

MATERIAL CONTRAVENTION STATEMENT

IN RELATION TO A

STRATEGIC HOUSING DEVELOPMENT (SHD)

AT

CLONATTIN, GOREY

PREPARED BY



ON BEHALF OF

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1. INTRODUCTION

Axis Construction Limited intend to apply to An Bord Pleanála for permission for a strategic housing development at this site of c.15.7 ha located on lands to the south of Clonattin Village, and north of the R742 Courtown Road, in the townlands of Goreybridge, Clonattin Upper and Raheenagurren East, Gorey, Co. Wexford.

The proposed development will consist of demolition of the existing dwelling and shed on site (c.334.27sqm); construction of 363 no. residential units, comprising 42 no. 1 bed apartments, 59 no. 2 bed apartments, 134 no. 3 bed houses, 124 no. 4 bed houses and 4 no. 5 bed houses, in a range of building typologies ranging in height from 2 to 3 storeys. The proposed development also includes a single storey creche (c. 513 sq.m), new public open spaces, provision of 690 no. car parking spaces and 222 no. cycle parking spaces. The proposal includes for new vehicular and pedestrian accesses and upgrades along Clonattin Village Road to the north, and a new access road (including bridge) to the R472 Courtown Road to the south via the existing access road serving the cinema (with associated upgrades to the existing road and at the junction with the Courtown Road).

All associated site development works (including site reprofiling), landscaping, boundary treatments and services provision including ESB substations.

2. POTENTIAL MATERIAL CONTRAVENTIONS

This report seeks to address the issue of potential material contravention of the Wexford County Development Plan 2013 – 2019 and the Gorey Local Area Plan 2017 – 2023 in relation to dwelling mix, as required under SHD legislation.

Part V

The Gorey Local Area Plan 2017 – 2023 provides an objective relating to PART V under HP10 as follows:

Objective HP10

To require that 20% of all land zoned for residential use, or for a mixture of residential and other uses, be reserved for the purposes of Part V of the Act Section 94(4)(a)(i) and 4(a)(ii) with the exception of the exemptions provided for in Section 4 of the Housing Strategy contained in Volume 6 and the Planning and Development Act 2000 (as amended).

However, this following objective, HP11, allows for amendment of this quantum in line with the Planning and Development Act. HP11 states as follows:

Objective HP11

To review the Housing Strategy contained in Volume 6 when Part V of the Planning and Development Act 2000 (as amended) is revised to take account of the new economic and policy contexts

HP11 allows for objective HP10 to be reviewed in line with the Planning and Development Act when these objectives were written in 2013. The Planning and Development Act 2000 has been updated since 2013, most recently in September 2020. Since 2015, and as set out within the current version of the Act, under Section 94 (4) the requirement is now for 10% of zoned land to be reserved for Part V.

A PART V proposal is submitted with this development. This provides for 10% Part V houses. This has been agreed in principle with Wexford County Council as demonstrated by the letter within the

proposal. It is therefore considered that this proposed development is in accordance with the Development Plan policies.

Density and height/ scale

Policy H04 of the Gorey Town and Environs Local Area Plan 207 – 2023 states the following:

Objective H04

To require planning applications for residential developments to demonstrate how the scheme complies with the Neighbourhood Framework Plan which the subject lands are located in. It must be demonstrated how the development complies with the layout, form, density, linkages and accessibility and open space provision. Where a deviation from the framework is proposed, the application must demonstrate that this deviation does not compromise the delivery of the Framework and is equally permeable and proposes a positive relationship with adjacent existing and proposed development, including public open spaces and linkages.

A key objective in the Clonattin Neighbourhood Framework Plan is:

To encourage a variety of building typologies and densities which reflect the function and hierarchy of routes and spaces in the area, with proposed avenues and local community spaces for greater continuity and scale of building form and secondary streets and spaces providing for lower scale and density.

Section 3.2.7 Scale and Building Height states that

General building height in Gorey is typical of small country towns in Ireland. In the town centre building heights typically range between 2 and 4 storeys. Main Street is dominant in terms of scale. A lower scale of between 2 and 3 storeys is typical of the secondary streets in the town centre. The church spires are the only features that break the relatively consistent skyline of the town centre. The consistency of building height adds to a sense of coherence and general urban quality in the town centre. In the suburban areas building heights typically range between 1 and 3 storeys, with some later apartment buildings exceeding this range.

Section 3.6 states that *“increased building height will be considered where they make a clear contribution to the legibility and character of the town.”*

In relation to density, it is noted that there is no minimum or maximum residential density levels stated within the Development Plan or the Local Area Plan. As such, the proposed density of 38 units per hectare is considered in accordance with these policies and the National Planning Framework and associated Section 28 Ministerial Guidelines.

With regard to height, the scale of the buildings ranges from a single storey creche to three storey apartment blocks. The use of height within the development between the creche, houses and apartment blocks provide visual interest in the streets and legibility to the area. It is considered that the proposed height is in accordance with the LAP objectives as well as recent planning guidelines “Urban Development and Building Heights” which encourages higher buildings within these areas.

Housing mix

Objective H05 of the LAP states the following in relation to dwelling mix.

To require residential schemes to provide an appropriate mix of house types that will cater for the various household compositions in the plan area. In general, the following house type ratio will be required in residential schemes:

- 25% two bedroom dwellings
- 30% three bedroom dwellings
- 30% four bedroom dwellings
- 15% to be allocated to any of the above based on evidence of demand.

The Council will consider a deviation from this mix ratio where it is demonstrated that there is an overprovision of a particular type of house type or there is a lack of demand for a particular house type(s) in the area

There is no allowance in objective H05 for any one bed units. Here is a total of 28% smaller, one and two bed units within the development which is contrary to the objective. H05 also allows for flexibility with the remaining 15% and could be distributed across all units. The proposed development comprises the following dwelling mix:

- 1 beds 42 no. 12%
- 2 beds 59 no. 16%
- 3 beds 134 no. 37%
- 4 beds 124 no. 34%
- 5 beds 4 no. 1%

Car parking

Section 18.29.7 of the Wexford County Development Plan 2013 – 2019 requires that parking provision at the rates set out in Table no. 39 should be incorporated within the design of development proposals:

Table No. 39 Car Parking Standards

Residential	Car Parking Requirements
House	2 per House
House (Town Centre locations)	1.5 per House
Apartment	1.5 per apartment
Crèche/Childcare	1 space per 4 children plus 1 space per employee

This goes on to state that “In the case of a use not specified in Table No. 39, the Council will determine the parking requirements having regard to the likely demand for parking associated with the proposed development and the characteristics of the roads system in the locality”.

The proposed development will provide a total of 690 no. car parking spaces as follows: 524 resident spaces and 13 no. visitor spaces for the houses which equates to 2 parking spaces per house along with 13 visitor spaces.

For the apartments it is proposed to provide 101 no. resident spaces and 33 no. visitor spaces for the apartments/maisonettes. This is less than the 152 spaces identified as required by the Development Plan.

For the creche a total of 15 no. long term staff spaces and 4 no. set down spaces are provided for the creche. However, the development plan requests a rate of 21 spaces to accommodate the 83 childcare spaces. The level proposed is considered to be appropriate as this is being delivered as part of a local childcare provision, where children could walk to the creche. It is also considered that if they are being

dropped by car, this is transient in nature and a drop off facility is considered appropriate. This is in line with National Planning Policy.

3. MATERIAL CONTRAVENTION

Should the Board consider that the proposed housing mix and car parking provision represent a Material Contravention of the Development Plan we submit that the Board can grant permission under Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, which states:

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

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

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

Section 37(2)(b) of the 2000 Act states:

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

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

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

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

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

In this regard we submit the following under Section 5(6) of the 2016 Act:

- **Section 37(2)(b)(i) of the 2000 Act:** The proposed development is a “Strategic Housing Development”, as defined under Section 3 of the 2016 Act.
- **Section 37(2)(b)(iii) of the 2000 Act:** The Board is referred to the National Planning Framework (NPF) and the Section 28 Ministerial Guidelines - *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. 2018.*

National Planning Framework

The NPF enables a flexible approach to planning policies and standards requiring developments to be **“focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases... planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes.”**

In particular Section 4.5 highlights that **“general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location..”**

The NPF also states that that **“to avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas”**. Key National Policy Objectives (NPOs) outlined in the NPF which are directly relevant to this site and development proposal are set out below:

National Policy Objective 13

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

National Policy Objective 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 27

Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

National Policy Objective 33

Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35

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

Apartment Guidelines

Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning

policy requirements (SPPR's) of the guidelines in carrying out their function. SPPRs as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.

The Guidelines emphasise the policies of the NPF to increase levels of residential development in urban centres and increase building heights and overall density by both facilitating and encouraging the development of increased heights and densities by Local Authorities and An Bord Pleanála.

We note the following compliances with the Specific Planning Policy Requirements (SPPRs) of the Guidelines:

<p>SPPR 1 Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).</p>	<p>The proposal for 12% one bed apartments along with 16% two bed units which provides a total of 28% smaller units within the development. This mix is in line with this SPPR objective. It also provides a greater mix of choice of housing types within the area.</p>
<p>Peripheral and/or Less Accessible Urban Locations: Section 4.22 As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.</p> <p>Section 4.23 For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided.</p>	<p>The proposed development provides for one car parking space per apartment plus visitor car parking. This is in compliance with this guidance.</p>
<p>Building Height Section 2.23 The National Planning Framework signals a move away from rigidly applied,</p>	<p>The proposed building height ranges from 1 to 3 storeys. The three storey buildings are apartments are considered to be appropriate</p>

<p>blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location</p>	<p>within the context of the area, close to Gorey town. The site is of sufficient size to be able to establish its own building heights, and character area, enabling it to provide a variety of building heights throughout the development in order to provide legibility and visual interest to the area.</p>
<p>Density Section 2.4, 3) Peripheral and / or less accessible locations Such locations are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly < 45 dwellings per hectare net), including:</p> <ul style="list-style-type: none"> - Sites in urban development areas that do not meet proximity or accessibility criteria; - Sites in small towns or villages <p>Section 2.5 goes on to highlight that While the provision of apartments may not be required below the 45 dwellings per hectare net density threshold, they can allow for greater diversity and flexibility in a housing scheme, whilst also increasing overall density. Accordingly, apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages.</p>	<p>The proposed development includes a small number of apartment dwellings in order to provide visual interest, a greater housing mix and typology, and provide legibility throughout the development. This results in a density of 38uph. This is considered to be appropriate for this location which is in an urban location however, while it has good access to public transport, it is not excellent.</p>

4. CONCLUSION

Given the above it is contended that the proposed residential development, in terms of building height, density, car parking, unit mix and part V is in general compliance with the Development Plan and Local Area Plan for the area. However, if the Board disagrees and considers that the proposed unit mix and parking to be a material contravention, it is considered that these comply with the National Apartment Guidelines and the National Planning Framework, and therefore the Board may grant permission under Section 5(6) of the 2016 Act.