



An  
Bord  
Pleanála

## inspector's Report ABP-303138-18

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<b>Development</b>	Construct 40 houses to form part of the 'Sliabh Rosann' housing development (previously approved under planning application ref no 06/1075),
<b>Location</b>	'Sliabh Rosann', Rosehill , Mullagh, Co Cavan
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	17561
<b>Applicant(s)</b>	LGS Investments
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Residents of Sliabh Rosann
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> of March 2019
<b>Inspector</b>	Angela Brereton

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## 1.0 Site Location and Description

- 1.1. The subject site is located within the Mullagh Development Boundary, in the townland of Rosehill, approx.250m west of the large multi-national, Wellmans International Ltd. Access is via the existing access off local road L-3010 (Kells Road) and is to the east of the junction with the Regional Road R194. Mullagh is in the south-east of County Cavan and relatively close to the border with County Meath and the M3 motorway.
- 1.2. The site is part of an unfinished housing estate and is located to the rear of 9no. houses which are constructed to the front of the site facing the road. These comprise 5no. detached 2 storey houses facing the green area set back from the entrance and 2 semi-detached pairs along the western boundary all of which are occupied. There is also a semi-detached pair that are still under construction proximate to the latter which will make 11no. houses in total constructed.
- 1.3. The topography of the site is elevated and the site rises approx.15-20m from the level of the public road to the rear of the site. There are no significant trees on site, which is mainly upland gorse/scrub. There are hedgerows along the eastern, western and northern site boundaries which need to be retained.
- 1.4. The land to the west and north of the site is currently in agricultural use and is in the rural area outside the development boundaries of Mullagh. The existing housing development appears suburban in nature in view of the elevated nature of the site and being at the edge of the rural area. There are other similar estate type housing developments in Mullagh particularly with access from the R194. There are residential estates on the opposite side of the road at a lower level. These consist of single and two storey houses. There are two storey terraced houses to the east of the site.
- 1.5. There is an unsurfaced gated agricultural access lane to the west of the site. The entrance to this lane is from the L-3010. The site is within the urban area speed limits –60km/h. There is a section of footpath along the site frontage which continues along the frontage of the terraced housing to the east. The footpath to Mullagh town centre is on the opposite side of the road. The site is visible in the surrounding area. There are views of the elevated site particularly looking towards the town from the industrial use to the east.

## 2.0 Proposed Development

2.1. This is to construct the following:

- (A) – 20 no.3 bed two storey semi-detached dwellings
- (B) - 20no. 4 bed two storey semi-detached dwellings
- (C) - form connections to all public services, together with all associated site works.

All to form part of the 'Sliabh Rosann' housing development (previously approved under Reg.Ref. 06/1075). The application includes the following:

- Design Statement
- Statement of Screening for Appropriate Assessment
- Foul, Surface Water, Attenuation Calculations & Details
- A Schedule of Drawings

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 21<sup>st</sup> of February 2018, Cavan County Council, granted permission for the proposed development subject to 24no. conditions. These conditions are generally relative to infrastructure (roads/access and water/drainage), lighting, Part V, landscaping/boundary treatment, construction management and development contributions. These include the following:

- Condition no.1 restricts the number of houses to 38.
- Condition no.7 restricts construction traffic to the access lane to the west.
- Condition no. refers to boundary treatment.
- Condition no.14 refers to the open space/astro turf/park.
- Condition no.15 provides for a phasing plan for the delivery of the open space.
- Condition no.22 refers to the implementation of the roads layout.

## 3.2. Planning Authority Reports

### 3.2.1. Planner's Report

This has regard to the locational context of the site, planning history and policy, the documentation submitted including the technical reports and to the submissions made. Their comments include the following:

- The site is on land zoned 'Proposed Residential' in the development boundary of Mullagh.
- The proposal seeks to complete an unfinished housing estate that was granted in 2006. They note that 9 houses are now completed and occupied to the front of the site.
- In 2017 permission was granted to complete the two houses on site.
- Having regard to the location of the site, they consider the proposed density to be acceptable.
- They had regard to the Design Statement and to compliance with planning policy.
- Due to the elevated nature of the site, they have concerns regarding the height of the proposed dwelling to the rear (highest part) of the site.
- They consider that there is a need for a single storey type C dwelling to replace the proposed units nos. 15-28 at the rear of the site. They also refer to ground levels. This would have less of an impact and reduce any overlooking.
- They had some concerns about private open space being north facing.
- They consider the location of the public open space to include a play area to be reasonable.
- They note that Roads Design have no objection in principle but consider the recommendations made.
- They have regard to issues raised about services.
- The lane to the west of the site has not been included in the red line boundary and this will be required to be updated with confirmation from the landowner allowing the use of this laneway.

- A Construction Management Plan should be submitted.
- They note the proposed allocation of 10% of the housing relative to compliance with Part V.
- They have regard to the Statement of Screening for AA submitted and consider that there is no potential for significant effects from the proposed development on its own or in combination with other plans and projects.

The Council's *Further Information request* in summary included the following:

- Having regard to the elevated nature of the site the applicant was asked to submit revised proposals replacing properties 15-28 with single storey dwellings.
- Written confirmation from the landowner to the west of the site for the use of this land and to amend the red line boundary accordingly.
- To submit a full Construction Management Plan.
- To demonstrate the proposal can be serviced by the public water and wastewater services.
- To liaise with the Municipal District Engineer and to submit details relative to surface water drainage.
- To submit an overall plan and programme for the completion of the overall housing estate.
- To consult with the Roads Design Office regarding the service road layout of the scheme and to submit a revised design incorporating engineering/technical details – a list is provided.
- Having regard to the proposed gradient of the site, to submit details of how the proposed 'Green Area' will operate as a functional space. Any revised layout to include children's play area.

#### *Further Information response*

Hanley Taite Design Partnership has submitted a response on behalf of the applicants which includes the following:

- Revised drawings showing new house type C – dormer style dwelling, to replace those properties on sites 15-28.
- A Construction Management Plan that outlines measures to mitigate any significant disturbance to nearby residents.
- A letter from the adjoining landowner giving his consent to use the existing agricultural lane in his ownership to access the site for construction works.
- A letter from Irish Water re: connections.
- Alan Traynor Consulting Ltd Report on Foul, Surface Water Attenuation Calculations & Details.
- The proposed landscaping scheme has been revised to include trees of a smaller species and regard to boundary treatment.
- The revised site layout plan indicates a children’s play area - astro turf.
- Response relative to engineering details for access and roads details.

### 3.3. **Other Technical Reports**

*The Road Design Office* notes some concerns about the gradient of the new access road, junction radii, width of new road and footpaths, retaining walls, lighting etc.

### 3.4. **Prescribed Bodies**

The *Department of Culture, Heritage and the Gaeltacht* have requested that an Archaeological Assessment of the proposed site be carried out to include monitoring.

*Irish Water* has no objections subject to details regarding connections.

### 3.5. **Third Party Observations**

A detailed submission has been received from The Residents of Silabh Rosann. As these are the subsequent Third Party Appellants, this is considered further in the context of their grounds of appeal below.



## 4.0 Planning History

- Reg.Ref.06/1075 – Butley Investments Ltd sought permission to construct 50no. dwellings, comprising of a mixed development of 11no. two storey four bed detached dwellings, 10no. two storey four bed semi-detached dwellings, 14no. two storey three bed semi detached dwellings, 5no. blocks of two storey townhouses each consisting of 3no. three bed units (15no. townhouses in total) with all ancillary site works including connection to public foul and surface water drainage systems and watermain and form new entrance from public road. This was granted subject to conditions by the Council in 2006.
- 06/1075 – Extension for the duration of planning permission granted and expired 17/10/2016.
- Reg.Ref.17/98 – Ronan McNamee sought permission to retain and complete 2no. semi-detached dwellings *presently constructed to ground floor level (originally approved under planning application reference no. 06/1075)* together with all associated site works. This was granted subject to conditions by the Council.

## 5.0 Policy and Context

### 5.1. National Policy

It is submitted that the key policy and guidance documents of relevance to the proposed development are as follows:

- National Planning Framework 2040
- Rebuilding Ireland - Action Plan for Housing and Homelessness
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and accompanying Urban Design Manual
- Design Manual for Urban Roads and Streets (2013)
- Regional Planning Guidelines for the Boarder Region (2010-2022)
- Habitats Directive - Appropriate Assessment

## 5.2. Cavan County Development Plan 2014-2020

### Core Strategy

Section 2.5.1 refers to the Settlement Hierarchy. Mullagh is included in Tier Three (Medium Towns) as a town with over 1000 population. Section 2.5.3 provides the Potential Housing Demand and includes: *The lands zoned for future residential use include a number of unfinished estates that due to the significant works required can not be considered to be developed land.* Section 2.5.4 has regard to Infrastructure Capacity. The Core Strategy Table 2.19 provides that there is capacity for 180 dwellings in Mullagh. Section 2.8 provides the Core Strategy Policies. These include:

**CSP3** seeks to guide development of towns in a sequential manner...

**CSP4** refers to completion of unfinished estates...

**CSP8** *To have regard to the DECLG guidelines “Sustainable Residential Development in Urban Areas Guidelines” (2009) in relation to the scale and design of residential development appropriate to settlements within the hierarchy.*

**CSP21** seeks to facilitate the implementation of the Urban Regeneration and Housing Act 2015.

### Infrastructure -Roads

Chapter 4 has regard to Physical Infrastructure. Section 4.1 refers to Roads and Transportations and 4.1.1 Policy Context. Section 4.1.4 refers to the Roads Infrastructure and notes the importance of a strong transportation network. Policies PI01 – PI014 provide the Road Infrastructure Objectives.

**PIO12** *To ensure that all new developments are assessed with regard to their impact on the operation of the public road network and where appropriate to require a ‘Traffic and Transport Assessment,’ in accordance with standards set out in the ‘Traffic and Transport Assessment Guidelines’ published by the NRA.*

Section 4.1.7 has regard to Local Roads – Objectives PIO28/28 refer.

Section 4.1.9 refers to Signage on National and Non-National Roads.

Section 4.1.10 refers to Road Safety and to Strategy for such. Section 4.1.12 to Planning applications and Parking Requirements. Table 4.7 provides the minimum parking requirements (2 spaces per unit - residential) Objectives PIO43/44 refer.

Section 4.4 refers to Walking and Cycling. Objectives PIO61 – PIO68 refer.

## Infrastructure – Water and Wastewater Services

Section 4.5.1 notes the Regulatory Framework for Water, Wastewater and Drainage. The relevant policies include:

**PIO79** *To ensure that public wastewater treatment infrastructure is in-place with adequate capacity, prior to developments being occupied.*

**PIO87** *To require that adequate and appropriate waste and drinking water service infrastructure is in place, prior to further development.*

Section 4.5.3 provides a list of Public Water Supply Schemes in County Cavan and this includes: *Bailieborough Regional Water Supply, including Virginia and Mullagh.*

## Housing

Chapter 5 provides the Housing Strategy for the County 204-2020. This has regard to the Provision of Housing, Creating a Quality Living Environment and seeks to comply with current guidelines:

Policy **HP4** *To comply with the DECLG Publications; ‘Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes and Sustaining Communities’ and ‘Delivering Homes Sustaining Communities, Statement on Housing Policy’.*

Objective **HO1** *Require that all new residential developments include a mix of house types and sizes to cater for different needs including families, single persons, the elderly and mobility impaired.*

**HO5** *Ensure that new residential developments are integrate into the existing urban fabric both physically and socially.*

**HO7** *Ensure a sequential approach to residential development in which the priority location for new residential development will be town and village cores, brownfield sites and suitable areas adjoining town and village cores.*

**HO12** *Require, as provided for under Section 95 of the Act, as amended, that 10% of land zoned for residential use or for a mixture of residential and other uses shall be reserved the provision of housing, in order to comply with the Planning and Development Act 2000, as amended and Urban Regeneration and Housing Act 2015.*

## Open Space/Amenity

Section 6.9 provides the relevant Policies and Objectives and includes:

**SCP13** *Recognise the amenity, leisure and social importance of existing areas of amenity and open space and the importance of the provision of new, attractive and useable open space and amenity areas.*

Section 6.10 refers to Recreation.

#### Natural Heritage & Environment.

The relevant policies and objectives are referred to in Chapter 8. This includes regard to the protection and maintenance of European Sites (Natura 2000).

Section 8.7 notes that the Council has not prepared a Landscape Character Assessment. Regard is had to a description of Character Areas and Scenic routes. Water Resources and Quality are referred to in Section 8.12.

Section 8.13.3 refers to Noise and includes regard to Policies on Air, Noise and Climate Change. Section 8.14 to Flood Risk Management.

#### Development Management

Chapter 10 provides the Development Management Standards. Section 10.3 seeks to ensure a high quality of Residential Development in Urban Areas. This includes the need to provide a Design Statement to follow the recommendations of the 'Urban Design Manual' and include regard to the 12 no. criteria therein.

Regard is had in this Section to issues of Design Considerations including density, residential mix and amenity, open space, accessibility and car parking. Section 10.3.2 provides: *Where sewerage facilities exist or are being planned for, the main determinant of the density acceptable to the Planning Authority will be the extent to which a scheme;*

1. *Provides for both public and private open space including supervised play areas.*
2. *Provides adequate privacy for each household.*
3. *Has a design that enables the scheme to merge successfully into the landscape.*
4. *Provides car parking, cycling and walking links.*
5. *Has a mix of dwelling types.*

Section 10.3.4 refers to the Sequential Approach. This includes: *The following area types shall be developed as a priority in towns and villages;*

- *Unfinished residential developments*
- *Brownfield Sites*
- *Greenfield residentially zoned land adjacent to town and village cores*

Section 10.14.16 refers to AA (Chapter 8) - Objective **DMO12** refers.

Section 10.14.10 refers to access from National, Regional and County Roads.

**DMO23** *To ensure that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of a traffic hazard.*

Chapter 14 has regard to Medium Sized Towns and this includes Mullagh, and provides the policy and objectives for the future maintenance and growth of the town.

### 5.3. **Natural Heritage Designations**

The site is located within the SAC River Boyne and Blackwater Buffer Zone (located 6.6km south west of the site). The closest Natura 2000 site is Killyconny Bog SAC and this is 2.2km south west of the site.

### 5.4. **EIA Screening**

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A Third Party Appeal has been received from the residents of Sliabh Rosann. They note their concerns about living in an unfinished housing estate and support the principle of development. They provide the principle issues are as follows:

- The proposed development will have a detrimental visual impact on the village of Mullagh located on an elevated site on an area known locally as Rose Hill;
- The application fails to adequately demonstrate sufficient provision for waste water treatment within the village;
- The development does not comply with Cavan CDP policy and Department Guidelines on residential design and layout.

#### Context of Appeal

- This application is proposing to complete the housing scheme commenced in 2007 with the proposed scheme of 38no. houses, bringing existing and proposed to 49no. units.
- The input for this appeal comes from the local residents in the houses that have been constructed in Sliabh Rosann.
- There is a poor construction history on this site. The current applicant is the third developer to operate on this site and they note problems on the site from earlier works.
- These including flooding, living adjacent to a construction site, removal of topsoil leaving area of exposed rock, together with unfinished service areas, green areas and roads so the development could not be taken in charge.
- The second developer purchased a number of unfinished houses (Nos. 5,10 & 11). He later completed No.5 and is constructing Nos 10/11 currently.
- There had been continuous construction work on-going on the site and they would welcome the completion of the development.
- They note the locational context of the site relative to the village facilities.

#### Visual Impact

- This is an elevated site on Rose Hill that rises steeply from front to rear. The proposed development will be very visible in the surrounding area.
- Poor standard of design and layout which could be improved. Fig.2.1 shows the more simplified layout relative to that originally granted.

- The lack of Landscape Character Assessment prepared for the County has already negatively impacted on Mullagh village. An LCA assessment should be considered for this site.
- The residents contend that single storey housing of a more traditional architectural form would be more appropriate to the rear of the site.
- They include photos of views taken from various vantage points.

#### Wastewater Treatment

- While a letter has been provided from Irish Water regarding connection of the development to the public sewer, no supporting information on the Treatment Plant has been included.
- This conflicts with the EPA report *Urban Waste Water Treatment 2017*, published in recent weeks (October 2018) where Mullagh is listed as one of six urban areas in County Cavan where improvements are needed to achieve environmental priorities.
- They also refer to the River Basin Management Plan 2018-2021 and note Mullagh Lough Stream is noted as water body at risk.
- F.I is required from Irish Water to confirm if the additional load as a result of this proposal would result in further pressure in water quality in this stream.
- The information submitted is not sufficient to assess compliance with the requirements of the Water Framework Directive and additional information must be sought to carry out this assessment.

#### Design and Layout

- The residents are disappointed with the quality of the planning application made for the completion of Sliabh Rosann.
- They provide that this application does not comply with planning policies relative to the provision of quality housing and sustainable communities. They provide a list of such policies.
- They provide a list of amendments that they consider would improve the proposed development scheme. This includes regard to separation distances, boundary treatment, improved housing mix.

- They also are concerned with the lack of consultation as to how the flooding issue will be addressed.
- Given the history with implementing the previous permission the residents are concerned as to whether proposals are sufficient.
- They have concerns about the circular traffic layout proposed and with regard to access and circulation issues.
- Lack of information on the phasing of the development and how the LA will ensure the developer will comply with the phasing. They also refer to development bonds.
- The residents need to live in a completed scheme rather than an unfinished housing estate.
- Lack of information on how construction works will be carried out, including relative to disposal/usage of topsoil.
- Concerns about on-going maintenance of landscaping and green space. They do not want the astro turf on this site and consider it will be difficult to maintain and will encourage anti-social behaviour.

#### Procedural issues

- The application may be deemed invalid due to a number of procedural issues not complied with by the PA and the Applicant during the application process. They provide details of such and relative to inadequate information submitted.

#### Conclusion

- The scheme fails to comply with a number of policies in the Cavan CDP. They note their concerns regarding the proposed standard of the design and layout, phasing and construction measures.
- There are questions over the ability of Irish Water to meet the waste water requirements of the scheme.
- They also note their concerns relative to access to this part of the scheme and request the removal of the proposed astro turf.



- They conclude that the application lacks sufficient detail to allow for a full assessment of the issues involved.
- They request that the Board refuse this application to allow for the submission of a revised application prepared in consultation with the residents and which adequately addresses the concerns expressed by the residents during application phase.

## 6.2. Applicant Response

Hanley Taite Design Partnership Architects & Design Consultants have submitted a response to the grounds of appeal on behalf of the Applicants and this includes the following:

### Visual Impact

- They provide photographs of the proposed development taken from a number of vantage points and consider that these show that it will not have an adverse impact on the visual amenities of the area.
- There is no LCA prepared for County Cavan or the village of Mullagh.

### Wastewater Treatment

- They note that Irish Water have provided confirmation that a connection to the Irish Water Network can be facilitated for the development and consider that the Council's F.I request has been addressed.

### Policy on Residential Design

- They note the variety in existing and proposed housing mix on this site and provide that the proposal complies with policy relative to housing mix in the Cavan CDP and ensures that different categories are catered for.
- They have regard to fenestration and separation distances and consider that these comply with the guidelines.
- They provide that the proposal complies with Section 10.3.4 of the CDP in that it allows for the 'Sequential Approach' and is an unfinished residential development and a brownfield site.

### Flooding issues

- They note concerns about flooding issues and provide details of proposals including installation of a 'french drain'. Also, that all works in relation to site services will be supervised and in accordance with standards.

### Traffic issues

- They note that the circular layout, road widths, paths, on-site parking comply with the requirements of the LA and the DoE. They provide that there is no requirement to provide additional visitor parking.

### Phasing

- They note the concerns of existing residents and provide that the development of the 38no, houses will be completed in 3no. phases. All site services including roads, paths, sewers, lighting, green areas, landscaping will be completed currently with each phase in accordance with current standards.

### Security

- In response to residents concerns about completion of the scheme on site, they provide that the developer agrees to comply with all planning conditions including all financial contributions and bonds.

### Landscaping

- They provide that details regarding levels, cut, fill, gradients, falls etc have been submitted to the PA to enable a decision to be made on this application. They note details regarding disposal of excavated material and removal to registered waste disposal facilities in accordance with the relevant guidelines.
- They provide that the applicant has no objection to the omission of the proposed astro turf play area from the development and replacement with a natural grassed area.

### Procedural issues

- They confirm that the requirements of the Planning and Development Regulations 2001-2015 under Article 35(1) were complied with.

- The Council granted a 3 month extension of time to respond to the request for F.I. and they enclose a copy of this extension.
- They consider that sufficient detail has been submitted with this application and in response to the Council's F.I request to enable an analysis of potential impacts and in addition the LA has deemed sufficient information has been submitted.

### Conclusion

- They provide that the developer has agreed to carry out all outstanding measures to complete the development of this estate. They note the provision of a secondary access to facilitate construction works. Also, the commitment of the developer to deliver and complete the proposed works in accordance with all the relevant standards.

### **6.3. Planning Authority Response**

Cavan County Council's response to the grounds of appeal includes the following:

- They note the reduction in height of the dormer bungalows to be provided at the rear of the site. The PA is satisfied with the scale of the houses given the topography of the site and do not consider that the propose development will have a detrimental visual impact on the village of Mullagh.
- Irish Water have clearly stated in a letter to the Council that there is capacity to accommodate the proposed development.
- They note concerns regarding boundary treatment of the rear gardens of existing houses nos. 1 to 5 and provide as a result condition no.10(d) was attached to their permission.
- Condition no.4 was attached relevant to the flooding issues raised.
- The traffic layout proposed has been agreed with the Road Design Section of the Council.
- They note that the applicant requested and was granted an extension of 3 months in accordance with Article 33(3) of the P&D Regulations 2001-2018.

- They conclude that having regard to the location of the site and the nature and scale of the proposed development within the development envelope of Mullagh, and the zoning of the site 'Proposed Residential', as designated in the Cavan CPD, the PA requests that their decision be upheld. They consider that the proposed development having regard to the conditions set out in their permission, is in the interest of proper planning and sustainability.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. Mullagh has been identified as a Medium Sized Town in the Settlement Framework as noted in Chapter 14 of the Cavan CDP 2014-2020. It is located in the south east of County Cavan, near to the border with County Meath. The Town lies close to the N3 main Cavan – Dublin route in the northern fringes of the Greater Dublin Area (GDA). The Core Strategy provides that Mullagh is a Tier Three, Medium Sized Town. It is noted that as shown in the census the town has grown significantly in recent years and note is made of land zoned for residential development up to 2020. It is provided that such lands have been identified due to their relative proximity to the town centre, other residential areas and community and social infrastructure and include, the completion of significantly incomplete residential developments.
- 7.1.2. The development is located within the Mullagh Development Boundary and is zoned for 'Proposed Residential'. Regard to the zoning map notes the compact inner core and the more linear spread out format of the village. While the land to the east and south is zoned, that to the west and north of the site is unzoned and is within the rural agricultural area. Therefore, this elevated site will appear more visually prominent in the landscape.
- 7.1.3. The proposed development represents a proposal to finish off an existing unfinished housing estate that was granted permission in 2006 (Reg.Ref.06/1075 refers). This permission has now expired. It is noted that Section 10.3.4 of the current CDP has regard to the 'Sequential Approach' and states that the following area types shall be developed as a priority i.e – Unfinished residential developments and brownfield sites, and greenfield residentially zoned land adjacent to town and village cores. The First

Party considers that the subject site fits into these categories and provides a sustainable form of development to complete this estate.

- 7.1.4. While the Residents of Sliabh Rosann, welcome the principle to finish this site, they have concerns about the visual impact, overall poor standard of design, proposed lack of housing mix, the density being too high relative to the distance to the town core and a failure to address the topography and constraints on this site. They are concerned that the proposed development does not comply with planning policy and guidelines, including relative to creating a quality living environment. Regard is had to the documentation submitted and to the issues raised, in this Assessment below.

## **7.2. Procedural issues**

- 7.2.1. The Third Party have concerns that a number of procedural issues were not adequately considered or dealt with by the Council in the course of their consideration of this application. This includes regard to the period of the time extension. Also, that inadequate information including drawings have been submitted to enable an informed decision to be made on the proposed development, including the impact on local residents.
- 7.2.2. The First Party refutes this and provides that the requirements of the Planning & Development Regulations 2001-2015 under Article 35(1)b were complied with. They also note that the Council granted an extension of time to respond to the request of F.I and include a copy of that letter. They are of the opinion that sufficient details have been submitted to enable any third party to analyse potential impacts on adjoining properties. They provide that detailed Architectural and Engineering drawings have been prepared for the overall development and that in addition the LA have deemed sufficient information was provided.
- 7.2.3. As noted the Third Party appellants have raised concerns about various procedural issues not being correctly followed by the Council and the Applicant and the validity of the Planning Authority decision. These concerns have been noted as has the First Party response. However, having regard to the above it is considered that these are matters relevant to the procedures of the Council in dealing with/processing the application and that it would not be appropriate for the Board to make a decision on such issues.

7.2.4. I would refer to Section 37(1)(b) of the Planning and Development Act 2000, as amended which provides that: *The Board shall determine the application as if it had been made to the Board in the first instance and the decision of the Board shall operate to annul the decision of the planning authority as from the time when it was given.* Therefore, the application is now being considered on its merits de-novo by the Board.

### 7.3. **Regard to Planning History**

7.3.1. As this application seeks the completion of an unfinished site, as noted in the Planning History Section above, regard is had to the differences in the design and layout of the scheme originally permitted – Reg.Ref.06/1075 refers. In that case permission was granted subject to conditions for the construction of 50 no. dwellings with a mix of 4 types of units i.e A-D to include two storey 4 bed detached and semi-detached, 3 bed semi-detached and 15no. 3 bed townhouses i.e shown on house type D (forming a terrace of 3) on the plans then submitted. Subsequently a time extension was granted by the Council to extend the duration of the permission, this expired in October 2016.

7.3.2. The site area for the scheme as permitted in Reg.Ref.06/1075 is shown on the Site Layout Plan as 2.15ha. and the scheme provides for 50no. houses i.e just in excess of 23 units per ha. It is noted that the scheme then permitted provides for a different layout with more cul-de-sacs and a lesser usable area of open space at 11.85%. Houses were also shown to the rear of the 5no. detached houses now constructed at the site frontage, rather than the access road and the larger area of open space. The vehicular access was moved during the course of the application and as permitted is now at the eastern part of the road frontage.

7.3.3. To date 9no. houses have been constructed/occupied to the front of the estate facing the public road. There is a separate permission to retain and complete 2no. semi-detached houses on plots 10/11 – (Reg.Ref. 17/98 refers) and these now appear almost complete. The existing dwellings at the front of the site comprise 5no. 4 bed two storey detached dwellings, 2no. 3 bed two storey semi-detached dwellings, 2no. 3 bed two storey semi-detached dwellings (under construction) i.e 11no. units in total. Of these 9no. are currently occupied and a description of such is given relative to the Context of the Appeal in the Third Party Submission.

## 7.4. Design and Layout

- 7.4.1. The Site Layout as currently submitted is less complex than that originally permitted and comprises a circular format around a large central area of open space. The application form provides that the area of the site is 1.77ha. The site area is given as 1.88ha on the revised Site Layout Plan. This is in view of the red line boundary being extended to include the access lane (to be used for construction purposes) to the west. Also, to facilitate the revised house type 'C' the number of houses proposed has been reduced from 40 to 38no. Therefore, density relative to this part of the site to be developed is just in excess of 20units per ha. The total site area as noted above was 2.15ha. The original plans showed 40no. houses proposed and 11 existing i.e 51houses and a density of c. 23 units per ha, the revised plans 38no. units proposed and 11 existing i.e 49no. houses i.e a density of approximately 22 units per ha.
- 7.4.2. Chapter 6 of the 'Sustainable Residential Development in Urban Areas (May 2009) Guidelines refers to Small Towns and Villages (pop. 400 - 5,000 persons). This includes that each residential scheme within a small town or village should be designed to make the most effective use of the site, make a positive contribution to its surroundings, have a sense of identity and place, provide for effective connectivity, include a design approach to public areas such as streets and open spaces and encourage a safe sense of place. In this case having regard to section 6.11 of the Guidelines, the site is considered to be an 'Edge of centre site' *where densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation.* In view of the location of the site on the outskirts of the town of Mullagh, it is not considered that a higher density would be appropriate.
- 7.4.3. The Layout as originally submitted showed 2 different house types proposed in the current scheme i.e Type A – 20 no. 2 storey 4 bed semi-detached dwellings and Type B – 20 no. 3 bed semi-detached dwellings. A further house type has been submitted at F.I stage i.e Type C – semi-detached dormer bungalows to be located at the rear of the site. A Site Layout Plan is included within their response showing the location of all of these semi-detached pairs and plot numbering i.e 12no. Type A - proximate to the eastern site boundary, 14no. Type B - proximate to the western

elevation and 12no. Type C - proximate to the northern site boundary i.e 38no. in total on the unfinished part of the site. It is of note that house type C provides for a lower profile dormer bungalow. Condition no.1(b) of the Council's permission refers. If the Board decides to permit to complete the scheme the total no. of units on the site would be 49no.

- 7.4.4. There is concern that the proposed layout has been significantly simplified from that originally granted. Fig. 2.1 of the Third Party appeal submission shows the differences between the layout of the scheme as originally submitted and the current scheme. It now shows relatively similar 3 and 4 bed semi-detached houses around a central green space. The Third Party considers that this could be improved through more consideration given to the edge details to remove blank walls and gables. They are also concerned about the proposed dormer bungalows on the more elevated part of the site being overly visually dominant and consider that single storey dwellings would be more appropriate in this location at the rear of the site. While I would consider these house types to be acceptable in the site context, it is noted that they will have north facing rear gardens with (in view of the steep nature of the site and excavations) a retaining wall formed with gabions at the rear.
- 7.4.5. The residents are concerned that the proposal will result in inadequate separation distances between the houses and the existing development and overlooking issues. In particular they refer to existing detached houses nos.1 and 2 and consider that proposed semi-detached pair nos. 37 and 38 should be removed to address this issue. The First Party response notes that there is 1no. window proposed in the side elevation of the proposed two storey houses. The side window of house no. 38 will be of obscure glazing. They provide that the separation distance between the side of No.38 and the rear elevation of the adjoining existing residences complies with department guidelines.
- 7.4.6. Note is had of Section 10.3.2 (b) of the Cavan CDP which refers to Separation between Dwellings, which includes: *Sites with difficult gradients will be required to provide a greater distance between dwellings to ensure privacy and adequate provision of open space.* Section 6.10 of the 'Sustainable Residential Development in Urban Areas Guidelines' provides: *While a 22 metre separation distance between opposing above ground floor windows is normally recommended for privacy reasons, this may be impractical and incompatible with infill development.* In this case nos. 37



and 38 are north of the rear of house nos.1 and 2, the side elevation rather than the rear elevation is facing with one small obscure glazed window and this is considered to be acceptable.

- 7.4.7. The First Party considers that this mix within the overall development complies with the objectives of 'Part J Density of Section 10.3.2 of the current Cavan CDP 'General Design Considerations. Also, that the mix of house types helps to ensure that different categories of household are catered for. Objective HO1 refers to the need to ensure housing mix.
- 7.4.8. Section 10.3.2 of the Cavan CEDP refers to General Design Considerations and this includes regard to the provision of a residential mix in house and apartment design, separation between buildings, privacy and security, private/public open space and accessibility. Regard is also had to the 'Urban Design Manual – A best practice guide which accompanies the above Guidelines'. This provides the 12 criteria relative to Neighbourhood, Housing Site and Home and to the sustainable residential development in urban areas. This includes regard to issues such as 'Distinctiveness' i.e. does the proposal create a sense of place. In this case it is noted that while there is some variation in the houses types that the mix does not include town houses, terraced or apartment type units. I would consider that in the context of the pattern of development in the area that the proposal while it has some variation would benefit from a greater choice of unit types and mix of tenures to include the provision of more terraced housing and if the Board decides to permit they may wish to condition this.

## 7.5. **Open Space/Landscaping**

- 7.5.1. The Site Layout provides for a large oval shaped central area of open space which will be overlooked by the majority of dwellings in the proposed development. The revised plans submitted note that the proposed open space is 1693sq.m. The area of the site is 1.88ha and the area of the open space proposed is 0.31ha i.e 17.5% of the development portion of the site. The *Sustainable Residential Development in Urban Areas Guidelines* 2009, in Section 4.20 recommends that in green-field sites public open space should be useable and provided at a minimum rate of 15% of the total site area. The development plan requires that 15% of the site area be dedicated to public open space provision.

- 7.5.2. The existing detached houses will back onto the access road and the public open space and local residents have concerns about boundary treatment, anti-social behaviour and accessibility to the open space. It is noted that a small area of open space (shown 46sq.m) is provided in front of these units. If the Board decide to permit this revised layout I would recommend a robust boundary treatment to include a block wall construction with visual softening and separation from the public space through landscaping/hedging.
- 7.5.3. This is a large area of open space, and is generally well overlooked by the majority of the proposed development. It is considered that in the interests of the visual amenity of the area it is important that it be landscaped and well maintained. While regard is had to the landscaping plan submitted it is considered that this is minimal and could be embellished to make it more attractive and usable.
- 7.5.4. It is also noted that the boundary treatment submitted shows block walls along the site boundaries, to replace the existing hedgerows. This will serve to give a hard edge to a site on the periphery of the town, adjoining agricultural land to the west. If the Board decides to permit it is recommended that a detailed landscaping scheme be submitted, which would include retention/augmentation of these boundary hedgerows.
- 7.5.5. The local residents have stated that they are not in favour of the provision of an astro turf pitch at this location as it is not suitable for a neighbourhood green area. They consider that it will introduce anti-social behaviour and its maintenance would place an unnecessary burden on residents. I would also have concerns about the lack of visitor parking for such a facility and would concur with local residents that it would be better provided as a planned extension to existing sporting facilities. It is noted that the First Party response has no objection to its omission and to replace it with a natural grassed area. I would consider that this would be preferable, but would also recommend that a children's play area be provided for the use of local residents. If the Board decide to permit I would recommend the omission of the astro turf area and inclusion of a play area be conditioned.

## **7.6. Impact on the Character and Amenities of the Area**

- 7.6.1. The Third Parties are concerned that in view of the elevated nature of the site, rising steeply from the road frontage and the proposed design and layout, that the proposal will have an adverse impact on the visual amenities of the area. The First Party response provides a number of photographs of the site, taken from the Moynalty Road, Billywood Road and the Main Street in the Village of Mullagh and provide a description of these views. These show the site on a higher level than the surrounding lands but note the context with the industrial unit to the east on higher ground. They consider that these photographs show that there will not be an adverse visual impact on the village or the surrounding area. On my site visit, I noted the view westwards from the village boundaries to the east of the industrial unit i.e from the access road to the site, the L-3010. From this higher vantage point the site and existing housing can be seen clearly.
- 7.6.2. It is noted that a Landscape Character Assessment has not been prepared for the County or the town of Mullagh. However, the site is on land zoned for residential development and the proposal will be seen in the context of the development envelope albeit on the outskirts of the boundaries of the town. I would consider that it is important that quality external finishes be used in the scheme including relative to the design of the houses, roads and footpaths. Also, that the design of the open space and landscaping contributes to the overall character to the scheme and in particular the retention/augmentation of boundary treatment will add to the visual appearance of the proposed development on this elevated site.

## **7.7. Access and Traffic**

- 7.7.1. It is proposed to use the existing access to the unfinished estate from county road L3010. The residents are concerned that the traffic layout proposed will result in a circular traffic movement and speeding within the development. Also, as to how the access road between house no.5 and house nos. 10&11 i.e. at the entrance to the new part of the estate will be developed and they consider that there is not sufficient space on the ground to accommodate the layout as proposed. They are also concerned that there are no designated visitor parking areas.

- 7.7.2. In response the First Party provide that the roads layout was discussed with the planning and road design departments of the Council and that the provision of a circular link road type layout was encouraged to simplify access to houses 27-38. They note that all service road widths, radii, gradients, paths etc are in compliance with the LA and the DoE requirements. The revised layout shows traffic calming at the entrance to the new part of the estate. They also confirm that 30km/h signs will be erected at the entrance to the estate. 2no. parking spaces have been provided for each dwelling house and it has not been requested to provide additional off-street visitor parking. This is in accordance with standards. Regard is had to the recommendations of the Council's Road Design response to the F.I submitted. Condition no.22 of the Council's permission is noted. It is recommended that if the Board decide to permit that such a condition regarding roads be included.
- 7.7.3. As the site is within the 60km/h speed limit, DMURS provides guidance relating to the design of urban roads and streets. Section 4.4 provides details of Carriageway Widths and includes: *The standard carriageway width on Local streets should be between 5-5.5m (i.e. with lane widths of 2.5-2.75m)*. It is noted that the current proposal provides for 6m carriageway widths for the service road with 2m wide footpaths along the site frontages. Details have not been provided of any delineation of the proposed open space.
- 7.7.4. The town of Mullagh is served by minimal public transport – details have been given in the Design Statement submitted. Given the distance of the appeal site from the town centre, its layout determined by roads and the absence of any day to day services within reasonable walking distance, I would be of the opinion that the proposed development will be very car reliant. There is no provision for cyclists and cycle lanes have not been provided within the layout to link to the public road. I would recommend that if the Board decides to permit that a cycle lane be provided within the scheme to serve the proposed development.
- 7.7.5. It is noted that there is a separate pedestrian access into the development from the L3010, it is recommended that this be retained. In the interests of permeability, it is recommended that that the possibility of access from the rear of the site to adjoining lands be retained. It is noted that there is a footpath along the site frontage which extends to the adjoining site to the east. However, while the footpath terminates at the western corner of the site, there is a footpath on the opposite side of the L3010

that leads to the town centre. Therefore, existing and future residents will have to cross the road to use this footpath.

- 7.7.6. There is an unsurfaced gated agricultural access lane to the west of the site. The entrance to this lane is from the L-3010. This land is shown on the revised plans inside the site boundaries. However, it is noted that there is a letter on file from the adjoining landowner allowing the developer to use the lane for construction works. This would also be preferable as the existing vehicular access is used by existing residents and construction vehicles going through the developed part of the site would cause disturbance and would not be in the interests of the amenity of existing residents. However, it must be noted that sight lines are curtailed in a western direction i.e towards the town of Mullagh due to the hedgerow along the road frontage. It is recommended that if the Board decide to permit that it be conditioned that adequate sightlines for this temporary construction access be shown on revised plans to be agreed with the Council.

## **7.8. Drainage and Flooding**

- 7.8.1. Chapter 14 of the Cavan CDP 2014-2020 notes that Mullagh is served by the Bailieborough Regional Water Supply Scheme which also serves Bailieborough and Virginia. This scheme is currently working at capacity. This also provides that the Waste Water Treatment Plant is working well under capacity. It is provided that waste water from the proposed development will be directed to the Mullagh Waste Water Treatment works which is fully licensed by the EPA.
- 7.8.2. As noted by the Third Party, the EPA report Urban Waste Water Treatment 2017, published in recent weeks (October 2018), and the conclusion notes that they have identified 132 urban areas where treatment must improve to resolve these national environmental priorities. Appendix A provides Mullagh is one of 6no. urban areas in Co. Cavan where improvements are needed to resolve such. Appendix D notes that Mullagh (water body - Mullagh Lough Stream) is included in a table of towns (one of 3no. in County Cavan) where the EPA consider waste water discharges to be the sole significant pressure on water bodies at risk of pollution.
- 7.8.3. The First Party have regard to the F.I submitted which includes the Site Services Layout. This shows the location of the proposed attenuation tank in the southern end

of the green area. They note that it is proposed to install a petrol interceptor and provide the location of this. Also, that this will treat all surface water run-off from the site before discharging into the existing storm sewer. They include a Report from Consultant Engineers on Foul, Surface Water, Attenuation Calculations and Details. Irish Water have not objected and has requested that a pre-connection enquiry form is submitted to them along with all the relevant details for the proposed development.

7.8.4. The residents are concerned about how flooding issues will be dealt with on site and note that the rear gardens of some of the existing properties are wet. In response the First Party provide that they will install a 'french drain' on the site side of the existing rear garden boundary fence. This will take place concurrently with the installation of the surface water drainage system for the overall site. They provide that all works in relation to site services will be supervised by appropriately qualified professionals and in accordance with current standards.

7.8.5. I would recommend that if the Board decides to permit that appropriate conditions be included relative to services and drainage issues.

## 7.9. **Construction Management**

7.9.1. Having regard to the elevated nature of the site there is concern that adequate information has not been submitted regarding the level of rock to be excavated from the site and methods of doing this. Previous development work removed all the topsoil from the site so additional information should be included as to the volumes of topsoil to be imported to the site and the source of this topsoil. Also, the need for controls on the quality of these works should be included. In response the First Party provides that all of the standard information regarding levels, cut, fill, gradients, falls etc including any additional information requested by the Council have been considered. They provide that should it be determined that additional topsoil is required this will be sourced from a reputable supplier and transported to the site via the separate construction traffic entrance. Should any excavated material need to be removed from the site it will be to registered waste disposal facilities in accordance with relevant regulations.

7.9.2. A Construction Management Plan has been submitted. This includes details of the scope of works, hours of operation, enabling works/formation of site perimeter/site

security, site parking and storage of plant and materials, management of vehicle access and egress and deliveries, management of dirt and dust, excavation and ground works, recycling/disposing of waste resulting construction works, noise control, communications and co-operation with residents and supervision. It is recommended that if the Board decide to permit that a Construction Management Condition be included.

#### **7.10. Phasing and Security**

- 7.10.1. The local residents are concerned that there is a lack of information on the phasing of the development and how the LA will comply with this phasing. They are concerned in view of the issues with the unfinished nature of the site, that the scheme be finished as soon as possible and that no new dwellings should be developed until the early houses are finished to an acceptable standard including lighting, finished road surface and landscaped green space. The First Party response provides that as noted in the documentation submitted that a separate entrance for construction traffic will be provided along the existing agricultural lane to the west of the site. They note that it is intended to construct the development in three phases i.e – phase 1 houses 1-14, phase 2 houses 15-26 and phase 3 houses 27-38. They note that this phasing and associated timeframes etc will be discussed and agreed with the relevant sections of the Council prior to the submission of any Commencement Notices for the development. They provide that all site services, including roads, paths, sewers, lighting, green areas, landscaping will be completed concurrently with each phase in accordance with current standards. If the Board decides to permit I would recommend a condition regarding phasing be included.
- 7.10.2. The residents are concerned that there is a lack of security to ensure the development will be completed to a finish suitable for taking in charge. They have regard to Condition no.3 of the Council's permission and consider that a bond of €2000 per dwelling is not sufficient to ensure completion particularly that the same condition was also on the previous planning permission agreed 12 years earlier. In response the First Party provide that the developer agrees to comply with all planning conditions including all financial contributions and bonds. They also note their commitment to deliver and complete the proposed works in accordance with all

the relevant standards. If the Board decides to permit I would recommend that a condition regarding the inclusion of a security bond be included.

### 7.11. Screening for AA

- 7.11.1. A Statement of Screening for Appropriate Assessment has been submitted with this application. This notes that habitats within the application site consist of unmanaged neutral grassland habitats, recolonising bare ground habitats and artificial surfaces. The boundaries of the site consist of mature hedgerows and treelines. It notes that the badger is one protected mammal species within 1km of this site.
- 7.11.2. The application site is located within the Boyne Hydrometric Area and Catchment, the Moynalty Sub-Catchment and the Mullagh Lough Stream Sub-Basin. There are no streams or drains within or adjacent to the application site. The closest water feature is the Mullagh Lough Stream and this is 627m south of the application site. They also note the confluence of this stream with the Moynalty River at a point 1.5km south east of the subject site. The Moynalty River is a tributary of the Blackwater (Kells) and the confluence of these two rivers is to the east of Kells. They note that the EPA has classified the ecological status of the Mullagh Lough Stream as moderate, whilst the status of the Moynalty Stream is described as poor. They note that under the requirements of the Water Framework Directive, this is unsatisfactory and that good status must be achieved in all waterbodies in 2021.
- 7.11.3. Section 3.3 provides details of Natura 2000 Sites identified within a 10km radius of the site. These are included in the Table below:

Site Name & Code	Distance from proposed development	Qualifying Interests
The River Boyne and River Blackwater SAC002299	6.5km south-west	<ul style="list-style-type: none"> <li>• Blue Lamprey</li> <li>• Salmon</li> <li>• Otter</li> <li>• Alkaline fens</li> <li>• Alluvial forests with alder.</li> </ul>



The River Boyne and River Blackwater SPA 004232	6.5km south-west	<ul style="list-style-type: none"> <li>• Common Kingfisher</li> </ul>
Killyconny Bog SAC 000006	2.2km south-west	<ul style="list-style-type: none"> <li>• Active Raised Bogs</li> <li>• Degraded raised bogs still capable of natural regeneration.</li> </ul>

It is of note that the generic Conservation Objective for all these sites is: *To maintain or restore the favourable conservation condition of the Annex 1 (habitats) and/or the Annex II species for which the SAC has been selected.*

7.11.4. Section 3.4 provides the Assessment Criteria of the impacts (if any) of the proposed development on the Natura 2000 sites identified. This includes that the proposal will have no impacts upon the integrity or the site structure of the designated sites identified. Given the small size and scale of the development in relation to the overall size of these designated sites the likelihood of any direct, indirect or cumulative impacts on these designated sites are low. It is provided that the distance from these Natura 2000 sites is adequate to predict that there will be no impacts upon these designated sites. There is no source-pathway-receptor linkages between the application site and the aquatic habitats of the Moynalty River or the River Blackwater and this will eliminate the potential for emissions from the site to pollute the designated watercourses or their tributaries.

7.11.5. They provide that construction measures and best practice integral to the project will ensure that the proposed development will not impact on the designated sites. Section 3.5 provides a Finding of No Significant Effects. This concludes that there will be no impacts upon the integrity or the conservation objectives of the Natura 2000 sites. The habitats and species associated with these sites will not be adversely affected. They provide that the proposed development does not need to proceed to Stage II of the AA process.

7.11.6. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on River Boyne and Blackwater SAC/SPA and

Killyconny Bog SAC, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to the conditions below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the location of the site within the settlement boundary of the town of Mullagh, the planning history and the unfinished nature of the site, the pattern of development in the vicinity, the proposed layout and unit mix and provision of open space, and connection to an existing watermain and foul and surface water sewerage network: it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

- 1(a) 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 submitted on the 10<sup>th</sup> day of October 2018 and 19<sup>th</sup> day of October 2018 and by the further plans and particulars received by An Bord Pleanála on the 9<sup>th</sup> day of January 2019, 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.
- (b) The development shall be for 38no. houses only, in accordance with the Site Layout Plan submitted to, and received by the Planning Authority, on the 10<sup>th</sup> of October 2018.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) A cycle lane shall be included within the scheme.

(b) The astro turf shall be omitted and a children's play area provided within the large central green area.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3 (a) Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority.

(b) All en-suite first floor side windows shall be fitted with obscure glazing.

**Reason:** In the interests of orderly development and the visual amenities of the area.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment, retention and augmentation of hedgerows native to the area along all side and rear boundaries of the periphery of the site, and

(b) planting of trees/shrubs within the site including on the open space.

(c) details of the delineation of the open space from the public road.

(d) any hard landscaping works, including, lighting and outdoor seating, specifying surfacing materials.

(e) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(f) a timescale for implementation including details of phasing, which shall provide for the planting and the design of the open space to be completed before the dwellings are first made available for occupation.

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 and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. Prior to the commencement of development details of rear, side and front boundary treatment for the dwellings shall be submitted to be agreed in writing with the planning authority. This shall also include:

(a) Details of the retaining wall to be formed with gabions to the rear of the site (north) i.e. house nos. 15 -26.

(b) Details of the side boundary treatment of house nos. 14 and 27 (north boundary).

(c) Details of the rear (north) boundary treatment between existing house nos. 1 and 5 including landscaping of the space to the rear of these properties.

**Reason:** In the interests of residential and visual amenity.

6. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) Details of measure to prevent surface water flooding including the installation of a 'french drain' to the rear of existing properties shall be in accordance with details to be agreed in writing by the planning authority.

**Reason:** In the interest of public health and surface water drainage.

7. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs, traffic calming, external finishes, signage and markings shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

- 9.(a) Access to the site for all construction traffic for the duration of the construction works shall be via the existing agricultural laneway to the west of the site.
- (b) Sightlines shall be improved at this entrance to comply with the detailed standards of the planning authority for such works.
- (c) Prior to the commencement of development details shall be submitted to be agreed in writing with the planning authority as to the future proposed use of this access lane which is included in the red line boundary.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

10. 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 interest of visual and residential amenity.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety.

12. Prior to commencement of development, proposals for a bilingual name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority. The name shall reflect the history or topography of the area.

**Reason:** In the interest of orderly development.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan. In particular, all construction and demolition waste and all waste which has been tipped on this site shall be removed and disposed of to a licensed waste facility prior to commencement of development.

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

14. 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 provision of social and affordable housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord 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 of the area.

15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

16. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

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

17. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

18. 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 Bord 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.

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Angela Brereton  
Planning Inspector

15<sup>th</sup> of March 2019