

An
Coimisiún
Pleanála

Commission Order
ABP-322498-25

Planning and Development Act 2000, as amended

Planning Authority: Cavan County Council

Planning Register Reference Number: 2560057

Appeal by Gerry Smith and others of Tach Dearn, Drumalee, Cootehill Road County Cavan against the decision made on the 16th day of April, 2025 by Cavan County Council to grant subject to conditions a permission to Shire Development Partnership care of Genesis Planning Consultants of Dean Swift Building, Armagh Business Park, Hamiltonsbawn Road, Armagh, Northern Ireland in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the provision of a total of 134 number residential units along with provision of a crèche. Particulars of the development comprise as follows: (a) site excavation works to facilitate the proposed development to include excavation and general site preparation works, (b) the provision of a total of 109 number residential dwellings which will consist of six number one bed units, 39 number two bed units, 59 number three bed units and five number four bed units. The residential dwellings range in height from one to two storeys, (c) the provision of a total of 25 number duplex apartment units consisting of 15 number one bed units and 10 number two bed units. The duplex apartment units range in height from two to three storeys, (d) provision of a single storey crèche with associated parking, bicycle and bin storage, (e) provision of associated car

parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the crèche and duplex apartment units, (f) provision of electric vehicle charge points with associated site infrastructure ducting to provide charge points for residents throughout the site, (g) provision of associated bicycle storage facilities at surface level throughout the site and bin storage facilities, (h) the provision of an internal culvert along with decommissioning of existing drainage channel within the site. Culvert works to include for provision of a headwall at the outfall to the watercourse, (i) creation of a new access point from the public road with associated works to include for connections to the existing public footpath along with a pedestrian crossing point, (j) provision of internal access roads and footpaths and associated works to include for regrading of site levels as required, (k) provision of residential communal open space and public open space areas to include formal play areas along with all hard and soft landscape works with public lighting, planting and boundary treatments to include boundary walls, railings and fencing, (l) internal site works and attenuation systems which will include for provision of a hydrocarbon and silt interceptor prior to discharge and (m) all ancillary site development/construction works to facilitate foul, water and service networks for connection to the existing foul via a rising main and provision of a foul pumping station, water connections and ESB network connection to include for provision of a substation, all on lands at Drumalee and Billis Townlands, Cootehill Road, Cavan Town.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

The Commission made its decision consistent with the relevant provisions of the Climate Action Plan 2024 and 2025 and the Commission had regard to the following:

- (a) the location of the site in an area where residential and childcare use is permitted under Proposed Residential zoning objective, where the objective is to: 'provide for new residential development in tandem with the provision of the necessary social and physical infrastructure' of the Cavan County Development Plan 2022-2028,
- (b) the policies and objectives of the Cavan Development Plan 2022-2028,
- (c) the nature, scale and design of the proposed development and the availability in the area of infrastructure,
- (d) the planning history of the site,
- (e) the pattern of existing and permitted development in the area,
- (f) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities prepared by the Department of Housing, Local Government and Heritage, 2024,
- (g) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Local Government and Heritage 2023,
- (h) the policies and objectives set out in the National Planning Framework,

- (i) the policies and objectives of the Regional and Spatial Economic Strategy for the North-West Regional Assembly,
- (j) the grounds of appeal received,
- (k) the observation received, and
- (l) the submission from the planning authority.

Appropriate Assessment Screening

The Commission completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the development on serviced lands, the nature of the receiving environment which comprises a site on the edge of an established urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report documentation and the Inspector's Report. Having carried out screening for Appropriate Assessment of the project, it was concluded that the proposed development has the potential for significant effects on the Lough Oughter and Associated Loughs Special Area of Conservation (site code: 000007) and the Lough Oughter Complex Special Protection Area (site code: 004049). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

Appropriate Assessment

The Commission considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on the Lough Oughter and Associated Loughs Special Area of Conservation (site code: 000007) and the Lough Oughter Complex Special Protection Area (site code: 004049) in view of the above sites' conservation objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Commission considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Commission was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites in view of the conservation objectives of the sites. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment Screening

The Commission completed an Environmental Impact Assessment Screening Determination of the project and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the project on the environment.

Having regard to:

- (a) the nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned lands (Proposed Residential), and other relevant policies and objectives in the Cavan County Development Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the strategic environmental assessment Directive (2001/42/EC),
- (c) the greenfield nature of the site and its location in an urban area which is served by public services and infrastructure,
- (d) the pattern of existing development in the area,

- (e) the planning history at the site and within the area,
- (f) the location of the site outside of any sensitive location specified in Article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (g) the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage, and Local Government (2003),
- (h) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended, and
- (i) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Ecological Impact Assessment, Environmental Noise Survey, Resource and Waste Management Plan, Operational Waste Management Plan, Site Specific Flood Risk Assessment, Outline Construction Environmental Management Plan, Invasive Species Management Plan and Transportation Assessment Report,

the Commission concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this suburban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design and height, would be acceptable in terms of impacts on traffic, and would provide an acceptable form of residential amenity for future occupants. The Commission considered that the proposed development would comply with the provisions of the Cavan Development Plan 2022-2028, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Coimisiún Pleanála on the 9th day of June 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The development shall be carried out on a phased basis, in accordance with a revised phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The culverting works and associated site development works shall be included in the first phase. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.
- (b) Work on any subsequent phases shall not commence until such time as the childcare facility is constructed and made available for use and the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

3. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

4. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

5. A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along north-west boundary consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development, in the interest of visual amenity.

6. Prior to the commencement of any further works on site, a revised Invasive Species Management Plan shall be submitted to the planning authority to address the potential recent spread of invasive plant material across part of the site arising from recent works, and with specific recommendations to be agreed in writing with the planning authority. The revised report shall contain the following as a minimum:
- (a) New Survey Findings, and
 - (b) the Preferred Management Option of Removal and Disposal of Invasive Species.

The proposed development shall then be carried out in accordance with the above revised report as agreed with the planning authority.

Reason: In the interest of safeguarding the natural environment and biodiversity.

7. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

8. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interests of amenity and of traffic and pedestrian safety.

10. All roads and footpaths shown to adjoining lands on drawing number PL23-010-113 shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a revised taking in charge drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of permeability and the proper planning and sustainable development of the area.

11. Parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

12. The development shall be carried out and operated in accordance with the provisions of the Mobility Management Plan (MMP) in Appendix J of the Transportation Assessment Report submitted to the planning authority on the 25th day of February, 2025. The specific measures detailed in Section 4 of the MMP to achieve the objectives and modal split targets for the development shall be implemented in full upon first occupation of the development. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first two years following first occupation and shall submit the results to the planning authority for consideration and placement on the public file.

Reason: To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

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

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

16. Proposals for house and duplex/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and house and duplex/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

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

19. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

20. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities. The CEMP shall also include the details, following liaison with Inland Fisheries Ireland and the Office of Public Works, of the diversion or culverting of the existing watercourse on the site.

Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

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

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

22. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

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

Reason: To ensure the satisfactory completion of the development.

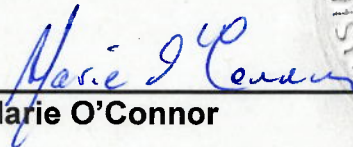
24. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

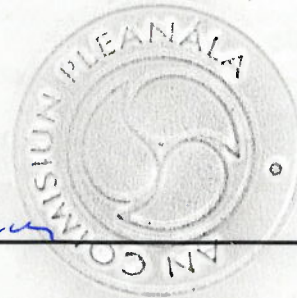
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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

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


Marie O'Connor

Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.



Dated this 21 day of August 2025.