



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310698-21

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<b>Development</b>	Construction of 8 no. fully serviced houses.
<b>Location</b>	Rocklands, Drumalee, Co. Cavan.
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	21213
<b>Applicant(s)</b>	Buffdale Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Eugene Carter.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> September 2021.
<b>Inspector</b>	Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. The site has a stated area of 0.76ha and is located within the Rocklands estate, Drumalee, north-east of Cavan Town. The site is located to the rear (south) of existing housing within the estate, to the rear of 1 and 2 Primrose Hill. Rocklands is a contemporary estate of low-density semi-detached and detached housing.
- 1.2. The site has a severe west-east incline and is itself elevated above adjoining land/property to the east. It has undergone groundworks in the past and appears to have been used as a construction compound. At the time of my inspection the site contained a hardcore base in the area of the access. It is enclosed currently by heras fencing.
- 1.3. The site is bound by a mix of hedgerows and trees along the east, south and west site boundaries. The shared boundary with 1 Primrose Hill is defined by a domestic hedge which marks the rear boundary of the adjacent property.

## **2.0 Proposed Development**

- 2.1. The development entailed within the public notices comprised the construction of 8 houses (2 No. 2-bed bungalows, 4 No. 4-bed semi-detached houses and 2 No. 4-bed detached houses) all with optional habitable attic accommodation and including associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission on 3<sup>rd</sup> June 2021, subject to 16 no. conditions.
  - Condition No. 6 required the developer to submit and agree traffic calming measures at the junction with the proposed service road and the existing estate road.

- Condition No. 7 required that the boundary treatment along the east boundary of the site abutting the Rocklands housing estate should be submitted and agreed prior to the commencement of development.
- Condition No. 9 required that no gate, gateway, railing, fence or wall shall be permitted within or bounding the front curtilage of a house.

### **3.2. Planning Authority Reports**

3.2.1. A planning report dated 2<sup>nd</sup> June 2021 has been provided. The report outlined that the development was acceptable in principle and that the proposed layout would not have any negative impact on adjacent housing with reference to loss of privacy, overshadowing and residential amenity. In respect of traffic/pedestrian safety, the report recommended that traffic calming measures should be incorporated, to ensure that traffic from the site would not be impacted by cars travelling down the hill on the existing estate road. The report also acknowledged the presence of overhead lines within the site and recommended that the ESB should be consulted, with a view to moving or undergrounding the lines. The development was considered to successfully integrate with surrounding landforms, creating a positive relationship with surrounding built form and providing a quality streetscape. The report recommended that permission be granted, subject to 16 no. conditions, which reflect those attached to the Planning Authority's decision.

#### **3.2.2. Other Technical Reports**

The planning report outlines that the Municipal District Engineer was consulted, but did not provide any comments on the application.

### **3.3. Prescribed Bodies**

3.3.1. Irish Water made a submission on 30<sup>th</sup> April 2020, requesting that the applicant should submit a pre-connection enquiry, to determine the feasibility of connection to the public potable and foul water networks.

### 3.4. Third Party Observations

3.4.1. A number of third party observations were received, the issues raised within which can be summarised as follows: -

- The development was considered likely to impede views and restrict sunlight levels at adjacent houses.
- The development was considered likely to result in a road safety hazard for children playing in the area beside the site access.
- The development was considered likely to result in a road safety due to the site entrance being located on a bad corner, where accidents have happened.
- The development was considered likely to create noise nuisances.
- The capacity of the foul drainage system to accommodate the development was questioned.
- The adequacy of site notice display was questioned and it was queried whether works had started prior to a grant of permission for the development.
- The stability of the ground in the area was questioned.
- One observer requested that overhead ESB lines within their property, which serve the Rocklands development, should be undergrounded
- A signed petition was also provided as part of one of the submissions.

## 4.0 Planning History

08954 - Permission granted on 27th January 2009 for 5 no. fully serviced part single/ part 2 storey split level dwellings with attached domestic garage, formation of service road, connection to watermain, foul and surface water sewers and all ancillary site works.

06168 - Permission granted on 1st September 2006 for 2 no. fully serviced 4 storey apartment blocks containing 23 no. 2 & 3 bedroom units, development to include access off existing service road, service road, on site car parking connections to existing foul and surface water sewers, watermain and all ancillary siteworks

04865 - Outline permission refused on 7<sup>th</sup> December 2004 for 2 no. terraced blocks of 2 storey townhouses over lower level apartment units with a total of 12 townhouses and 12 apartments connection to foul and surface water sewer & watermain, service road, parking facilities & all ancillary works

981099 – Permission granted on 29<sup>th</sup> January 1999 for a development 60 No. houses. Outline permission granted for 4 No. houses. this is the original grant of permission for the Rocklands estate.

## 5.0 Policy Context

### 5.1. Ministerial Guidelines

#### Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

5.1.1. The Guidelines set out key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas.

5.1.2. In relation to infill sites, Section 5.9 advises that such sites can range from small gap sites to unused or derelict land and backland areas, up to larger residual sites or assembled sites from multiple owners. For proposed developments on such lands, the Guidelines state: -

*‘In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill...The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.’*

### 5.2. National Planning Framework

5.2.1. The National Planning Framework provides an overarching policy and planning framework for the social, economic and cultural development of the country. The NPF sets out 75 no. National Policy Objectives including the following:

NPO 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

NPO11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

### **5.3. Cavan County Development Plan 2014-2020**

5.3.1. Cavan Town, which includes the townland of Drumalee, is identified as a Tier 1 settlement under the county development plan and is described as being '*of strategic importance within the Border Region and has excellent transport linkages nationally, regionally and locally.*' The Core Strategy table allocates a substantial portion of the County's planned growth to Cavan Town.

5.3.2. The development plan identifies that the Cavan Town & Environs Development Plan provides greater details and specific policies and objectives for the town.

### **5.4. Cavan Town and Environs Development Plan**

5.4.1. Land-use zonings for Cavan Town and its Environs are contained within the Cavan Town and Environs Development Plan 2014-2020, as varied. The site is primarily zoned 'Residential Phase 2', with an objective '*To provide for residential development and to protect and improve residential amenity. All Residential (Phase 1 and 2) zoned land within the plan is subject to the provisions of the Urban Regeneration and Housing Act 2015 with respect to the application of the Vacant Site Levy for residential purposes where appropriate.*' The access to the site falls within the 'Existing Residential' zoning, with an objective '*To protect and improve existing residential amenity.*'

5.4.2. Brownfield/infill sites are discussed at Section 2.4, which states: -

*'where these or other suitable infill sites exist in close proximity to the town core/centre area, the opportunity for their redevelopment shall be promoted. Inner suburban/infill sites can revitalise areas by utilising the capacity of existing social and physical infrastructure.'*

5.4.3. In respect of Phase 2 lands, Section 2.5.3 (as varied) states: -

*'Phase 2 lands are located a further distance from the town core and thus not as easily accessible to the town core services and sustainable transport modes. Further investment in some Phase 2 sites may be required to fully integrate these sites into the town. Some of these sites may require infrastructure upgrade however many are suitable for development or are extensions to already developed housing developments. The development of Phase 2 lands will be subject to a Justification Test and strict criteria in relation to suitability for housing development and as such will be considered on a case by case basis.'*

5.4.4. Relevant policies include: -

CSP1: To encourage and promote residential development of existing Brownfield and infill sites located in Town Core and Phase 1 and 2 zoned lands of the Phasing Map. The Council will implement the provisions of the Urban Regeneration and Housing Act 2015 which includes where appropriate the Vacant Site Levy in facilitating and encouraging the development and renewal designated vacant sites as provided for in the 2015 Act.

CSP2: To permit residential development on Town Core and Phase 1 and 2 lands only during the plan period, subject to compliance with the Cavan Town and Environs Development Plan Core Strategy. Grants of permission on Phase 1 and 2 lands shall be closely monitored by the Planning Authority to ensure compliance with the Core Strategy Only on completion\* of 70% of lands included in Phase 1 and Phase 2 shall subsequent phasing be considered for additional development. In such circumstances proposals shall be accompanied with a Justification Test/Sequential Test consistent with that required for Phase 2.

Policy CSP2A: New developments on Phase 2 lands shall be accompanied by a detailed site section rationale. The feasibility of the development of all Phase 1 lands shall be detailed and new proposals shall only be considered when

the rationale has proven how the proposed site contributes to the organic growth of Cavan Town and a satisfactory sequential test/justification test. The rationale shall assess and detail how the proposal

1. Avails of services and infrastructure – sustainable transport, services and proximity to town centre.
2. Contributes to the population allocation as set out in the Core Strategy
3. Results in potential for the economic and social development of Cavan Town
4. Complies with the principle of a Sequential Test
5. Integrates with the existing and future development of the lands and those in the vicinity of the site
6. Contributes to choice of housing type.
7. Contributes to the proper planning and sustainable development of Cavan Town, is in the interests of residential amenities and good design practice.
8. Demonstrates that the provision of development on the lands does not compromise the ability of the wider area of zoned land to be developed in the future.

5.4.5. Chapter 9 provides development management standards to guide and control proposed developments, including new housing proposals.

## **5.5. Natural Heritage Designations**

5.5.1. The subject site is not located within or adjacent to any designated European Site. The Lough Oughter and Associated Loughs SAC (Site Code 000007) is approx. 3.5km west.

## **5.6. EIA Screening**

5.6.1. The proposed development falls within the categories of '*Infrastructural Projects*', under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

*10(b) (i) Construction of more than 500 dwelling units.*

*(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

- 5.6.2. The subject development a development of 8 houses, on a site with a stated area of 0.762ha. The proposed development falls well below the development threshold and mandatory EIA is therefore not required.
- 5.6.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a smallscale, low density residential development on serviced lands, which are physically and functionally connected to an existing housing development, will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on the Lough Oughter and Associated Loughs SAC (as discussed in Section 7 of my Report). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water supply and would connect to the public foul and surface water drainage networks within the Rocklands estate, which have been justified by site-specific investigations.
- 5.6.4. Having regard to: -
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
  - The location of the site on lands that are within the development boundary of Lordship, as identified by the county development plan,
  - The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to mitigate the impact of the development on any such site,
  - The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary (See Preliminary Examination EIAR Screening Form).

## **6.0 The Appeal**

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

6.1.1. The grounds of appeal can be summarised as follows: -

- The development will block views from the appellants home, will reduce sunlight levels and will impact on the value of their home.
- The proposed site access is too small and is unsuitable for heavy machinery.
- The development will result in noise nuisances for nearby residents.
- The development will result in safety risks for children who play in the area where the proposed site access is. Pictures are provided, which demonstrate the nature of the problem.
- There is only 1 point of access to the estate and there are delays and traffic build-ups on workday mornings. The development will further affect traffic.
- A petition signed by approx. 80 residents is provided as a further objection to the development. Residents are not represented by the residents' association in this instance.
- There is an overhead powerline and transformer and ESB pole in a non-estate resident's garden, which powers the Rocklands estate currently. It is not clear whether this will be moved underground and the matter has not been concluded by the Planning Authority.
- There are current issues with sewerage infrastructure within the estate.

- It is understood that the developer has already sold 3 of the proposed houses. It is questioned how this could happen in advance of permission being granted for the development.
- The existing estate has unfinished roads, footpaths, etc and has not been taken in charge by the County Council. These issues should be rectified.
- The Planning Authority did not adequately consider the issues raised by the appellant in their submission on the application.

## 6.2. Applicant Response

6.2.1. A submission was received on 23<sup>rd</sup> July 2021, prepared on behalf of the applicant by Wynne Gormley and Gilsenan Architects and Surveyors, the contents of which can be summarised as follows: -

- The development is more than 200m from the appellant's home. Concerns regarding sunlight and views are unfounded.
- The level of traffic generated by the development is self-explanatory.
- Adequate open space and playing areas have been provided for children in the estate
- The taking-in-charge process is at an advanced stage and there has been no issue with the sewerage system.
- The proposed development will complete the build-out of the developer's landholding within the estate.
- Allegations regarding the sale of a home within the estate are refuted. A letter has been provided, to this effect.
- The issue of overhead cables has been discussed with the adjacent home owner and undergrounding will take place as part of the development.
- The need for new housing is well-documented.
- The development accords with development plan requirements.
- The appeal is considered to be vexatious. The Board is requested to grant permission.

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

6.3.1. A submission was received on 26<sup>th</sup> July 2021, the contents of which can be summarised as follows: -

- The development is on an infill site and which is constrained by topography and adjacent residential development.
- The development is a low-density, high-quality development, which will not have a negative impact on the adjacent properties.
- The Planning Report has considered the objector's concerns in the assessment of the application.
- The Board is requested to uphold the Planning Authority's decision.

### **6.4. Observations**

6.4.1. None received.

### **6.5. Further Responses**

6.5.1. None.

## **7.0 Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of development;
- Proposed Layout and site levels;
- Access;
- Residential amenity;
- Drainage;
- Other issues;
- Appropriate Assessment.

## 7.2. Principle of Development

- 7.2.1. Variation No. 1 of the town & environs development plan amended the Planning Authority's approach to the delivery of housing within the town. Section 2.4 now states that opportunities to develop brownfield/infill site will be promoted, whilst Policy CSP1 seeks '*To encourage and promote residential development of existing Brownfield and infill sites located in Town Core and Phase 1 and 2 zoned lands of the Phasing Map.*'
- 7.2.2. The site is a brownfield/infill site, which is functionally connected to the Rocklands estate, and its development is supported by Policy CSP1. The development plan's approach to brownfield Phase 1 and 2 sites is consistent with the thrust of NPO11 of the NPF, which states that there will be a presumption in favour of development that can encourage more people and activity within existing cities, towns and villages and, in this context, I consider the proposed development is acceptable in principle.

## 7.3. Proposed Layout and Site Levels

- 7.3.1. There is a severe incline within the site, which affects the layout. The site survey drawing outlines existing topographical details for the site and identifies that site levels rise by up to 15m from the north-west of the site, to the south-east.
- 7.3.2. The proposed development involves excavation of the lower part of the site (where houses are located) but even still, there are differences in proposed finished floor levels. House Nos. 1 and 2 have finished floor levels 4.7m below that of house No. 8 and there are incremental rises in FFL of more than 1m between the semi-detached and detached buildings. A 'sloping embankment' is to be retained to the rear (east) of the plots and the site survey drawing identifies a rise in ground levels of c.3.4m over its length.
- 7.3.3. I have given consideration to the topographical layout of the site and the proposed finished floor levels and I am concerned that the practical implication of such significant FFL differences between houses is that tall boundary treatments (including retaining walls) are required in a number of instances. The landscape and boundary treatment drawing identifies that a retaining wall will be provided between houses 2 and 3 and 4 and 5, but the proposed height is not stated. The landscape and boundary drawing also identifies that in both of these instances, the retaining wall extends forward of the front plane of the affected dwelling, so they will also be

noticeable additions in public views. No contiguous elevation drawing has been provided, to depict the appearance of these structures in the streetscene setting.

7.3.4. I am concerned that particularly in the case of house No. 2, the retaining wall is likely to be of the order of 3.7/3.9m high and it will be an imposing feature in the view from the rear of the house, affecting the amenity of residents. However, taking a balanced view of the situation, in view of the zoned nature of the site and its context, I do not consider the issue would justify a refusal of permission in this instance. The Board may wish to consider this as a new issue in its consideration of the appeal.

#### 7.4. **Access**

7.4.1. The appellant raises a number of concerns regarding access to the site and the impact of additional traffic more generally.

7.4.2. The Planning Authority did not express any concerns regarding access to the site, subject to the incorporation of traffic calming measures and to this end, condition No. 6 was attached to the Planning Authority's decision notice.

7.4.3. I consider the proposed access layout is acceptable, incorporating adequate visibility. Details of road markings in the area of the access are not identified on the site layout drawing but I am satisfied that these details can be resolved by condition.

7.4.4. The internal carriageway width of 6m is excessive and is inconsistent with advice provided by DMURS, which advises that a 6m wide carriageway is '*generally too wide for local streets*'<sup>1</sup>. For a development of this scale, I consider a carriageway width of 5m is adequate. This can be resolved by condition.

7.4.5. Regarding concerns over safety more generally, I noted on my visit to the site that the area of the site access does not comprise formal open space and there is no footpath route past the site access. Subject to provision of an access and carriageway layout which incorporates DMURS principles, I do not consider the development would give rise to any road or pedestrian safety risks.

7.4.6. Parking spaces are provided as in-curtilage, to the front of each of the proposed houses

#### 7.5. **Residential Amenity**

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<sup>1</sup> Design Manual for Urban Roads and Streets, Section 4.4.9 'On-Street Parking and Loading', Page 121.

### *Proposed houses*

7.5.1. Houses are provided in the following mix: -

- 2 x 2-bed bungalows (which are shown to have the option of attic accommodation)
- 6 x 4-bed, 2-storey houses (4 of which are shown to have the option of attic accommodation)

7.5.2. The town & environs development plan does not outline any minimum requirements for new housing. In this circumstance, I note that Objective HO2 of the county development plan requires new housing proposals to comply with the *Quality Housing for Sustainable Communities* guidelines. I have given consideration to the overall size and layout of proposed houses, in the context of these guidelines, and each of the houses accords with the target space provision and room sizes, save for the level of storage space within house-type B. In view of the fact that these houses exceed the minimum overall size target, I am satisfied that the issue can be resolved by condition.

7.5.3. Regarding private open space, section 9.1.6 of the development plan states that private open space should be provided behind the building line, in accordance with the Urban Design Manual. Rear gardens with a minimum depth of 10m are provided to each house and whilst overall areas are not stated, I consider they are adequately sized to serve the development. I note that the site survey drawing indicates that the gardens would be gently graded, so they are also likely to be usable spaces.

7.5.4. Section 9.1.7 of the development plan states that for brownfield sites, a minimum 10% of the site shall be provided as public open space. The development incorporates an open space area between house Nos. 6 and 7. The area of this space is unstated. The identified area is shown to incorporate a section of the sloping embankment, so its practical usable area will be small. Nevertheless, I consider the proposed open space is acceptable, in view of the small scale of development and the availability of other open spaces within the Rocklands complex. The landscaping drawing identifies additional open space adjacent to the west site boundary but I consider this is incidental, left-over space rather than usable public open space. Should the Board be minded to grant permission, I would recommend

that a condition be attached requiring the layout (including gradient) be agreed with the Planning Authority.

*Adjacent housing*

- 7.5.5. Concerns have been expressed by the appellant that the development will block views and will reduce sunlight levels within their home. The appellant's stated address is 7 Waterfern Avenue, Rocklands.
- 7.5.6. I do not consider that issues of overshadowing or overbearing would arise for neighbouring properties, given the nature of the proposed layout, which sites bungalow houses closest to the adjacent housing and with 2-storey housing set further away.
- 7.5.7. Some restricted overlooking of north-adjoining gardens may be available but I consider it would no greater than existing overlooking of these gardens from other houses which are elevated about these houses and which have front-facing windows directly overlooking the adjacent rear gardens.
- 7.5.8. Regarding impacts on sunlight levels within adjacent houses, I do not consider the development would have any significant or undue impact, given the previously discussed nature of the layout. House No. 1, a bungalow, is located closest to the shared boundary with the north-adjoining housing and it is set off its north site boundary by 4.1m and is set back from the adjoining house by approx. 12m. Section 3.3.7 of *Site Layout Planning for Daylight and Sunlight* (BRE, 2011) recommends that at least 50% of an affected garden should receive at least 2 hours of sunlight on 21<sup>st</sup> March and, whilst the applicant has not confirmed that this recommendation has been observed, I am satisfied that the adjacent garden would receive adequate sunlight in accordance with the BRE recommendation.
- 7.5.9. Regarding concerns over the impact of the development on views, I consider that, whilst the proposed housing will be a noticeable addition in a number of views, it would not have an undue or unacceptable effect on existing views. I would also note, in this respect, that there are no identified protected views within the estate and the immediately surrounding landscape is not designated. I consider it would be unjustified to refuse the proposed development on the grounds of impact on existing views.

## 7.6. Drainage

### *Foul water*

- 7.6.1. The appellant states that there are issues with sewerage infrastructure within the estate.
- 7.6.2. The applicant proposes to connect to the existing foul network, adjacent to the site access and states that there has been no issue with the sewerage system.
- 7.6.3. Irish Water's submission on the application requested that a pre-connection enquiry should be submitted to determine the feasibility of connection to the public network. I note that the applicant provided an undated copy of the pre-connection enquiry in respect of the development as part of the application. I am cognisant that Irish Water did not object to the development and there is nothing within the appeal documents to suggest that a connection to the public network cannot be provided. In view of these considerations, I consider it would be unjustified to refuse permission on the basis of foul water capacity.
- 7.6.4. Regarding the claim that there are issues with sewerage infrastructure within the estate, I have nothing before me to substantiate the claim and I note that the Planning Authority has not expressed any concern in relation to the existing network.
- 7.6.5. Surface water is proposed to be drained via attenuated discharge and, to this end, an attenuation tank is proposed to be located under the internal carriageway, adjacent to house No. 1. Surface water drainage calculations have also been provided within the application documents, which demonstrate the requirement for an attenuation tank of the proposed size. I consider surface water drainage proposals are acceptable.

## 7.7. Other Issues

- 7.7.1. The applicant states that the development will result in noise nuisances for nearby residents. Whilst some temporary noise is inevitable at the construction phase, I do not consider that it would have any undue impact on adjacent residential occupiers. There are standard conditions attached to Board Orders to control (a) hours of construction and (b) noise levels during construction and I consider that both standard conditions provide adequate control over noise.

- 7.7.2. The appellant also states that the existing estate remains unfinished, has not been taken-in-charge by the Council and seeks to have unfinished aspects completed. In response, the applicant states that a taking-in-charge application is at an advanced stage. The Planning Authority did not express any concern in relation to the condition of the existing estate. In my opinion issues with the finished elements of the existing estate, which will be resolved through the taking-in-charge process, would not be a justifiable reason to object to the development.
- 7.7.3. Regarding claims that a number of the proposed houses have been sold off the plans, this is not a material planning consideration for this appeal, in my view.
- 7.7.4. Regarding the issue of the provision of an overhead line, transformer and ESB pole within the garden of an adjacent residential property, whilst I do not consider this to be a material planning consideration for this appeal, I note in any case that the applicant states that the issue has been discussed with the adjacent homeowner and undergrounding will take place as part of the development.
- 7.7.5. Regarding concerns over the devaluation of property, I have assessed the merits of the proposal and do not consider the development would give rise to any unacceptable overlooking, overshadowing or overbearing impacts. I therefore see no basis for concerns regarding devaluation of property.

## 7.8. **Appropriate Assessment**

### Appropriate Assessment Screening

#### *Compliance with Article 6(3) of the Habitats Directive*

- 7.8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### *Background on the Application*

- 7.8.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

#### *Screening for Appropriate Assessment- Test of likely significant effects*

7.8.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.8.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

*Brief description of the development*

7.8.5. The development is summarised at Section 2 of this Report. In summary, permission is sought for the construction of 8 houses (2 No. 2-bed bungalows, 4 No. 4-bed semi-detached houses and 2 No. 4-bed detached houses) all with optional habitable attic accommodation and including associated site works. The site has a stated area of 0.76ha and it consists of a plot situated to the rear of houses within the Rocklands estate, which has been the subject of groundworks in the past. The site is served by the public water and foul and surface water networks. Foul and surface drainage are proposed to drain to the public networks.

*Submissions and Observations*

7.8.6. The submissions from the applicant and the Planning Authority are summarised as Section 6 of this Report.

*European Sites*

7.8.7. The development site is not located in or immediately adjacent to a European site. The closest European site is Lough Oughter and Associated Loughs SAC (Site Code 000007) is approx. 3.5km west. A summary of the SAC is outlined below.

<b>European Site (code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>
Lough Oughter and Associated Lough SAC (Site Code 000007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation, Bog woodland, Otter.	c. 3.5km	None

### *Consideration of potential significant effects*

7.8.8. There is no hydrological connection between the subject site and the European site. Taking this into consideration, together with the separation distance between the sites and the smallscale nature of the development, I do not consider there is any potential for likely significant effects on qualifying interests within the SAC.

### *Screening Determination*

7.8.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 000007, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.8.10. This determination is based on the following:

- The absence of any identified hydrological connections between the subject site and the European sites.
- The smallscale nature of the development, which does not require specialist construction methods, and the level of separation between the sites.

## **8.0 Recommendation**

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the 'Existing Residential' and 'Residential Phase 2' zonings which applies to the site under the Cavan Town and Environs Development Plan 2014-2020 as varied, under which residential development is permissible, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would represent an appropriate form of development, which

would not seriously injure the amenities of the area or the amenities of property in the vicinity and which would not result in any road safety or traffic hazard. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The internal carriageway within the site shall have a maximum width of 5m and shall incorporate <i>Design Manual for Urban Roads and Streets</i> placemaking principles.</p> <p>Prior to the commencement of development revised drawings shall be submitted which reflect these amendments, for the agreement of the Planning Authority.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development.</p>
3.	<p>Houses shall be provided with dedicated storage space in accordance with the recommendations of the <i>Quality Housing for Sustainable Communities</i> guidelines.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
4.	<p>The access to the site from the Rocklands estate shall comply with the requirements of the planning authority, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interests of road and pedestrian safety.</p>

5.	<p>Details of proposed landscaping and boundary treatments, including details of gradient within each rear garden and the public open space, shall be agreed with the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to protect residential amenity</p>
6.	<p>Public open space shall be provided and laid out in accordance with the Planning Authority's requirements, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
7.	<p>Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p><b>Reason:</b> In the interests of orderly development and the visual amenities of the area.</p>
9.	<p>Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>

10.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.</p> <p><b>Reason:</b> In the interest of public health and orderly development.</p>
11.	<p>The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the proposed development shall be provided with electrical connections, to allow for the future provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of the design of, and signage for, the electrical charging points (where they are not in the areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of suitable transportation.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended construction practice, noise management measures, parking proposals for construction workers on the site and storage of materials and waste within the site.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<p>During the construction and demolition phases the proposed development shall comply with British Standard 5228 Noise Control on Construction and</p>

	<p>open sites Part 1, Code of practice for basic information and procedures for noise control.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase of the development.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
16.	<p>Prior to commencement of development, the developer 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 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.</p> <p><b>Reason:</b> 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</p>
17.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an in interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p>

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

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Barry O'Donnell  
 Planning Inspector

12<sup>th</sup> October 2021.