaddy, Athlone,
Co. Westmeath

Dear Colleagues,

You have prepared the response to an appeal made by “DM Leavy” and/or “Denis Leavy” (the “Appellant”) against a decision to grant planning permission from Westmeath County Council (the “Council”) to a subsidiary of Marina Quarter Limited, part of the Glenveagh group of companies, (“Glenveagh”) for residential development comprising of, inter alia, the construction of 70 no. residential units, 1 no. creche, and all associated site works (the “Proposed Development”).

We have prepared this analysis for Glenveagh, so that you might include as part of your response.

Chronology of the Proposed Development

The relevant planning application history is that:

1. Glenveagh, through its subsidiary Marina Quarter Limited, made a planning application to the Council on 21 December 2022 (Council ref. no. 22/577).

Stephen Holst (Managing Partner), Mark White (Chair), Catherine Deane, Frederick Bourke, Neil Powderly, Kevin Kelly, Hilary Martin, Eamonn O'Donnell, Helen Kilroy, Judith Lawless, James Murphy, David Lyden, David Byers, Colm Lanning, Paul Lavery, Alan Fuller, Michelle Doyle, Hugh Beattie, Fergus Gilleen, Valerie Lawler, Rosaleen Byrne, Eamon de Valera, Lee Fay, Ben Gaffikin, Donal O'Raghallaigh, Barron Chapman, Mary Beasall, Audrey Byrne, Shane Fahy, Georgina O'Riordan, Adrian Farrell, Michael Murphy, Aidan Lawler, Darragh Murphy, Brian Quigley, Conor O'Dwyer, Stephen FitzSimons, David Hurley, Philip Murphy, Fiona O'Beirne, Garrett O'Brien, Gary McSharry, Alan Heuston, Josh Hogan, Richard Leonard, Rory O'Malley, Lisa Smyth, Brendan Slattery, Tim Dine, Catherine Derrig, Megan Heeper, Shane Sweeney, Adam Finlay, Tim Ferguson, Jenni Ter Haar, Stuart McCann, Stephen Proctor, M. Noel Connan, Emily Mac Nicholas, Brendan Murphy, Shane O'Brien, Eamon O'Donoghue, Gail Lehen, Laura Ryan, Niall Best, Richard Gell, Douglas McMahon, Laura Treacy, Laura Deignan, Stephen Fuller, Niall M. Powell, John Nelson, David O'Dea, Orla O'Shea, Sean Carr, Morgan Dunne, Donal Hamilton, Jar Paine, Bebhinn Bolland, Amy Bruck, James McGee, Ruairi Stewart, Consultants Catherine Austin, Seánie Barnacle, Sean Barton, Eleanor MacDonagh (Jus), Terence McCrann, Anna Moran, Peter O'Brien, Tony Spratt (Jus), Company Secretarial and Compliance Services: Ray Hunt.

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2. The Appellant made a submission on the planning application following the publication of the revised notices in respect of the clarification of further information response on 9 October 2023, consisting of a 2-sentence comment to the effect that an existing badger sett should be retained.
3. The Council made a decision to grant planning permission, subject to conditions, for the Proposed Development on 31 October 2023.
4. The Appellant made an appeal to An Bord Pleanála (the "Board") against the decision of the Council on 27 November 2023. The Appellant complains that (1) the site has no zoning, and (2) the density of the Proposed Development is too low.

The Appellant's History of Objection to Glenveagh Planning Applications

The Appellant has a recent history of objecting to and appealing development which is proposed by Glenveagh. We understand that from March 2021 to December 2023, the Appellant has, under various names, including Denise Leavy, Denis Leavy, D Leavy and, lastly, DM Leavy, or alternatively via a Mr Pat (otherwise Patrick) Lynch, made 25 no. submissions and 10 no. appeals in relation to planning applications made by Glenveagh. A full list of these submissions and appeals is set out at Schedule 1 to this letter.

The Appellant, Ms DM and/or Denis (otherwise Denise or D) Leavy, resides at Batterstown, Proudstown, County Meath. The Appellant maintains that she has not used a false identity or pseudonyms for the purposes of making planning submissions and appeals. The Appellant further maintains that each of Denise Leavy, Denis Leavy, D Leavy and, lastly, DM Leavy is her "proper name". However, in the present appeal, the Appellant notes that her "name is Denis and not Denise".

For reasons explained below, we believe that section 138(1)(a) of the Planning and Development Act, 2000 (as amended) (the "Planning Acts") is relevant to this appeal.

Specifically, Glenveagh own lands located in close proximity to lands owned by Ms Leavy and immediately adjacent to lands owned by Mr Lynch (together the "Subject Lands"). Glenveagh was approached in July 2018 and in March 2019 by two separate estate agents acting on behalf of Ms Leavy and Mr Lynch inviting Glenveagh to purchase the Subject Lands. No agreement was concluded, at that time, as the price sought was well in excess of the open market value of the Subject Lands.

Between March 2021 and May 2021, Glenveagh had several further meetings and discussions with Mr Lynch in an attempt to negotiate a deal to purchase the Subject Lands. Outline parameters of a deal were agreed in principle, subject to contract, and indicative terms were recorded by a hand-written note. However, no formal agreement was executed as Mr Lynch demanded improved terms, again, in excess of the open market value of the Subject Lands. At or around that time, submissions were made in the name of Denis Leavy, D Leavy, or DM Leavy against applications for planning permissions made by or on behalf of Glenveagh.

During August 2021, at the invitation of Mr Lynch, Glenveagh again entered into negotiations with a view to purchasing the Subject Lands. In September 2022, negotiations concluded with an agreement reached, and draft Heads of Agreement were drawn up and circulated. The agreement was not signed or otherwise executed by the parties.

Since then, even more submissions and/or appeals have been made by Ms Leavy and /or Mr Lynch against fresh planning applications made by or on behalf of Glenveagh. None of the submissions and or/appeals have been withdrawn.

The submissions and/or appeals made by Ms Leavy and Mr Lynch have prevented, or delayed, the delivery by Glenveagh of residential schemes across the country, including in Meath, Westmeath, Dublin, Kildare, Laois, Louth, Galway, Waterford, and Cork, in some cases more than 200 km from the home addresses given by the person making the appeal.

For completeness, Glenveagh has commenced High Court proceedings (2023 No. 1353 P) against Ms Leavy and Mr Lynch, including to seek damages for (a) malicious abuse of the statutory process, (b) conspiracy, (c) tortious interference with economic relations, and (d) tortious interference with contractual and business relationships.

Since the proceedings were commenced, Ms Leavy and/or Mr Lynch have made a further 7 no. submissions and 4 no. appeals in respect of planning applications made by or on behalf Glenveagh.

There is no doubt that the appeals have delayed proposed development by Glenveagh in 9 no. different counties. But for the appeals made, the decision of the planning authority in almost every case would have been the subject of a final grant of permission.

Consideration of Whether the Appeal is Frivolous or Without Substance or Foundation

Section 138(1)(a)(i) of the Planning Acts provides that An Bord Pleanála (the "Board") has absolute discretion to dismiss an appeal where, having considered the grounds of appeal or any other matter to which, by virtue of the Planning Acts, the Board may have regard in dealing with or determining the appeal, the Board is of the opinion that the appeal is frivolous or without substance or foundation.

We have reviewed the Appellant's appeal, and in doing so, we have further reviewed Glenveagh's planning application, the Westmeath County Development Plan 2021-2027 (the "CDP"), and the relevant parts of the following national and regional planning policy documents:

- National Planning Framework - Project Ireland 2040;
- Rebuilding Ireland: Action Plan for Housing and Homelessness;
- Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031;
- Design Manual for Urban Roads and Streets 2019;
- Smarter Travel - A New Transport Policy for Ireland 2009-2020;
- Sustainable Residential Development in Urban Areas (2009);
- Urban Design Manual - A Best Practice Guide (2009);
- Delivering Homes, Sustaining Communities (2008);
- Quality Housing for Sustainable Communities - Best Practice Guidelines (2007);

- Guidelines for Planning Authorities on Childcare Facilities (2001);
- The Planning System and Flood Risk Management (2009);
- Urban Development and Building Height Guidelines (2018); and,
- Housing for All – A New Housing Plan for Ireland (2021).

We outline below our consideration of, and opinion in relation to, each of the Appellant's grounds of appeal.

Ground 1: Zoning

The Appellant's first ground of appeal reads:

"There is no current development plan in place for Athlone Town. The 2014-2022 plan expired over three years ago, so the appeal site is un-zoned land and any application on it should be assessed accordingly. The Council has erred in law by applying the provisions of a lapsed development plan and considering the zoning of the site as residential. The site has no zoning, which typically means the default zoning is agriculture. Further, there are no provisions in the Westmeath County Development Plan 2021-2027 that apply a residential zoning to the site. This proposal is premature pending the publication of a new development plan and should be refused on that basis."

The Appellant's first point complains that there is no current development plan for Athlone Town. There is no requirement for the Council to prepare a town development plan for Athlone. Town councils were abolished by the Local Government Reform Act 2014, after which planning authorities were no longer obliged to prepare town development plans, but rather were obliged to prepare a single development plan for their functional area.

Section 11C of the Planning Acts (as inserted by section 28 of the Electoral, Local Government and Planning and Development Act 2013) provides that, following the dissolution of town councils, any town plan of a dissolved town council continued to have effect to the extent provided by that town development plan. The town plan was to be read together with the development plan for the administrative area in which the town is located. The position after the "extent provided by that town development plan" is explained in your response to the appeal. The 2014 plan remains the most recent relevant statutory planning policy document. The Council was fully entitled to have regard to both (i) the Athlone Town Development Plan 2014-2020 (the "ATDP"), as well as (ii) the CDP in its decision to grant permission to the subject development.

The Appellant then proceeds to state that the site has no zoning. This is incorrect. The Appellant ignores the significance of the previous planning permission for residential development (Council ref. no. 14/7103). The application, under appeal, would increase the number of units from 125 no homes already permitted, to 157 no. homes now proposed. The previous permission establishes the principle of residential development, and the persistent relevance of the residential zoning within the ATDP. In the Planning Report prepared by Brock McClure Planning & Development Consultants submitted with the planning application, zoning objectives under the ATDP were addressed at section 10.1 thereof. In particular, it is noted:

"The site extends across residential and open space zoned areas as follows:

- Residential O-LZ1 – 'To provide for residential development, associated services and to protect and improve residential amenity'.
- Open Space O-LZ8 – 'To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas'."

This was further noted in the Council Planner's Report dated 23 February 2023, wherein it was noted:

"The application site accommodates two land use zoning objectives as set out within the ATDP notably 'Proposed Residential' and 'Open Space'.

...

Having regard to the nature of the proposed development, it is considered that the proposed development meets with the zoning objectives of the ATDP."

The Appellant complains that the CDP does not contain provisions which apply a residential zoning to the site, and suggests that a decision to grant permission is premature pending the publication of a new development plan. This is incorrect. As noted above, there is no requirement that a new town development plan be prepared for Athlone. It is wrong to suggest the Council, or for that matter the Board, are precluded from making a decision to grant permission. The Appellant must be wrong to suggest, in substance, that no permission can be granted in a town that has been identified as one of Irelands Key Growth Towns in the RSES.

The Council was entitled to make a decision to grant permission for the Proposed Development in circumstances where the most relevant land use policies remain those set out in the ATDP.

Ground 2: Density

The Appellant's second ground of appeal reads:

"Setting aside that it is un-zoned land, the density of the proposed development, which is stated to be 25 units per hectare is too low and should be at least 35 units per hectare. We cannot continue a policy of unsustainable development and underutilisation of (assumed) residential zoned land."

The Appellant states her opinion that density on the site should be at least 35 units per hectare. The Appellant fails to identify any legal or policy basis for this statement. We should observe that this is the first time we have seen a person opposed to a grant of permission invite the Board to refuse permission because there is too little housing proposed, not too much. This unusual feature is striking and entirely consistent with our and our client's concern about the nature of the appeal made, and the intention of the Appellant.

In fact, there is no strict limit on density contained in within the ATDP or CDP. Rather, general parameters on density are contained within the ATDP. Table 3.3 of the ATDP prescribes an advisory

parameter of 30-35 units per hectare for 'outer suburban/greenfield sites', which is reflected later at section 12.9.4 of the ATDP which provides:

"Recommended densities in Athlone range from 35-50 units per hectare, depending on location. In the town centre, densities of up to 50 units per hectare will generally apply. In outer suburban locations, a density of 35-50 units is applicable."

In the Planning Report prepared by Brock McClure Planning & Development Consultants submitted with the planning application, it was noted:

"Given the density standards outlined in the Athlone Town Development Plan and the DEHLG'S Sustainable Residential Development in Urban Areas (2009) document, this level of density is considered appropriate at this Outer Suburban/Greenfield site."

The following council policies relating to Residential Density are outlined in section 3.9 of the Athlone Town Plan and are considered relevant to the subject proposal.

- Policy P-RD1 - To require that new residential schemes in the town centre are to a high-quality design and include provision for environmental, economic, social and community functions, combined with improvements in the public realm, required in tandem to increase the attractiveness of the town centre as a residential location.
- Policy P-RD3 - To apply the residential standards set out in the DEHLG's guidelines Sustainable Residential Development in Urban Areas (2009) as appropriate.

We submit that the proposed scheme is in general compliance with the residential standards set out in the DEHLG's guidelines for Sustainable Residential Development in Urban Areas (2009)."

The issue of density was addressed in the Council Planner's Report wherein it was noted:

"The proposal comprises a residential development of 70 new units and together with the 87 (no.) units granted permission under file ref 14/7103/ABP PL25.244826, totals 157 (no.) units on a net site area of 6.40ha. This equates to a net residential density of 25 units per hectare. The application site is a greenfield site located c2km north-west of Athlone town centre. The ATDP provides for general residential density of 30-35 units per hectare for outer suburban greenfield sites and higher densities may be considered in respect of all sites in urban areas, but particularly those developments in excess of 0.5ha. The ATDP informs that when considering proposals for housing developments, the Council will give first priority to design quality and to securing a good environment for residents, having regard both to the individual characteristics of the site and the character of the surrounding area. Subject to this, development should make the best use of land and new dwellings should be constructed at an appropriate density. In some special circumstances, e.g., in areas of environmental or architectural merit, the appropriate density may need to be lower."

...

The proposed density is considered appropriate having regard to the character and context of the area, its outer suburban location, and ecological features within the landholding (Eske), and the proposed density as presented complies with National Policy Objective 33 that seeks to - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location."

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For completeness, the CDP, in addition to the ATDP, also does not prescribe strict density requirements for Athlone town. It provides at section 16.3.2 on 'residential density':

"It is a policy objective of Westmeath County Council when assessing residential density that the following criteria will be considered as appropriate:

CPO 16.24 - Increased residential density within Athlone Regional Centre and Mullingar (key town) in principle where the subject lands are:

- within walking distance of the town centre, or*
- are adequately serviced by necessary social infrastructure and public transport and/or*
- designated regeneration sites and development lands which comprise in excess of 0.5ha, subject to quality design and planning merit in ensuring compact growth and the creation of good urban places and attractive neighbourhoods."*

It is our opinion that the Appellant's ground of appeal in relation to density is devoid of any substance or foundation. Neither the ATDP nor the CDP prescribe a strict density requirement for Athlone town, and as such the Council was entitled to make a decision to grant permission wherein the Proposed Development shall have a net residential density of 25 units per hectare.

Conclusion as to Whether the Appeal is Frivolous or Without Substance or Foundation

Having reviewed the Appellant's appeal in respect of the Proposed Development alongside Glenveagh's planning application, the CDP, and the relevant national and regional planning policy, it is our opinion that the Appellant's appeal does not raise any issue which is of substance or foundation. We are fortified in our conclusion by the history, elaborated below, between the Appellant and Glenveagh, wherein the former has sought that the latter purchase her land at a price in excess of the open market value of the land.

In our opinion, the Board would be entitled to dismiss this appeal under section 138(1)(a)(i) of the Planning Acts in for the reason that the appeal is frivolous or without substance or foundation, having regard to the nature of the appeal.

Consideration of Whether the Appeal is Vexatious, made with the Sole Intention of Delaying the Development or the Intention of Securing the Payment of Money, Gifts, Consideration or Other Inducement by Any Person

Section 138(1)(a)(i) of the Planning Acts provides that the Board has absolute discretion to dismiss an appeal where, having considered the grounds of appeal or any other matter to which, by virtue of the Planning Acts, the Board may have regard in dealing with or determining the appeal, the Board is of the opinion that the appeal is vexatious.

The dictionary definition for vexatious is "having little chance of succeeding in law, but intended to annoy someone or cause problems for them" (Cambridge), "instituted without sufficient grounds, especially so as to cause annoyance or embarrassment to the defendant" (Collins) or "intended to harass" (Merriam Webster).

We note the Appellant's intention is not relevant. The Board is only required to form a view that the appeal is vexatious.

Section 138(1)(a)(ii) of the Planning Acts provides that the Board has absolute discretion to dismiss an appeal where, having considered the grounds of appeal or any other matter to which, by virtue of the Planning Acts, the Board may have regard in dealing with or determining the appeal, the Board is of the opinion that the appeal is made with:

- the sole intention of delaying the development, and/or
- the intention of securing the payment of money, gifts, consideration or other inducement by any person.

We understand that to-date the Board has not exercised its discretion to exercise its powers to dismiss an appeal under section 138(1)(a)(ii) of the Planning Acts.

We note that subsection (ii) addresses two features – delay and inducement. With respect to the former, delay, the Board must form an opinion that the "sole intention" of the Appellant is to delay the development. With respect to the latter, inducement, the Board must form an opinion that the "intention" (not "sole intention") of the Appellant is "securing the payment of money, gifts, consideration or other inducement". Put simply, the threshold for the latter is lower: it does not matter that the Appellant might have parallel or other intentions.

While the Appellant's intention is central to sub-paragraph (ii), the Board is not required to ascertain their subjective mind. The Board is required to form its opinion by reference to "the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard".

Having regard to the entire pattern, the nature of the submissions made, the number of those submissions, the geographical distribution, the specific focus on our client, the course of dealing with our client, and the desire expressed by Ms Leavy and/or Mr Lynch for an increased purchase price for the Subject Lands, it appears to us that the Board must be entitled to dismiss the present appeal under section 138(1)(a), whether as vexatious, or made with the intention of securing the payment of money, gifts, consideration or other inducement.

The campaign of submissions and appeals arises in the context of a desire expressed by Ms Leavy and/or Mr Lynch for an increased purchase price for the Subject Lands. The campaign commenced only after their demands were not met, and the intensity of the campaign increased only after Glenveagh commenced legal proceedings in response. The campaign is targeted at Glenveagh, and not development of the same kind. The campaign is nationwide, and wholly unconnected to any disclosed interest, save an interest to harass, annoy or cause nuisance to Glenveagh. The campaign appears designed to make it more attractive and cost effective for Glenveagh to pay an increased price for the Subject Lands, rather than suffer delay, and associated cost.

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Conclusion

As set out in detail above, it is our opinion that the Board must be entitled to exercise its discretion to dismiss this appeal under section 138(1)(a)(i) and/or section 138(1)(a)(ii) of the Planning Acts.

Our opinion has been formed in circumstances where:

- the appeal does not raise any issue of substance or foundation,
- the Appellant has previously sought that Glenveagh purchase her land at a price in excess of the open market value of the land, and,
- the Appellant has a recent history of making submissions and/or appeals in relation to planning applications made by Glenveagh, in some cases more than 200 km from the home address of the Appellant.

Should you have any queries in relation to the above, please do not hesitate to contact us.

Yours sincerely

(sent by email, so bears no signature)

Brendan Slattery
McCann FitzGerald LLP

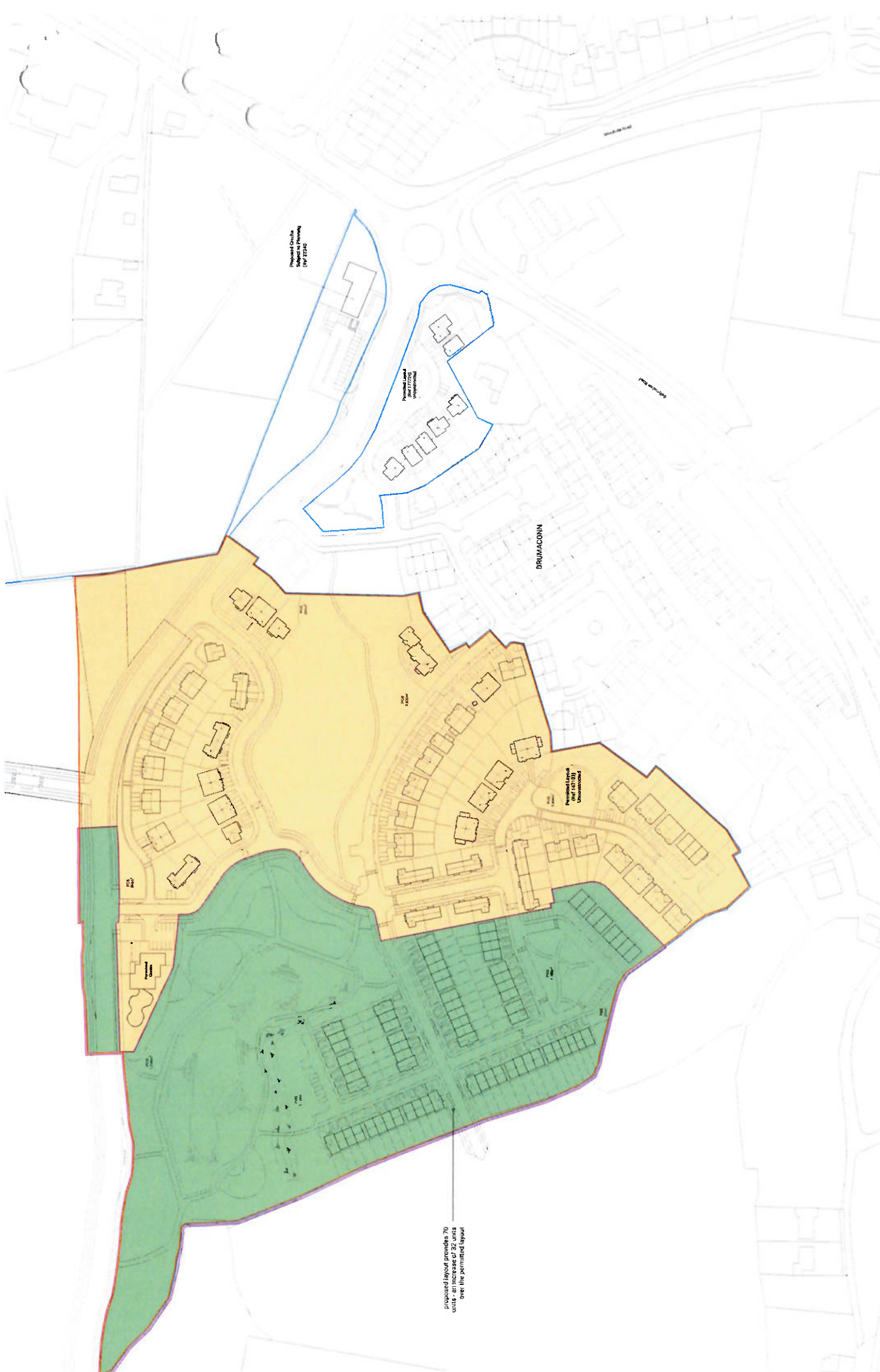
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Schedule 1

Submissions and Appeals (marked in bold) made by or on behalf of Mr Lynch and/or Ms Leavy in respect of planning applications lodged by or on behalf of Glenveagh as of 18 December 2023.

No.	Application Date	Development Address	Unit No.	Local Authority Ref.	Board Appeal by Mr Lynch or Ms Leavy	Board Ref.	Name Used
1.	18/02/2021	Lands to the North of the Windtown / Proudstown link road, Clonmagadden, Navan, Co. Meath	23	<u>21304</u>	Yes	<u>310894</u>	Denis Leavy
2.	26/02/2021	Rathgowan, Mullingar, Co Westmeath	96	<u>2197</u>	No	<u>312841</u>	Denis Leavy
3.	23/03/2021	Rathgowan, Mullingar, Co Westmeath	83	<u>21139</u>	Yes	<u>313091</u>	Denis Leavy
4.	17/08/2021	Finnabair Industrial Park, Dundalk, Co Louth	1	<u>211028</u>	No	N/A	Denis Leavy
5.	08/09/2021	South Of Oldbridge Manor, Rathmullen Road, Drogheda, Co. Meath	26	<u>211757</u>	No	N/A	Denis Leavy
6.	11/11/2021	Semple Woods, Off Hearse Road, Donabate, Co. Dublin	76	<u>P21A/0113</u>	No	<u>312458</u>	Denis Leavy
7.	12/11/2021	Friarspark 2nd Division & Effernock, Maudlin, Trim, Co. Meath	13	<u>212161</u>	No	N/A	Denis Leavy
8.	24/02/2022	Parson Street, Maynooth, Co. Kildare	185	21370	No	<u>313264</u>	Denis Leavy
9.	12/05/2022	Friarspark 2nd Division & Effernock, Maudlin, Trim, Co. Meath	86	<u>22612</u>	Yes	<u>314242</u>	D Leavy and DM Leavy
10.	12/07/2022	Lands north of Clonmagadden road, Clonmagadden, Navan, Co Meath	136	<u>22924</u>	Yes	<u>314744</u>	Denis Leavy
11.	05/08/2022	The Paddocks, Williamstown Road, Grantstown, Co. Waterford	94	<u>22694</u>	No	N/A	DM Leavy

12.	05/10/2022	Belmount House, Academy Street, Lamekhill, Navan, Co. Meath	22	221309	No	N/A	Pat Lynch
13.	23/11/2022	Blackcastle Demesne, Navan, Co. Meath	1	221518	No	N/A	DM Leavy
14.	01/12/2022	Lands to the north of the Clonmagaddan Road, Clonmagaddan, Navan, Co. Meath	29	221558	Yes	317374	DM Leavy
15.	22/12/2022	Comamaddy, Athlone, Co. Westmeath	70	22577	Yes	318510	Denise Leavy
16.	10/01/2023	Gort na Bró, Rahoon, Co. Galway	227	233	No	N/A	Denis Leavy
17.	17/02/2023	'The Paddocks', Williamstown Road, Grantstown, Co. Waterford	89	2360056	No	N/A	Patrick Lynch
18.	06/04/2023	'Ladywell', Balbriggan, Co. Dublin	75	P22A/0670	No	N/A	DM Leavy
19.	12/05/2023	Lecklip Demesne, Lecklip, Co. Kildare	237	23513	Yes	317923	Patrick Lynch
20.	23/08/2023	Castleredmond, Middleton, Co. Cork	270	235707	Yes	318403	Patrick Lynch
21.	24/08/2023	Rathgowan, Mullingar, Co. Westmeath	181	2360270	No	N/A	Pat Lynch
22.	08/09/2023	Dublin Road, Ballyroan, Portlaoise, Co. Laois	195	2360366	Yes	318535	DM Leavy and Denise Leavy
23.	21/09/2023	Principally located in Bennets town (townland) and also extending into Pace & Dunboyne (townlands), Dunboyne North, Co. Meath	267	2360290	No	N/A	Denis Leavy
24.	27/09/2023	Friarspark 2nd Division & Effernock, Maudlin, Trim, Co. Meath	102	23930	Yes	318678	Denis Leavy
25.	03/11/2023	Comamaddy, Athlone, Co. Westmeath	177	2360374	No	N/A	DM Leavy



Proposed layout provides 70 units - an increase of 52 units over the permitted layout

Proposed Site Layout
1:1000

- Application Site Boundary
- Extent of Proposed Development / Amendments
- Extent of Parent Permission Remaining Unchanged



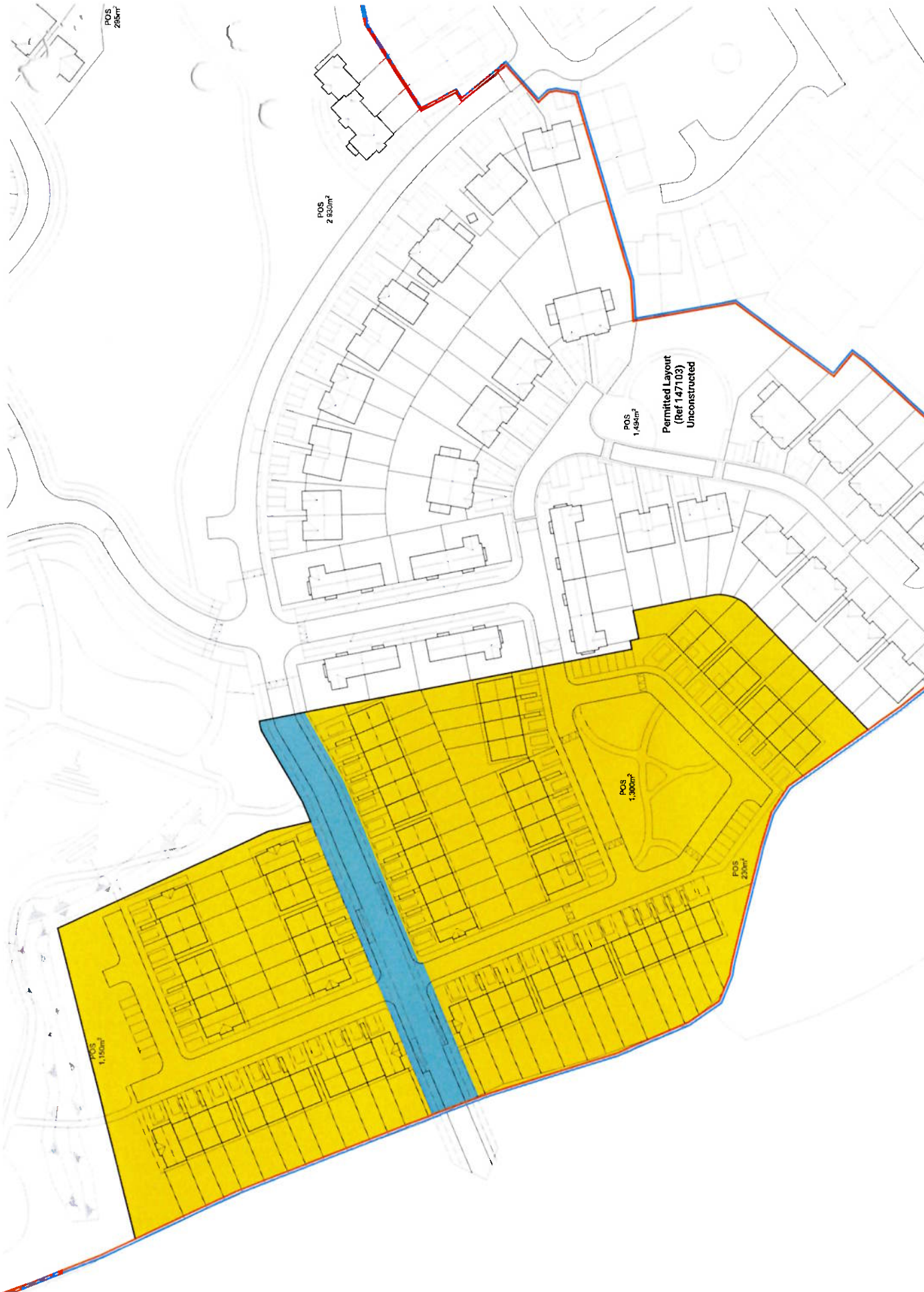
DAVID COOPER ARCHITECTS
4-11 Farnham Road, Limerick, Ireland
www.dca.ie

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Scale
1:1000

Client	MARINA QUARTER LIMITED	Project No	2010
Project	CORUMACOWY ATHLONE, WESTMEATH		
Drawing	PHASED SITE LAYOUT		
Dwg No	P-484	Rev	
Scale	1:200 @ A1 1:500 @ A2	Checked	Approved



Proposed Site Layout
1:500

- Application Site Boundary
- Net Area of Amended Development - 2.01ha
- Link Roads - 0.16ha



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DATE: 11/11/2023
PROJECT: CHANAMUDY, ATHLONE, WESTMEATH
DRAWING: PROPOSED SITE LAYOUT
SCALE: 1:500
ISSUE: 1
DESIGNER: [Name]
CHECKED: [Name]
APPROVED: [Name]

Client: MARINA QUARTERS LIMITED
Project: CHANAMUDY, ATHLONE, WESTMEATH
Drawing: PROPOSED SITE LAYOUT
Issue: 1
Scale: 1:500
Date: 11/11/2023
Designer: [Name]
Checked: [Name]
Approved: [Name]

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