



An
Bord
Pleanála

Inspector's Report ABP – 307890 – 20

Development	Planning permission is sought for change of use of a holiday home to a permanent residence.
Location	No. 7 Corraback, Belturbet, County Cavan.
Planning Authority	Cavan County Council.
Planning Authority Reg. Ref.	20205.
Applicants	Yvonne & Michael Turton.
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant	R. Lee.
Observer(s)	None.
Date of Site Inspection	5 th day of November, 2020.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular shaped 0.54ha appeal site is situated on the picturesque western banks of Lough Corraback (Teemore Lough), in the Townland of 'Corraback', c2km by road from the N3 and c3.2km, as the bird would fly, from the centre of Belturbet, in County Cavan.
- 1.2. The appeal site is referred to in the documentation as 'No. 7 Corraback' and it contains a detached dormer dwelling house with a stated 187.76m² floor area that forms part of a group of ten detached dwellings originally permitted as a group of holiday homes that were constructed in the early 2000 at the northernmost end of a restricted in width minor cul-de-sac road (L-55131-0) on the banks of Lough Corraback.
- 1.3. The easternmost point of the site bounds the lough shoreline and there is a similar in style dwelling house located to the immediate south which No. 7 shares a spur road with which extends in an eastern direction from a spine road that serves this residential scheme.
- 1.4. The surrounding landscape is characterised by rolling drumlins, a patch work of agricultural fields, farmsteads, and a number of one-off dwellings.

2.0 Proposed Development

- 2.1. Planning permission is sought for the change of use from holiday home to permanent residence.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted planning permission subject to 2 no. conditions. Of note Condition No. 2 reads as follows:

“(a) The proposed dwelling when completed shall be first occupied as the place of residence of the applicant shall remain so occupied for a period of seven years, unless consent is granted by the Planning Authority for its occupation by other person who belong to the same category of housing need as the applicant.

(b) Within two months the applicant shall submit to the Planning Authority, a written statement of the confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

(c) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

Reason: *In the interests of proper planning and sustainable development.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report is the basis of the Planning Authority's decision to grant planning permission for the development sought. I note that their report indicates that the site is location within an area designated as being 'Under Urban Influence' within the County Development Plan and that there is precedent established for the development sought under this application. Of further note the Planning Officer considered that the proposed development did not warrant 'Appropriate Assessment'. Subject to the attachment of an occupancy clause the proposed development was considered to accord with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports: None.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. The appellant in this case submitted an observation to the Planning Authority during the course of this applications determination. I have read this submission and consider that the substantive issues raised are the same as those raised in the grounds of their appeal.

4.0 Planning History

4.1. **Appeal Site:** No recent planning history.

4.2. Vicinity of the Site:

P.A. Reg. Ref. No. 18/509: Retention of fully serviced detached domestic garage with all ancillary works and permission for change of use from holiday home to a permanent residence was **granted** subject to conditions.

P.A. Reg. Ref. No. 18/338: Planning permission was **granted** for the construction of a serviced domestic garage with all ancillary works together with the change of use from holiday home to permanent residence subject to conditions.

P.A. Reg. Ref. No. 14/91: Planning permission was **granted** for the construction of a dormer type extension to the rear of an existing dwelling together with ancillary works and the change of use from a holiday home to a dwelling house for domestic use.

P.A. Reg. Ref. No. 13/89: Planning permission was **granted** for the construction of a domestic garage to the side of a dwelling and the change of approved use from a holiday home to a dwelling of domestic use.

ABP Ref. No. PL02.235849 (P.A. Reg. Ref. No. 08/1557): On appeal to the Board retention permission was **refused** for a jetty with pedestrian access ramp at Corraback Lough for the following stated reasons and considerations:

"1. Having regard to the location of the development within lands designated Special Area of Conservation (SAC) and a High Landscape Area, and to the exposed nature of the lake shore, it is considered that the retention of a jetty and walkway in excess of 130 metres in length would be visually intrusive and excessively dominant, would seriously injure the visual amenities of the area and would create an undesirable precedent for similar type developments within designated areas. Furthermore, the development would be contrary to Section 8.11.4 'Development in or near Heritage Areas', of the Cavan County Development Plan 2008-2014 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene materially a development objective indicated in the Cavan County Development Plan (2008 – 2014) for the conservation and preservation of a European site (Lough Oughter and Associated Loughs Special Area of Conservation, Site Number 000007) insofar as the proposed

development would adversely (a) (i) affect Natural Habitat Types listed in Annex I of the EU Habitats Directive (Council Directive 92/43/EEC and

(ii) affect Species listed in Annex II of the said Directive, which the site hosts.

(b) impact on the Annexed Habitat Natural Eutrophic Lakes, which is listed under Annex I of the said Directive in relation to the conservation of natural habitats and of wild fauna and flora and which is a qualifying interest for Lough Oughter SAC.

(c) impact on otter, a species listed under Annex II of the said Directive in relation to the Conservation of Natural Habitats and of wild fauna and flora.

It is considered, therefore, that the development is contrary to the proper planning and sustainable development of the area.”

P.A. Reg. Ref. No. 01/1044: Planning permission was **granted** for 10 no. holiday homes with individual wastewater treatment systems, the construction of an access road to serve the holiday homes attaching to the public road network together with all associated development works.

5.0 Policy & Context

5.1. Local Planning Provisions

- 5.1.1. Cavan County Development Plan, 2014 to 2020, as varied, is the applicable Development Plan and under which the appeal site is situated in a ‘Stronger Rural Area’, is within a High Landscape Area and is located in an area designed as being ‘Under Urban Influence’.
- 5.1.2. Section 10.14 of the Development Plan sets out Development Management policies for rural houses.
- 5.1.3. Policies of the Plan state that rural housing needs should be accommodated in the locality in which they arise and where the applicant meets the development plan’s definition of need (Policy RHP1 and objectives RHO1 to RHP11).

5.2. Natural Heritage Designations

- 5.2.1. Part of the easternmost portion of this 0.54ha site forms part of Lough Oughter & Associated Loughs SAC (Site Code: 000007). This SAC extends to encompass the

shoreline and the immediate banks of Lough Corraback as well as the entirety of the lough itself.

5.3. Environmental Impact Assessment (EIA)

- 5.3.1. The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of this 3rd Party Appeal can be summarised as follows:
- It is not accepted that this development is in accordance with the proper planning and sustainable development of the area as the change of use represents a material contravention of the Development Plan.
 - Concerns are raised in terms of the competence of the Planning Authority for implementations of the habitat's directives and protection of the Natura 2000 network in relation to this application.
 - The applicants in this case appear to be permanently residing in this holiday home in contravention to the parent permission.
 - This proposal is also contrary to the Development Plan policies for holiday home developments.
 - The Planning Officer justifies the change of use based on a number of previous cases they referred to which established a precedent for such a development. These grants of permission are not based on the proper planning and sustainable development grounds.
 - The Planning Authority has failed to take on board the serious implications of permitting such change of use applications on a broader level. In essence they are declaring that all holiday home developments at this location can change their use to permanent residences which is a dangerous precedent for other holiday

home residences throughout the County many of which are sited in ecologically sensitive settings.

- The County Development Plan as it stands does not provide sufficient latitude to permit such change of use applications without revising its SEA.
- Corraback Lough lies within the Lough Oughter and associated Loughs Special Area of Conservation. Had this holiday home development been considered in more recent times it is unlikely that it would have been permitted.
- No Appropriate Assessment has been carried out. This is contrary to the Habitats Directive and to statutory planning requirements.
- The assessment of wastewater management and discharge patterns for the parent application would have been different to the wastewater characteristics associated with permanent residency in such an ecologically sensitive location. Despite this no assessment was provided on the implications of year-round on-site wastewater discharges from this permanent residences and other permanent residences within this holiday home scheme.
- The Board is requested to overturn the Planning Authority's decision.

6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- This is a disingenuous and vexatious appeal. In this regard, the given address of the appellant is questioned.
- Reference is made to the parent grant of planning permission under P.A. Reg. Ref. No. 01/44 and to planning applications where similar change of use has been permitted (Note: P.A. Reg. Ref. No.s 1491, 1389, 18338 and 18509).
- All of the homes are served with their own effluent treatment systems.
- The appellants contention that the assessment of wastewater management and discharge patterns differs for holiday homes and permanent residency is untrue and it is contended to be similar.
- The applicants have retired to live here from Canada and have resided here for the past 8 years.

- One of the applicants is contended to be native of Belturbet with numerous family members residing close by.

6.3. **Planning Authority Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- There is precedence for the development sought at this location.
- These houses within this residential scheme are all served by individual wastewater treatment systems.
- An occupancy clause has been included in the grant of permission.
- The sites at this location are large scale dwellings with private gardens each maintained by the individual owners and there are no communal or shared facilities present.
- Reference is made to the Board decision under ABP Ref. No. PL02.235849.

7.0 **Assessment**

7.1. **Preliminary Comments**

7.1.1. Firstly, I note that the applicant in their response to the grounds of appeal submission received by the Board raise concerns that this is a disingenuous and vexatious appeal. On the basis of the information before the Board I consider that the appellant in their grounds of appeal has raised a number of substantive planning concerns in relation to the development sought and that these merit consideration by the Board. I do not accept on the information provided by the applicant provides sufficient evidence that would support their contentions that the appellant in this case motives or the appeal itself are disingenuous and vexatious simply based on the applicant giving an address in Dublin.

7.1.2. On the basis of the submissions on file, in particular that received by the applicant in their response to this 3rd Party appeal and having inspected the site, it would appear that No. 7 Corraback, the property to which the proposed development relates, has been in use by the applicants as a permanent home for the past 8 years. I therefore raise a concern that the description of the proposed development does not correlate

with what is actually being sought, i.e. the applicants on the basis of the evidence before the Board are seeking permission for the retention of No. 7 Corraback as a permanent residence from its approved use under its parent grant of planning permission under P.A. Reg. Ref. No. 01/1044.

7.1.3. Thus, I consider that the Board is precluded from granting permission until this matter is addressed and for clarity my assessment below is based on whether or not the retention of the change of use from a holiday home to a permanent residence is in accordance with the proper planning and sustainable development of the area.

7.1.4. In addition to this it also gives rise to the concern that this application relates to what is in effect an unauthorised development and with this application essentially seeking that the residential use be intensified by way of its change of use to a permanent dwelling.

7.1.5. I consider that these concerns are such that they in themselves warrant a refusal of permission for the development sought under this application and the Board may also consider them to be new issues in their determination of this appeal case.

7.1.6. Outside of the concerns raised above, having had regard to the information on file, having inspected the site and its setting, I consider that the key remaining issues for this appeal relate to the following matters:

- Principle of Development
- Appropriate Assessment

7.2. Principle of Development

7.2.1. No. 7 Corraback forms part of a holiday home residential scheme which was granted planning permission under P.A. Reg. Ref. No. 01/1044. This grant of permission essentially permitted 10 substantial detached holiday homes on individual plot each served by a proprietary wastewater treatment.

7.2.2. Since this grant of permission local through to national planning provisions have substantially changed with the changes including more robust and stringent safeguards that need to be satisfied in relation to all types for rural residential development whether that be holiday homes through to permanent dwellings with such developments having to demonstrate that they satisfy more rigours planning standards and requirements on a wide variety of matters from settlement strategy through to

protecting environmental sensitive areas from inappropriate development. In many ways this has strengthened that the countryside's predominant agricultural functions and landscape areas of high amenity value within the countryside are appropriately protected and safeguarded from development that are not intrinsically linked to them.

- 7.2.3. In addition to this, having regard to the planning history of this holiday home scheme, which I have set out in Section 4.1 above, the Planning Authority has permitted, by way of planning applications, the change of use of a number of these dwellings from holiday homes to permanent residences. With regards to precedent the Board as the higher authority, I consider that it is not necessarily bound by these grants of permission and that they must consider all applications on their individual planning merits and whether or not they demonstrate that they accord with the proposed development accords with the proper planning and sustainable development of an area.
- 7.2.4. In relation to local planning provisions, I note that Policy RHP1 of the Development Plan indicates that rural generated housing needs should be accommodated in the locality in which they arise and where the applicant comes within the plans definition of need subject to satisfying good planning practice in matters of location, siting, design, access, wastewater disposal and the protection of environmentally sensitive areas and areas of high landscape value.
- 7.2.5. If one sets aside the fact that the applicants are already residing in the subject dwelling for circa 8 years as their permanent place of residence, which I acknowledge would be contrary to Condition No. 22 of the parent grant of permission P.A. Reg. Ref. No. 01/1044 and the fact that this dwelling was constructed some considerable time before it would appear that the applicants commenced residing at No. 7 Corraback.
- 7.2.6. On this point there is no evidence to suggest that in the past 8 years that the applicant has used the dwelling house as anything other than as they contend as a permanent dwelling house nor is there any evidence to suggest that prior to this that the dwelling house was used as a holiday home within the spirit of the grant of planning permission P.A. Reg. Ref. No. 01/1044 or otherwise.
- 7.2.7. The applicable Development Plan restricts rural housing to those that meets its definition of need and further having regard to the National Planning Framework, which is a more up to date planning document for consideration, similar restricts rural

housing. This is made particularly clear under National Policy Objective 19 which states to: *“ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere”*. It further indicates for areas designated as being under urban influence, which is the case for the appeal site and its setting to: *“facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural areas and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”*.

- 7.2.8. In addition, National Policy Objective 3a sets out an objective to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and it sets out that: *“it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns”*, with this being subject to site, and design considerations.
- 7.2.9. The applicants in this case has not demonstrated that they have a functional economic or social requirement for housing in this area under urban influence.
- 7.2.10. I note that Policy RHO5 of the Development Plan requires all applicants for rural houses to submit evidence of their rural generated housing need at the particular location they are seeking permission. In addition, Policy RHO2 of the Development Plan requires all rural housing applications to be accompanied by a ‘Rural Housing Application Form’. This application has not been accompanied by such a form and of further concern the Development Plan in relation to development within ‘Areas under Strong Urban Influence’ shall be restricted to landowners and their immediate family members. There is no evidence that this is the case for the applicants in this case.
- 7.2.11. In relation to this context, this appeal site as stated previously forms part of a group of ten dwellings originally permitted as holiday homes and whilst these are located at the end of a cul-de-sac road with the holiday home development accompanied by a wider access road and turning areas to serve these dwellings within this residential scheme. Notwithstanding, I observed and experienced that the local road that serves it for most of its length is not suitable to safely accommodate two way traffic with this local road

also serves a number of other dwellings and farmsteads along its meandering in horizontal and vertical alignment length. I also observed and experienced that this road is poorly surfaced and contains along most of its length grass growing in its centre. I further observed and experienced that the depth of roadside verges varies significantly from the road level and their surfaces over are overgrown. For the most part they do not accommodate any meaningful ability to pull in unless where there is an entrance present.

7.2.12. I also observed and experienced a number of vehicles using this substandard lane which in such occasions resulted in me or the other vehicle having to reverse to a field entrance which allowed for sufficient width for the two vehicles to pass one another safely. At the time of inspection, I also observed in excess of 15 cars present to the front of dwellings this associated with P.A. Reg. Ref No. 01/1044. This considering the substandard nature of the public road section of this country road is a significant level of vehicles to accommodate alongside the other road users it accommodates along its length.

7.2.13. Having regard to the substandard nature of the cul-de-sac access road serving this site as set out above I consider that this road does not have latent spare capacity to absorb additional unnecessary traffic journeys along it. I also consider that any intensification of permitted, established development as well as any future development along it, needs to be limited and carefully controlled so as to safeguard its road users from additional road traffic and safety issues that arise from developments that do not accord with development generally deemed to be permissible.

7.2.14. Whilst I am cognisant that the additional traffic this development would generate would be modest I am nonetheless of the view that even modest additional traffic generated by development that are not deemed to be generally permissible at such a location and/or that have not demonstrated that they accord with required planning provisions, have the potential to add to road conflicts between road users occurring on this substandard local road and thus would add to road safety as well as traffic hazards for those using this road. I am therefore not satisfied that the public road on which this development is dependent upon has the capacity to absorb further non-essential intensification of traffic movements along it.

- 7.2.15. The access, road safety and traffic hazard concern are such that would merit a refusal for the development sought under this application alongside it is an issue that the applicants have no control to affect positive change over.
- 7.2.16. Moreover, as safe access is one of the matters which rural residential applications in all their various guises need to demonstrate under Policy RHP 1 of the Development Plan and in this situation the additional intensification of use sought by way of this application of a substandard local road fails to accord with this local planning policy.
- 7.2.17. In relation to wastewater treatment, whilst it is indicated that the subject dwelling like other dwellings permitted under the parent grant of permission P.A. Reg. Ref. No. 01/1044 included a proprietary wastewater treatment system for each unit. This grant of permission is circa 2 decades old since permitted and it would appear that development commenced soon after it was permitted in September of 2001.
- 7.2.18. Of concern part of the appeal site area forms part of as well as adjoins a Natura 2000 site Lough Oughter & Associated Loughs SAC (Site Code: 000007), with the conservation objectives of this site being such that any pollution or contaminations arising from development on site having a direct pathway into this SAC with the potential to result in adverse impacts upon it and its conservation objectives. This matter is discussed in more detail in Section 7.3 of this report below.
- 7.2.19. What is a concern is that irrespective of the site's highly environmentally sensitive setting it is incumbent that applications like this that effectively seek to intensify the residential use of an existing structure demonstrate that it is served by appropriate on-site treatment for waste water and surface water drainage so that these are managed on site without giving rise to any prejudicial public health concerns, pollution concerns, ecological concerns or otherwise to their setting. It is also appropriate that in such a context where there is a significant number of dwellings which are served by wastewater treatments and where there is also potential for dwellings through to farming activities being served by a potable water supply from a well that information on such infrastructure within the setting of the site is provided so that a considered determination can be made.
- 7.2.20. This application has provided no details in relation to the actual waste water treatment provided on site, its efficacy, whether or not it has been appropriately maintained since installed through to whether or not it is of an age that may require upgrading or

replacement. Nor does the information on file include any details in relation to the manner in which surface water is disposed of. With the documentation simply indicating that it is disposed of to a watercourse and that there are no soak pits present on site or indeed any indication given of any treatment of surface water prior to discharge into the watercourse.

7.2.21. In addition, in terms of potable water supply it is simply stated that there is an existing connection but no further elaboration on whether this existing connection is an individual well, a group water scheme or otherwise.

7.2.22. The subject dwelling is not an insubstantial dwelling given its stated 187.76m² area and on the basis of the information provided I am not satisfied that it has been demonstrated that the development sought would not be prejudicial to public health or that it would not give rise to additional pollution concerns over and above its permitted use as a holiday home.

7.2.23. I am cognisant that it is a requirement under Development Plan policy RHP 1 that this is one of the matters rural residential developments are required to demonstrate. Moreover, this requirement is further reinforced by policy DMO19 of the Development Plan which requires all proposals to be accompanied by a Site Characterisation Form and policy DMO20 of the Development Plan which requires proposals for significant extensions will be required to ensure that effluent treatment systems are adequate to cater for any additional loading that may result from the extension.

7.2.24. Arguably the change of use to a permanent residence would result in additional loading and as such it would be reasonable that such an application be accompanied by adequate information to ensure that the development would not be prejudicial to public health or give rise to any environmental and/or ecological damage to its setting.

7.2.25. Furthermore, I raise a concern in regards to the significant proliferation of one-off dwellings in this highly sensitive to change landscape that are remote from public infrastructure services and that there is a high degree of good faith given that proprietary waste water treatment systems and the like are managed in a manner that does not give rise to public health, environmental and/or ecological adverse impacts.

7.2.26. I also observed that the ground conditions in this area to be heavy under foot with the surrounding fields containing significant presence of water loving plants, in particular rushes and reeds alongside the drainage ditches contained sitting water therein.

- 7.2.27. Having regard to the Development Management Policies for one-off rural houses as set out in the Development Plan it indicates Council will have regard to matters such as local circumstances and cites the degree to which the surrounding area has been developed and is trending towards becoming overdeveloped. The subject site forms part of a landscape that is designated as being of high landscape value and whilst I acknowledge that it relates to an existing structure that forms part of a larger group of holiday home dwellings that essentially dominate the western banks of Lough Corraback this application does not propose any alterations and/or additions that would improve or diminish its impact on this landscape setting. A setting that has in my view already been diminished by various forms of residential developments.
- 7.2.28. In relation to holiday homes I note that the Core Strategy of the Development Plan seeks to restrict the development of new holiday home developments (Note: CSP18) and under Objective DMO4 of the said Plan that these types of rural buildings will be subject to a condition limiting their use to a holiday home only. As such these types of dwellings are only permitted subject to certain conditions being satisfied with these requirements having become more robust since P.A. Reg. Ref. No. 01/1044, the parent grant of permission was permitted.
- 7.2.29. It would also appear that holiday homes are a type of development that is highly restricted as well as subject to safeguards including occupancy clauses under the Development Plan and that they form part of the tourist asset of County Cavan with tourism itself seen as an important resource to the vitality of the county's economy.
- 7.2.30. In relation to the parent grant of permission P.A. Reg. Ref. No. 01/1044 it included a condition limiting the use of the dwelling. This condition stated that: *"the holiday homes shall not be used as permanent places of residences but shall be holiday houses retained under the control and ownership of the applicant or his heirs or successors"* (Note: Condition No. 22). The stated reason given for imposing this condition was: *"in the interests of public health and amenity"*.
- 7.2.31. The proposed development sought under this application in my view contravenes this condition and fails to demonstrate the requirements for permanent places of residences at this locality which I have set out above. Moreover, having regard concerns raised by the appellant in these case there is merit in the concern that to permit the development sought, particularly against a context which it appears that the

applicants have no demonstrable economic and/or social need for a permanent residence at this locality and where the development relates to an unauthorised use of a holiday home for permanent residential use has the potential to give rise to an inappropriate precedent whereby holiday homes are a mechanism to get over the settlement strategy for dwelling houses in areas like this where there is a proliferation of one-off dwellings, where there is a significant pressure for urban generated housing and where the landscape is highly vulnerable to change.

7.2.32. Taking the above into account I consider that the principle of the development sought under this application is not acceptable and, if permitted, would be contrary to the proper planning and sustainable development of the area.

7.3. Appropriate Assessment

7.3.1. Part of this appeal site forms part of Lough Oughter & Associated Loughs Special Area of Conservation (Site Code: 000007) with the remainder of the site adjoining this SAC.

7.3.2. The said SAC extends to encompass the shoreline and the immediate banks of Lough Corraback as well as the entirety of the lough itself. Albeit this application relates to an existing dwelling house which having regard to its planning history was constructed with its own proprietary wastewater treatment system, there is little information on file on what works were actually carried out on foot of this grant of planning permission and that the existing proprietary waste water treatment system together with any surface water disposal on site is of an appropriate standard for the type of development sought.

7.3.3. The publicly available site synopsis for Lough Oughter and Associated Loughs SAC indicates that much of its landscape is consists of lowland drumlin belt in north and central Cavan between Upper Lough Erne, Killeshandra and Cavan town. The area is described as a maze of waterways, islands, small lakes, and peninsulas including some 90 inter drumlin lakes and 14 basins in the course of the Erne River.

7.3.4. It further indicates that the associated area lies on Silurian and Ordovician strata with Carboniferous limestone immediately surrounding and that it is a site of Special Area of Conservation selected for containing the following habitats: Natural Eutrophic Lakes (Natura Code: 3150) and Bog Woodland (Natura Code: 91D0) and the following species Otter (*Lutra lutra*) (Natura Code 1355).

- 7.3.5. The conservation objective for this SAC is given as follows: *“to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected”*.
- 7.3.6. The site itself immediately bounds Corraback Lough and the south easternmost corner of the site forms part of the area delineated as forming part of the aforementioned SAC.
- 7.3.7. Upon examination of the site and its setting it is clear that it forms part of the natural eutrophic lake at this location. I found no evidence of Otters, but I did observe a number of water loving wild bird species present, including Swans.
- 7.3.8. Further, the Development Plan under Section 10.14.6 acknowledges the role Planning Authorities play in ensuring that development proposals which are likely to have a significant effect on a Natura 2000 site will be subject to an Appropriate Assessment of its implications for the area and that applicants may be requested to prepare a Natura Impact Statement as part of their planning application to assist in the making of an Appropriate Assessment determination. To this effective Development Plan objective DMO12 indicates that applications that are likely to have a significant effect on a Natura 2000 site either directly or indirectly be subject to an Appropriate Assessment in accordance with Article 6 of the ‘Habitats Directive’.
- 7.3.9. I also note that the site is also a Ramsar Convention site and that the site is on lower ground levels to the lands to the west which has been developed as part of the holiday home scheme alongside the Woodford River also located c326m to the west at its nearest point.
- 7.3.10. I am not satisfied that there is adequate scientific information upon which to determine the likelihood of effects or not on Special Area of Conservation Lough Oughter & Associated Loughs SAC or indeed any other Natura 2000 site either directly or indirectly, should the change of use of this holiday home to a permanent residence be permitted. Insofar as the developments impact on the particular Natural Habitat Types listed in Annex I of the EU Habitats Directive (Council Directive 92/43/EEC and affect Species listed in Annex II of the said Directive, which this SAC site hosts.
- 7.3.11. I also consider:
- 1) That there is a requirement for this type of application, under Policy RHP 1 of the Development Plan, to satisfy good planning practice in the protection of

environmentally sensitive area. No information demonstrating compliance with this policy has been provided with this application.

- 2) There are no documentations provided with this application to allay any fears that the waste water treatment system and the surface water drainage on site is fit for purpose and meets the current required standards for this type of development at this environmentally sensitive to change.
- 3) Should any wastewater treatment system failure occur or should any mismanagement of the wastewater treatment system as well as disposal of surface water drainage there is a direct pathway for contaminants and pollutants to enter into the SAC the site forms part of. Thus, in such a situation there is a significant potential for adverse impacts to arise on the SAC in terms of its conservation objectives.
- 4) Any works to the waste water treatment, surface water drainage through to any forms of ground works at this site including improvement works due to the site forming part of the SAC with a direct pathway existing has the potential to give rise to pollutants and contaminants to enter into the SAC. In such circumstances there is a real potential for significant adverse effects to arise to the SAC.

7.3.12. Having regard to the above, it is clear that there is direct connection between the site and the above-mentioned SAC which is a significant cause of concern for any development application thereon. Applications that are likely to have significant effect on Natura sites either directly or indirectly under objective DMO12 of the Development Plan are subject to AA. The applicant has not demonstrated compliance with this Development Plan objective.

7.3.13. If the Board are minded to grant permission for the change of use proposed under this application, I would strongly recommend that before doing so it first seeks further information from the applicants on the treatment of effluent and drainage measures on the site; clarity on the prevalence of wastewater treatment systems through to locations of any private wells in the vicinity of the site; and, crucially that this information is accompanied by an Appropriate Assessment, prepared by a suitably qualified expert, that demonstrates the factual effect of the development sought under this application individually or in combination with other plans or projects on European Site (and Sites).

7.3.14. In this appeal case I consider that there is no satisfactory and robust assurance provided that the development sought under this application would not adversely significantly effect individually or in combination with any other plans or projects on the aforementioned SAC or any other Natura 2000 sites. I am therefore of the view that the Board is precluded from granting planning permission for the development sought under this application as in the absence of such details and assurances no adequate screening determination can be made that it would not significantly effect individually or in combination with other plans or projects on the said SAC or indeed any other European Sites. Moreover, I consider to permit the development sought in the absence of the demonstrating compliance with Policy RHP 1 and Objective DMO12 of the Development Plan would be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

8.1. I recommend that outline permission be **refused** for the reasons and considerations set out below. The Board may consider that the reasons and considerations relating to unauthorised use, traffic hazard and materially contravene Condition No. 22 of the parent grant of planning permission to be new issues in the consideration of this appeal case.

9.0 Reasons and Considerations

1. On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the development sought relates to a use of which is unauthorised for the carrying on of the structures use as a permanent residence and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.
2. On the basis of the information provided with the application and as part of the appeal, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the designated Special Area of Conservation Lough Oughter

& Associated Loughs SAC (Site Code: 000007), or any other European site, in view of their Conservation Objectives. It is therefore considered that the level of information lodged with the application is inadequate in relation to baseline ecological conditions at the site and in its immediate surrounding context and as such an appropriate assessment screening cannot be undertaken. In these circumstances the Board is precluded from considering a grant of planning permission. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. Having regard to the proliferation of one-off housing in this highly sensitive rural location, the location of the site within an area designated as an area under Urban Influence in Cavan County Development Plan, 2014 to 2020, through to the National Policy Objectives of the National Planning Framework, which seek to manage the growth of areas that are under such influence to avoid over-development and to ensure that the provision of housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that neither applicants come within the scope of the housing need criteria as set out in the relevant local through to national planning policy provisions.

The proposed development, in the absence of any identified locally based economic through to social need for a permanent dwelling house at this location, would contribute to the encroachment and proliferation of random such developments in an area of high landscape value and ecological as well as environmental vulnerability open countryside where there is a significant proliferation of such building types and it would militate against the preservation of the rural environment through to the efficient and sustainable provision of public services and infrastructure.

The proposed development would, thus, be contrary to the policies set out in the National Planning Framework and the Development Plan for this type of development, in particular National Policy Objective 19 of the National Planning Framework which seeks to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area and

would also be contrary to Development Plan policies including but not limited to RHP 1 which requires applications to demonstrate and satisfy good planning practices including in terms of providing safe access, suitable disposal on-site of effluent, no adverse environmental or public health implications. To permit the proposed development would be contrary to the proper planning and sustainable development of the area.

4. The proposed development would, by reason of the change of use sought contravene materially a condition attached to an existing permission for development namely, condition number 22 attached to the permission granted by Cavan County Council on the 7th day of September, 2001 under planning register reference number 01/1044.

Patricia-Marie Young
Planning Inspector

2nd day of December, 2020.