



Material Contravention Statement

In respect of:

Strategic Housing Development at Lissywollen, Athlone, County Westmeath



Prepared by:

**Delphi Design
Architecture + Planning**

On behalf of the applicant:

Alanna Roadbridge Developments Ltd.



Delphi Design,
Architecture + Planning,
13, The Seapoint Building,
44/45 Clontarf Road,
Clontarf,
Dublin 3,
D03 A0H3.

T: (01) 47 93 140
E: alan@armstrongfenton.com



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1.0. Introduction

1.1. Purpose of Report

- 1.1.1. This Material Contravention Statement has been prepared by Delphi Design, Architecture + Planning, on behalf of Alanna Roadbridge Developments Ltd. (the applicant) to accompany the proposed Strategic Housing Development application submitted to An Bord Pleanála in respect of lands at Lissywollen, Athlone, County Westmeath.
- 1.1.2. The subject application comprises a Strategic Housing Development as defined within Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and has been prepared in accordance with the requirements of the Planning and Development (Strategic Housing Development) Regulations 2017.
- 1.1.3. Under Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016, an applicant for Strategic Housing Development is directed to submit a statement indicating why permission should be granted in cases where a proposed development may materially contravene the relevant development plans and/or local area plan other than in relation to the zoning of the land. This Material Contravention Statement is submitted to An Bord Pleanála in accordance with same.
- 1.1.4. In accordance with Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, An Board Pleanála may grant permission for a proposed strategic housing development that materially contravenes the development plan and/or local area plan, other than in relation to zoning, i.e. *“(6)(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.”*
- 1.1.5. Furthermore, Section 9(6)(c) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that An Board Pleanála may only grant permission for a development that materially contravenes a development plan (other than in relation to the zoning of the land) where it considers that, if Section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.
- 1.1.6. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan / local area plan, the Board may grant permission where it considers that:
- “(i) the proposed development is of strategic or national importance,*
 - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
 - (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan”*
- 1.1.7. This Material Contravention Statement has been prepared in order to address matters which may be deemed to materially contravene the provisions of the Westmeath County Development Plan 2014-2020, the Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024 in accordance with Section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016.





2.0. Proposed Development

2.1. The application for Strategic Housing Development is detailed in full below, as per the public notices:

Alanna Roadbridge Developments Ltd. intend to apply to An Bord Pleanála for permission for a strategic housing development, on a site of c. 17.64 hectares, located in the townlands of Lissywollen, Kilnafaddoge & Retreat, and partially traversing the townlands of Curragh, Cloghanboy (Strain) & Cloghanboy (Homan), Athlone, County Westmeath. The development site is bisected by the existing Brawny residential estate and is generally bounded to the north by the N6, to the south by the Old Rail Trial Greenway, to the west by Scoil na gCeithre Máistrí, and to the east by undeveloped lands, further east of which are ESB Regional Headquarters. Access to the development will be from the Ballymahon roundabout (on the R915 - to the west) and the Garrycastle roundabout (on the R916 - to the east).

The development will consist of the following:

- (1) Construction of 576 no. residential dwellings comprised of 285 no. houses and 291 no. apartments and duplex units consisting of:
 - 285 no. 2 storey semi-detached & terraced houses (50 no. four beds, 200 no. three beds & 35 no. two beds);
 - 8 no. apartments & duplexes (4 no. one beds & 4 no. three beds) in Block A (3 storeys);
 - 8 no. apartments & duplexes (4 no. one beds & 4 no. three beds) in Block B (3 storeys);
 - 15 no. apartments (15 no. two beds) in Block C (3 storeys);
 - 16 no. apartments & duplexes (7 no. one beds, 5 no. two beds & 4 no. three beds) in Block D (3 storeys);
 - 9 no. apartments & duplexes (5 no. one beds, 1 no. two bed & 3 no. three beds) in Block E (3 storeys);
 - 8 no. apartments & duplexes (4 no. two beds & 4 no. three beds) in Block F (3 storeys);
 - 4 no. apartments (4 no. one beds) in Block G (2 storeys);
 - 12 no. apartments & duplexes (12 no. three beds) in Block H (3 storeys);
 - 21 no. apartments (21 no. two beds) in Block K (3 storeys);
 - 36 no. apartments (36 no. two beds) in Block L (part 4 storey / part 5 storey);
 - 20 no. apartments (6 no. one beds, 6 no. two beds & 8 no. three beds) in Block M (part 3 storey / part 4 storey);
 - 27 no. apartments (27 no. two beds) in Block N (3 storeys);
 - 43 no. apartments & duplexes (14 no. one beds, 24 no. two beds & 5 no. three beds) in Block O (2 to 4 storeys);
 - 12 no. apartments (6 no. one beds & 6 no. two beds) in Block P (3 storeys);
 - 8 no. apartments & duplexes (4 no. two beds & 4 no. three beds) in Block Q (3 storeys);
 - 18 no. apartments (6 no. one beds & 12 no. two beds) in Block R (3 storeys);
 - 12 no. apartments & duplexes (6 no. two beds & 6 no. three beds) in Block S (3 storeys);
 - 14 no. apartments (4 no. one beds & 10 no. two beds) in Block T (3 storeys).
- (2) Construction of 2 no. crèches comprised of: a 2 storey crèche of c. 321m² located on the ground & first floors of Block C & a 1 storey crèche of c. 448m² located on the ground floor of Block T.
- (3) Construction of 1 no. community hub of c. 101m² located on the ground floor of Block D.



- (4) Construction of basement level car parking of c. 1,089m² comprising 34 no. car parking spaces & 36 no. bicycle parking spaces, forming part of Block L.
- (5) Construction of an east-west access road through the development site, extending from the Ballymahon roundabout (on the R915 - to the west) to the Garrycastle roundabout (on the R916 - to the east) and all associated road development works.
- (6) Provision of public open spaces, hard and soft landscaping, public lighting, car & bicycle parking, pedestrian and cyclist connections to Old Rail Trail Greenway, bin storage, 6 no. ESB substations, drainage and attenuation, utility services etc. and all associated site development works.

The application contains a statement setting out how the proposal is consistent with the objectives of the Westmeath County Development Plan 2014-2020, the Athlone Town Development Plan 2014-2020 and the Lissywollen South Framework Plan 2018-2024, and also contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

An Environmental Impact Assessment Report (EIAR) has been prepared in respect of the development proposal and accompanies the application. The application, together with the Environmental Impact Assessment Report, may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, during public opening hours at the offices of An Bord Pleanála and Westmeath County Council. The application may also be inspected online at the following website set up by the applicant: www.lissywollenshd.ie.



3.0. Potential Material Contravention

3.0.1. In the context of Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the proposed development may be deemed by An Bord Pleanála to represent a material contravention of the density, building heights, and open space standards of the relevant development plans and / or local area plan. These potential material contraventions are detailed in Sections 3.1, 3.2. & 3.3. below.

3.1. Density

3.1.1. The Athlone Town Development Plan 2014-2020 states for density range of 30-35 dwellings per hectare on outer suburban / greenfield sites unless otherwise prescribed in Local Area Plans. The relevant Local Area Plan pertaining to the site, being the Lissywollen South Framework Plan 2018-2024, states that *"In general, a residential density of 35 units per hectare shall apply across the Framework Plan; higher densities may be permitted in areas adjoining public open spaces or where prescribed in Parcel 4 – Student Quarter."* It should be noted that the subject site is not located within Parcel 4 of the Plan area.

3.1.2. The gross area of the application site (i.e. that within the red line boundaries detailed on the enclosed site location map / site layout drawings prepared by Delphi Design which accompany the application) equates to c. 17.64 hectares as stated in the public notices. Based on the proposed development of 576 no. dwellings, this equates to a gross density of c. 33 dwellings per hectare.

3.1.3. An Bord Pleanála's Notice of Pre-Application Consultation Opinion requested a map indicating the net developable area. This map is provided for in Drawing No. D1408-PL11 '*Net Developable Area*' prepared by Delphi Design and enclosed with the application – please refer to same for full details.

3.1.4. For the purposes of calculating the net developable area and net density, areas which are not to be developed for housing and directly associated uses have been excluded from the net developable area. As such major roads and significant landscape buffer strips have been excluded from calculating the net developable area and net density as per the recommendations of Appendix A '*Measuring Residential Density*' of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

3.1.5. In the layout put forward for permission these areas include for:

- The entire route of the east-west avenue extending from Ballymahon roundabout (on the R915 -to the west) to the Garrycastle roundabout (on the R916 - to the east) which acts a major road through the application site and is being delivered as per the objectives of the LSFP - **total area c. 3.13 hectares.**
- The landscape / noise mitigation buffer located along the northern boundary of the application site, adjacent to the N6, which acts as a significant landscape buffer - **total area c. 0.87 hectares.**

3.1.6. Subtracting the above from the gross site area (c. 17.64 hectares) equates to a net developable area of c. 13.64 hectares. Based on the proposed development of 576 no. dwellings, this equates to a net density of c. 42 dwellings per hectare.

3.1.7. On the basis of a net density of c. 42 dwellings per hectare it may be deemed by An Bord Pleanála that the proposed development exceeds the maximum permissible density for outer suburban/greenfield lands stated in the Athlone Town Development Plan 2014-2020; however, it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended). This detailed in Section 4 of this Material Contravention Statement.



3.2. Building Heights

- 3.2.1. The Athlone Town Development Plan 2014-2020 identifies sites within the town centre which can be considered for tall buildings. The Athlone Town Development Plan defines tall buildings as buildings of over 3 to 4 storey in height. These identified sites are considered in Section 5.6.3 of the Athlone Town Development Plan while the boundaries for the Athlone Town Development Plan's building height policy is detailed on Map Ref: ATC_07 '*Building Height Policy Map*'.
- 3.2.2. The subject application site is located outside the identified boundaries for the Athlone Town Development Plan's building height policy area within which tall buildings (i.e. buildings of over 3 to 4 storey in height) will be considered.
- 3.2.3. The proposed development caters for 1 no. 5 storey building (part 4 storey / part 5 storey); being Block L of the development. The proposed development also caters for a 4 storey building (part 3 storey / part 4 storey); being Block M of the development, and a 2 to 4 storey building; being Block O of the development.
- 3.2.4. On this basis that the proposed development caters for buildings of height (i.e. buildings of over 3 / 4 storey in height as defined by the Athlone Town Development Plan) and is located outside of the identified boundaries for the Athlone Town Development Plan's building height policy area, within which taller buildings will be considered, it may be deemed by An Bord Pleanála that the proposed development contravenes the building height policy of the Athlone Town Development Plan. However, it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended. This detailed in Section 4 of this Material Contravention Statement.

3.3. Open Space Provision

- 3.3.1. Section 14.3.12 of the Westmeath County Development Plan 2014-2020 and Section 12.9.12. of the Athlone Town Development Plan 2014-2020 states that "*Open space in housing estate areas shall normally be based on a standard of 15% minimum of gross site area.*" Section 5.2.4 of the Lissywollen South Framework Plan 2018-2024 states that "*A network of passive and active open spaces at a rate of 15% shall be required...*"
- 3.3.2. The proposed development caters for a public open spaces provision of c. 2.37 hectares on a gross site area of 17.64 hectares. This equates to a public open space provision of c. 13.4% of the gross site area.
- 3.3.3. For the purposes of calculating public open space provisions for the subject application, the entire route of the proposed east-west avenue extending from Ballymahon roundabout (on the R915 -to the west) to the Garrycastle roundabout (on the R916 - to the east), which acts a major road serving the wider area and is being delivered as per the objectives of the Lissywollen South Framework Plan 2018-2024, has been discounted. The route of the avenue accounts for 3.13 hectares. Therefore, when the route of the avenue is discounted, the development site area equates to c. 14.51 hectares.
- 3.3.4. The proposed public open space provision of c. 2.37 hectares on a site area of 14.51 hectares equates to a public open space provision of c. 16.3%.
- 3.3.5. Notwithstanding the above, it is considered that An Bord Pleanála may deem that the proposed development contravenes the public open space policies of the Westmeath County Development Plan 2014-2020 and the Athlone Town Development Plan 2014-2020 with regard to the provision of 15% of the gross site area being delivered as public open space. However, it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of Section 37(2)(b) of the



Planning and Development Act 2000, as amended. This detailed in Section 4 of this Material Contravention Statement.

4.0. Material Contravention Statement

4.1 Section 37(2)(b) of the Planning & Development Act 2000 (as amended) states that where a proposed development materially contravenes the development plan and/or local area plan, An Bord Pleanála may grant permission where it considers that:

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

Sections 4.2 & 4.3 of this statement address Section 37(2)(b)(i) and (iii) of the Planning & Development Act 2000 (amended) in relation to the potential material contraventions detailed in Section 3 of this Material Contravention Statement.

4.2 Developments of Strategic or National Importance

4.2.1 The Planning and Development (Housing) and Residential Tenancies Act 2016 provides a statutory definition of “strategic housing development” in Section 3 to mean:

- a) *“the development of **100 or more houses** on land zoned for residential use or for a mixture of residential and other uses,*
- b) *the development of student accommodation units which, when combined, contain 200 or more bed spaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses thereon,*
- c) *development that includes developments of the type referred to in paragraph (a) and of the type referred to in paragraph (b), or*
- d) *the alteration of an existing planning permission granted under section 34 (other than under subsection (3A)) where the proposed alteration relates to development specified in paragraph (a), (b) or (c).”* [emphasis added]

4.2.2 The Strategic Housing Development application process was introduced as part of the Rebuilding Ireland programme to accelerate delivery of larger housing proposals. The delivery of new homes in appropriate locations across the country is a fundamental principle of Rebuilding Ireland. Rebuilding Ireland sets out a range of measures to facilitate the construction of new homes and an increase of social housing.

4.2.3 The strategic goals of the Government in relation to the delivery of new residential development, and their national importance, is also reflected in the policies and objectives of the National Planning Framework (NPF) and the Eastern and Midland Regional Spatial & Economic Strategy 2019-2031 (E&MRSES). A Statement of Consistency of the proposed development with respect to those publications is enclosed with the application as a separate document - please refer to same for full details. It is considered that the proposed development accords with the provisions of these national and regional planning documents.



4.2.4 The application site is located within lands designated for the Lissywollen South Framework Plan 2018-2024 (hereafter LSFP). The LSFP area has been identified as an area of strategic importance in both the Athlone Town Development Plan 2014-2020 and the Westmeath County Development Plan 2014-2020. The development of the LSFP area is a key objective to securing the realisation of Athlone as a regional growth centre in accordance the policies and objectives of both the NPF and E&MRSES.

4.2.5 In particular, the E&MRSES asserts that the key to the success of future residential development in Athlone is the facilitation of significant population growth on zoned lands within the existing built-up footprint of the town. The development of strategic lands, including for the subject site at Lissywollen South, are noted to have the potential to deliver the identified population targets for Athlone. Of specific relevance to the subject application, the E&MRSES states that:

“In particular, the development of the strategic landbank at Lissywollen South, also offers the opportunity to develop a new urban quarter extending from the town centre.”

4.2.6 The proposed development will deliver 576 no. residential units together with childcare / community facilities and road infrastructure. Of the proposed 576 no. dwellings, 174 no. dwellings will be delivered to the Local Authority for social housing as part of the development agreement between the applicant (Alanna Roadbridge Developments Ltd.) and the landowner (Westmeath County Council) – for full details please refer to the Planning Report prepared by Delphi Design which accompanies the application as a separate document.

4.2.7 On the basis of the above, it is considered reasonable to conclude that the proposed Strategic Housing Development is clearly of both strategic and national importance and therefore can be granted permission under the provisions of Section 37(2)(b)(i) of the Planning & Development Act 2000 (as amended).

4.3 Section 28 Ministerial Guidelines

4.3.1 Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018

4.3.1.1 The Sustainable Urban Housing: Design Standards for New Apartments (2018) were adopted in consideration of the policies and objectives of both Rebuilding Ireland and the NPF and in response to the growing demand for apartment living in the State.

4.3.1.2 Section 2.4 of the Guidelines identifies the types of location in cities and towns that may be suitable for apartment development. In this context the application site can be classified as a “Peripheral and/or Less Accessible Urban Location”. The Guidelines state:

“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:

- *Sites in suburban development areas that do not meet proximity or accessibility criteria;*
- *Sites in small towns or villages.*

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.”



4.3.1.3 The proposed development caters for 576 no. dwellings on a net developable area of c. 13.64 hectares which equates to a net residential density of c. 42 dwellings per hectare. The proposed development therefore complies with the objectives set out in Section 2.4 of the Guidelines and, as such, can be granted permission under the provisions of Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended).

4.3.2 Urban Development and Building Heights Guidelines for Planning Authorities 2018

4.3.2.1 The Urban Development and Building Heights Guidelines for Planning Authorities (2018) were adopted to remove specific maximum limitations on building height in favour of a more performance criteria driven approach.

4.3.2.2 The Guidelines direct Planning Authorities and An Bord Pleanála to have regard to the Guidelines and apply any Specific Planning Policy Requirements (SPPRs) of the Guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended), in carrying out their functions.

4.3.2.3 Accordingly, Section 1.14 of the Guidelines states that SPPRs of the Guidelines take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans/ schemes will need to be amended by the relevant Planning Authority to reflect the content and requirements of the aforementioned Guidelines.

4.3.2.4 SPPR 4 of the Guidelines states that:

“It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titles “Sustainable Residential Development in Urban Areas (2009)” or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations and;*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 or more”.*

4.3.2.5 The proposed development caters for buildings of 2 to 5 storey in height. The proposed development secures the minimum densities of the Sustainable Residential Development in Urban Areas Guidelines (2009). Within the Sustainable Residential Development in Urban Areas Guidelines (2009) the application site can be classified as an “Outer Suburban / Greenfield” site. Such sites require a net density in the range of 35-50 dwellings per hectare. The proposed development caters for a net density of c. 42 dwellings per hectare and is therefore in compliance with the aforementioned S.28 guidelines.

4.3.2.6 The proposed development caters for an appropriate mix of building heights and typologies which respond to the context and setting of the application site. Dwelling / building typologies and their external material finishes are varied across the proposed scheme to ensure that mono-type building typologies are avoided.

4.3.2.7 On the basis of the above, it is considered that the proposed development complies with the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and therefore can be granted permission under the provisions of Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended).



4.4 Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)

- 4.4.1 The Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) set out the recommended densities for development and detail how density is to be measured. It is considered that the standards set in the Guidelines are the most relevant for the purposes of calculating density, with the Guidelines referenced in SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018).
- 4.4.2 The Guidelines set out appropriate levels of density depending on the location of a site. Development sites which are identified for increased levels of density, among others, are those located on “Outer Suburban/’Greenfield’ sites. The Guidelines state the following in respect of such sites:

“Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares”.

- 4.4.3 The proposed development is located on “outer suburban / greenfield” site. The net density of the proposed development is c. 42 dwellings per hectare. The proposed development is therefore considered to comply with the recommended density standards of the aforementioned Guidelines. Therefore, the proposed development can be granted permission under the provisions of Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended).



5.0. Conclusions

- 5.1. In summary, it is submitted that the proposed development can be granted permission notwithstanding that An Bord Pleanála may consider the proposed development to materially contravene aspects of the relevant development plans and/or local area plan in relation to density, building height, and public open space provision.
- 5.2. It is respectfully put forward that under Section 37(2)(b)(i) of the Planning & Development Act 2000 (as amended) An Bord Pleanála can grant permission for the proposed development having regard to the strategic national important of delivering new housing on sites in appropriate locations.
- 5.3. It is also respectfully put forward that under Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended) An Bord Pleanála can grant permission for the proposed development having regard to the proposed development's compliance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018).
- 5.4. In these circumstances An Bord Pleanála is advised that the proposed density, building heights, and public open space provisions of the proposed development are in keeping with the proper planning and sustainable development of the area and that permission may be granted for the proposed development under Section 37(2)(b)(i) & (iii) of the 2000 Act.