



MATERIAL CONTRAVENTION STATEMENT

PROPOSED STRATEGIC HOUSING DEVELOPMENT ON LANDS AT FORMER GREENPARK RACECOURSE, LIMERICK



PREPARED FOR:

VOYAGE PROPERTY LTD.
ASHBOURNE HALL
ASHBOURNE BUSINESS PARK
DOCK ROAD
LIMERICK
V94 NPE0

PREPARED BY:

TOM PHILLIPS + ASSOCIATES
TOWN PLANNING CONSULTANTS
80 HARCOURT STREET
DUBLIN 2
D02 F449

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1.0 INTRODUCTION

1.1 Summary

Tom Phillips + Associates¹ have been instructed by Voyage Property Ltd.² to prepare this *Material Contravention Statement* to accompany this planning application in respect of a proposed Strategic Housing Development (SHD) at a site of c. 10.5 ha located on lands at the former Greenpark Racecourse, Limerick. The development can be summarised as follows:

“Voyage Property Limited intend to apply to An Bord Pleanála (the Board) for permission for a strategic housing development with a total application site area of c.10.5 ha (with a substantive residential site development area of c.7.9 ha), on lands at the former Greenpark Racecourse, Dock Road, Limerick, principally bounded by existing undeveloped lands to the north, south and west and the adjoining Log na gCapall Housing Estate and Greenpark Avenue to the east. The application site includes the proposed access road (374m in length, including two lanes for vehicles, a roundabout, cycle lanes and pedestrian footpath) which connects to Dock Road at the north-western corner of the former Greenpark Racecourse lands and runs adjacent to the Limerick Greyhound Stadium.

The development, with a total gross floor area of c. 36, 879 sq m, will consist of the provision of 371 no. residential units comprising 157 no. two storey houses (consisting of 10 no. 4 bedroom units, 110 no. 3 bedroom units and 37 no. 2 bedroom units); 76 no. three storey duplex units (consisting of 14 no. 3 bedroom units, 38 no. 2 bedroom units and 24 no. 1 bedroom units) and 138 no. apartments (consisting of 92 no. 2 bedroom units and 46 no. 1 bedroom units arranged in 3 no. blocks ranging between 4 and 5 storeys together with communal amenity space) and a two storey childcare facility (550 sq m), including all private, communal and public open space provision (including balconies and terraces, private rear gardens and related play areas); surface car parking (510 no. spaces, including accessible spaces); car sharing provision; electric vehicle charging points; bicycle parking (long and short stay spaces); storage areas; internal roads and pathways; hard and soft landscaping and boundary treatments; piped infrastructural services and connections; plant; revised entrances and tie-in arrangements to adjoining roads, including emergency access via Log na gCapall and Greenpark Avenue and pedestrian and cyclist access via Log na gCapall; waste management provision; solar panels; attenuation tank and related SUDS measures; signage; public lighting; bulk earthworks; and all site development and excavation works above and below ground. Vehicular access to the site will be from Dock Road, via the proposed access road.”

This Statement provides a justification for the material contravention of the *Limerick City Development Plan 2010 – 2016* (as extended) (hereinafter Development Plan) in relation to Part III ‘*Development Management*’ standards in respect of Apartment Development.

Statutory planning policy in the form of *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* (2020) which is Section 28 ministerial guidance

¹ 80 Harcourt Street, Dublin 1

² Ashbourne Hall, Ashbourne Business Park, Dock Road, Limerick, V94 NPE0

provides minimum standards for apartment development in order to balance national objectives surrounding compact growth and achieving a high standard of apartment development.

The proposed development complies in full with the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* (2020) 'Apartment Guidelines' as demonstrated by the *Housing Quality Assessment* prepared by Reddy Architecture + Urbanism and the *Statement of Consistency* prepared by Tom Phillips + Associates.

1.2 Legislative Context

The *Planning and Development (Housing) and Residential Tenancies Act, 2016* states the way in which, An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan or Local Area Plan, other than in relation to the zoning of land. It is stated,

“(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.

(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 *Planning and Development Act, 2000 (as amended)* states:

“(2) (b) 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, (our emphasis), 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.”

The local and national policy context which pertains to the site is discussed further below. It is submitted to An Bord Pleanála that the provisions of the more recently adopted *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities* (2020), which are ministerial guidelines under Section 28, supersede the provisions of the *Limerick City Development Plan 2010-2016* and that planning permission can be granted for the development as proposed on that basis.



2.0 LOCAL PLANNING CONTEXT – THE MATERIAL CONTRAVENTION

The *Limerick City Development Plan 2010-2016* sets out the relevant policies and objectives for the development of Limerick City. The relevant provisions of this Plan with respect to the subject site are considered below.

2.1 *Limerick City Development Plan 2010-2016*

As outlined above, *Part III ‘Development Management’* of the Development Plan sets out quantitative minimum standards for Apartment Development.

Page 16.23 – 16.24 states:

“Apartment Development

In addition to the above criteria the following standards will apply to all proposals for apartment developments.....”

The following Minimum Floor Areas shall apply:

Table 16.5	Minimum Apartment Sizes
Apartment Type	Size
1 x bed	55 m ²
2 x bed/3 Persons	80 m ²
2 x bed/4 Persons	90 m ²
3 x bed	100 m ²
4 x bed	115 m ²

Figure 2.1: Relevant extract from the Limerick City Development Plan 2010-2016 (Part III Development Management)

Table 16.7	Private Open Space Provision for Apartments
Location	Private Open Space m² per bed space (min.)
City Centre / Inner City	5-10 m ²
Suburban Areas	12-15 m ²

Figure 2.2: Relevant extract from the Limerick City Development Plan 2010-2016 (Part III Development Management)

Table 16.8	Minimum Floor Areas for Main Apartment Balconies
Apartment Type	Balcony size
1 x bed	6 m ²
2 x bed	8 m ²
3 + x bed	10 m ²

Figure 2.3: Relevant extract from the Limerick City Development Plan 2010-2016 (Part III Development Management)

The proposed apartments (including the duplex units) have been designed to comply with the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* (‘Apartment Guidelines’). A number of the minimum standards contained



within the *Limerick City Development Plan 2010-2016* exceed, and therefore directly conflict with, those provided by the Apartment Guidelines.

Floor area of 1 no. bedroom apartments (including duplex units)

In this respect, we note that the 1 no. bedroom apartments within the proposed development have been designed to meet the Apartment Guidelines minimum standard (SPPR 3) of 45 sq m and therefore fall below the minimum floor area (55 sq m) required by Table 16.5 of the Development Plan.

The 1 no. bedroom units proposed range between 52.9 sq m and 59.3 sq m, with the majority of units falling below the Development Plan minimum standard of 55 sq m. This aspect of the proposed development therefore materially contravenes the Development Plan in respect to Table 16.5 which is contained within Part III '*Development Management*'.

Floor area of 2 no. bedroom apartments (including duplex units)

Similarly, the 2 no. bedroom 4 person units within the proposed development have been designed to meet the Apartment Guidelines minimum standard (SPPR 3) of 73 sq m and therefore fall below minimum floor area (90 sq m) required by Table 16.5 of the Development Plan.

The 2 no. bedroom 4 person units proposed range between 80.9 sq m and 94.1 sq m, with the majority of units falling below the Development Plan minimum standard of 90 sq m. This aspect of the proposed development therefore materially contravenes the Development Plan in respect to Table 16.5 which is contained within Part III '*Development Management*'.

Private open space for duplexes

The private amenity space provision for the proposed duplex units comprises of rear gardens for the ground floor units and terraces/ balconies for the upper units. Despite significantly exceeding the minimum standards in some cases, the private open space has been designed in accordance with the Apartment Guidelines (Appendix 1). Some of the proposed balcony/ terrace floor areas therefore fall below the minimum balcony areas required by Table 16.8 and the more general provision required by Table 16.7. For the purposes of Table 16.7, we consider the 'Suburban Areas' standard of 12-15 sq m per bed space to apply to the proposed development.

On this basis, the balconies/ terraces for the 2 no. bedroom and the 3 no. bedroom upper duplex units are 10 sq m in area, falling below the per bed space requirement of 12-15 sq m per bed space set out in Table 16.7. This aspect of the proposed development therefore materially contravenes the Development Plan in respect to Table 16.5 which is contained within Part III '*Development Management*'.



Private open space provision for apartments

In terms of private open space provision, balconies are provided for the proposed apartment units. Like the units themselves, the private open space provision has been designed in accordance with the Apartment Guidelines (Appendix 1). The proposed balcony floor areas therefore fall below the minimum balcony areas required by Table 16.8 of the Development Plan. They also fall below the per bed space private open space minimum requirement for apartments contained in Table 16.7 which is a more onerous requirement than that provided by Table 16.8 of the Development Plan.

The balconies for the proposed 1 no. bedroom units are designed to accord with the Apartment Guidelines minimum standard for private open space for 1 no. bedroom apartments of 5 sq m and therefore fall below the minimum balcony size (6 sq m) required by Table 16.8 of the Development Plan.

The proposed balconies associated with the 1 no. bedroom units are 5.1 sq m in area, falling below the Development Plan minimum standard of 6 sq m. This aspect of the proposed development therefore materially contravenes the Development Plan in respect to Table 16.8 (and Table 16.7) which is contained within Part III 'Development Management'.

The balconies for the proposed 2 no. bedroom units are designed to accord with the Apartment Guidelines minimum standard for private open space for 2 bedroom 4 person apartments of 7 sq m and therefore fall below the minimum balcony size (8 sq m) required by Table 16.8 of the Development Plan.

The balconies associated with the 2 no. bedroom units range between 7 sq m and 12.3 sq m in area resulting in a number of balconies falling below the Development Plan minimum standard of 8 sq m. This aspect of the proposed development therefore also materially contravenes the Development Plan in respect to Table 16.8 (and Table 16.7) which is contained within Part III 'Development Management'.

2.2 Conclusion

The design of the proposed apartments fall below the Development Plan minimum standards for Apartment Development in the cases referred to above.

Nevertheless, national guidelines, namely, the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') take precedence over the Development Plan policies where in conflict with the SPPR's. In this regard, the Apartment Guidelines (page 4) states the following:

"These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to 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.



Accordingly, where SPPRs are stated in this document, they 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 should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.” (our emphasis)

The section below sets out how the proposed apartment units comply with the requirements of the relevant SPPR and Appendix 1 of the Apartment Guidelines.

3.0 STRATEGIC POLICY - JUSTIFICATION FOR MATERIAL CONTRAVENTION

3.1 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (Ministerial guidance under Section 28)

This section sets out why the proposed development can be granted by An bord Pleanála, having regard to Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.

The Section 28 Guidelines, the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* ('Apartment Guidelines') provide Apartment Design Standards.

The relevant standards are detailed in Specific Planning Policy Requirement 3 (SPPR3) '*Minimum Apartment Floor Areas*' and Appendix 1 '*Required Minimum Floor Areas and Standards*'.

The floor areas of the proposed apartments and duplex units comply with the following requirements:

Specific Planning Policy Requirement 3	
Minimum Apartment Floor Areas:	
• Studio apartment (1 person)	37 sq.m
• 1-bedroom apartment (2 persons)	45 sq.m
• 2-bedroom apartment (4 persons)	73 sq.m
• 3-bedroom apartment (5 persons)	90 sq.m

Figure 3.1: Extract from the SPPR3 of the Apartment Guidelines containing the minimum apartment floor areas.

The proposed balconies which provide private amenity space for the 1 no. bedroom and 2 no. bedroom apartments comply with the following requirements:

Minimum floor areas for private amenity space	
Studio	4 sq m
One bedroom	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

Figure 3.2: Extract from Appendix 1 of the Apartment Guidelines containing the minimum floor areas for private amenity space.



We confirm that the *Housing Quality Assessment*, prepared by Reddy Architecture + Urbanism, demonstrates how the proposed apartment component (including duplex) of the development complies in full with the Apartment Guidelines.

On the basis that the SPPR's take precedence over any conflicting development plan policies or standards, we contend that the standard of the proposed apartment development is acceptable in this regard.

3.2 National Planning Framework – Ireland 2040 (2018)

This section sets out why the proposed development can be granted by An bord Pleanála, having regard to Section 37(2)(b)(i) of the *Planning and Development Act, 2000 (as amended)*.

As set out in the enclosed *Statement of Consistency*, the proposed development accords with many of the National Policy Objective's (NPO's) pertaining to the delivery of compact urban growth and sustainable development. On this basis, we contend that the proposed development which seeks the delivery of 371 no. residential units on 10.5ha of vacant lands (phase 1 of a site wide Masterplan with the potential to deliver up to 920 units), will contribute significantly to the realisation of the relevant national policy objectives.

The *Statement of Consistency* provides a more detailed assessment of the proposed development in the context of the National Planning Framework, however, for completeness, the relevant NPO's are set out below:

- **National Policy Objective 2a** – *A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.*
- **National Policy Objective 3b** – *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*
- **National Policy Objective 5** - *Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.*
- **National Policy Objective 6** - *Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*
- **National Policy Objective 7** - *Apply a tailored approach to urban development, that will be linked to the Rural and Urban Regeneration and Development Fund, with a particular focus on:- Dublin; the four Cities of Cork, Limerick, Galway and Waterford; Strengthening Ireland's overall urban structure, ... Encouraging population growth in strong employment and service centres of all sizes, supported by employment growth; Reversing the stagnation or decline of many smaller urban centres, by identifying and establishing new roles and functions and enhancement of local infrastructure and*



amenities; Addressing the legacy of rapid unplanned growth, by facilitating amenities and services catch-up, jobs ... In more self-contained settlements of all sizes, supporting a continuation of balanced population and employment growth.

- **National Policy Objective 8** – *To ensure that the targeted pattern of population growth of Ireland’s cities to 2040 is in accordance with the targets set out in Table 4.1.*

National Policy Objective 10 - There will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth.

- **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 28** - *Plan for a more diverse and socially inclusive society that targets equality of opportunity and a better quality of life for all citizens, through improved integration and greater accessibility in the delivery of sustainable communities and the provision of associated services.*
- **National Policy Objective 35** – *Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

The proposed development inherently complies with the overarching themes of the *National Planning Framework*, by proposing a well-designed sustainable form of residential development on a zoned, underutilised urban site located in close proximity to public transport services and a well-established social infrastructure that will contribute to the consolidation of Limerick City.

We therefore conclude that the proposed development represents a strategically important development that significantly contributes to the delivery of the national policy objectives referred to above.



4.0 CONCLUSION

Having regard to the above, it is submitted that there is ample justification for An Bord Pleanála to permit a material contravention of the *Limerick City Development Plan 2010-2016* having regard to Section 37(2)(b)(i) and Section 37(2)(b)(iii) of the *Planning and Development Act, 2000 (as amended)*.

The proposed development of 371 no. residential units has been designed to provide a high standard of residential accommodation to future occupiers, in line with the requirements of the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)*. It is considered evident that a number of the development management standards relating to Apartment Development contained within the *Limerick City Development Plan 2010-2016* are in direct conflict with the Section 28 Guidelines referred to above.

Furthermore, the proposed development can be considered strategic in nature as it complies with the overarching themes of the National Planning Framework by proposing a compact, well-designed, sustainable form of residential development on an underutilised suburban site, located in close proximity to a range of social and commercial facilities and public transport services. The proposed development accords with the relevant National Planning Objectives in addition to a full suite of national and regional policy and guidelines, as summarised below.

- *National Planning Framework (Ireland 2040 – Our Plan) (2018)*
- *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) – Guidelines for Planning Authorities (2009)*
- *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)*
- *Regional Spatial & Economic Strategy for The Southern Region (2020)*

On this basis, we conclude that the Board can grant planning permission for the proposed development in respect of the standard of accommodation provided by the proposed apartments (including duplex units), having regard to subsection (i) and (iii) below:

Section 37(2)(b) of the *Planning and Development Act, 2000 (as amended)* states:

“(2) (b) 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, (our emphasis), 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.”