



An
Bord
Pleanála

Inspector's Report ABP-317385-23

Development	Construction of 17 no. residential units in 3 no. three-storey blocks, site entrance, car park, bin and bicycle stores, connections to foul and surface water sewers, and all associated works.
Location	Farnham Road, Drumnavanagh, Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	22/533
Applicant(s)	Vogue Homes
Type of Application	Permission
Planning Authority Decision	Grant, subject to 25 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Sheelin & McCabe Planning Services Ltd
Observer(s)	Declan & Ann Breslin

Date of Site Inspection

12th September 2023

Inspector

Hugh D. Morrison.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development.....	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
4.0 Planning History	6
5.0 Policy and Context.....	7
5.1. National Policy.....	7
5.2. Development Plan.....	7
5.3. Natural Heritage Designations	8
5.4. EIA Screening.....	8
6.0 The Appeal.....	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	11
6.3. Planning Authority Response	15
6.4. Observations.....	15
6.5. Further Responses.....	16
7.0 Assessment.....	16
8.0 Recommendation.....	27
9.0 Reasons and Considerations.....	27
EIA Preliminary Examination	31

1.0 Site Location and Description

- 1.1. The site is located 1km to the north north-west of Cavan town centre. It lies within a residential area on the outskirts of the town. This site is accessed off the R198, which bounds it to the north-east. On the nearside of the regional road, the site is accompanied by existing three and four-storey apartment blocks and a detached two-storey dwelling house in its own grounds. On the far side, there is a residential estate of two-storey semi-detached dwelling houses, and a recently constructed estate of single storey modular dwelling houses.
- 1.2. The site is of regular shape, and it extends over an area of 0.37 hectares. This site is the subject of slopes, which rise from the east to the west, initially at gentle gradients and, thereafter, at steeper ones. The site is accessed from the R198 by means of an agricultural gate in its northernmost corner. A hedgerow lined with tall deciduous trees runs along its roadside boundary. Elsewhere, the site, which is vacant and unused, is extensively overgrown with trees and bushes. Hedgerows also denote its north-western boundary with the grounds of the detached two-storey dwelling house, and its south-eastern boundary with the site of the four-storey apartment blocks. The remaining south-western boundary is not enclosed, although it coincides with an overhead ESB line.

2.0 Proposed Development

- 2.1. The proposal would entail the construction of 3 no. three-storey blocks, which collectively would provide 17 no. “own door” residential units, i.e., 7 no. one-bed apartments, 7 no. two-bed duplexes, and 3 no. two-bed apartments. These blocks would be sited around a short cul-de-sac with a hammer head. The existing site access would be closed in favour of one that is more centrally placed on the site’s road frontage.
- 2.2. Blocks A and C would be sited on either side of the initial portion of the cul-de-sac, and Block B would be sited at the back of the hammer head. (Due to the topography of the site, Block B would entail some remodelling of the steeper slopes in the south-western portion of the site and the introduction of retaining measures). These Blocks would afford the following accommodation:

- Block A: 3 no. one-bed ground floor apartments and 3 no. two-bed duplexes,
- Block B: 4 no. one-bed ground floor apartments and 4 no. two-bed duplexes, and
- Block C: 3 no. two-bed apartments.

2.3. The ground floor residential units would be served by garden areas, and the upper floor ones would be served by balconies contained within the profile of each block. Collectively these units would also be served by areas of communal open space, which would be laid out adjacent to the hammer head and beside the proposed bin and bicycle sheds.

2.4. The proposed residential units would be accompanied by 21 no. car parking spaces, which would be laid out in front of Blocks A and B. A new public footpath would be constructed along the roadside boundary. Elsewhere, existing boundary treatments would be retained, and the fringes of the site would be landscaped.

3.0 **Planning Authority Decision**

3.1. **Decision**

Following receipt of further information, permission was granted, subject to 25 conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The case planner considered that the density of the proposal would be appropriate, and its design and layout acceptable. Likewise, communal and private open space provision would be acceptable. The following further information was requested:

- Wastewater drainage arrangements for the residential property to the north-west of the site to be agreed.
- Irish Water to confirm acceptance of two connections to the foul water sewer, i.e., one for the adjoining residential property to the north-west and one for the proposal on the site.

- EV parking to be included.
- Site entrance to facilitate access/egress of vulnerable road users.
- Demonstrate adequacy of bin store.

The PA was satisfied with the applicant's response to this request. The concerns of the neighbouring residents to the north-west (the observers at the appeal stage) were considered to be civil matters.

3.2.2. Other Technical Reports

- Irish Water: No objection, standard observations.
- Cavan County Council:
 - Housing: Part V – 3 no. units
 - Environment: Further information requested, following receipt of which no further comments were made.
 - Waste Management: Conditions requested.
 - Road Design: Following receipt of further information, no objection, subject to conditions, which would require, amongst other things, some refining of the proposed site entrance and an adjacent EV car parking space.

4.0 Planning History

- 91/19599: Development of 7 no. sites for housing: Permitted.
- 03/1508: 21 no. apartments in a single four-story block: Permitted at appeal (PL02.208549).
- 20/34: 12 no. residential units: a two-storey block of 8 no. units (4 no. three-bed and 4 no. two-bed), a three-storey block of 3 no. one-bed units, and a two-storey three-bed unit: Refused at appeal (ABP-309254-21) for the following reasons:
 - In the light of the planning history of the site, the advice of the SRDUA Guidelines on edge of centre sites, and the CDP's development management standards, the overall design, scale, layout, and density of the proposal would be non-compliant.

- Due to the absence of communal open space for the apartments, the poor distribution and quality of POS, and the proximity of private open space for the apartments to the road, a satisfactory standard of amenity for future residents would not be achieved.

5.0 Policy and Context

5.1. National Policy

- National Planning Framework (NPF)
- Sustainable Residential Development and Compact Settlements (SRDCS) Guidelines
- Sustainable Urban Housing: Design Standards for New Apartments (SUH: DSNA) Guidelines
- Design Manual for Urban Roads and Streets (DMURS)

5.2. Development Plan

Under the Cavan County Development Plan 2022 – 2028 (CDP), the site is zoned existing residential, wherein the objective is to “Protect and enhance the amenity of developed residential communities.” Lands to the south include Swellan Fort, a national monument, and they are zoned amenity and open space.

The site is an infill site. The CDP sets out the following development objectives for such sites:

ISUA 01

Proposals for infill development shall accord with the Sustainable Development in Urban Areas: Guidelines for Planning Authorities (DEHLG, 2009) and the accompanying document Urban Design Manual or any updates thereof; and the Design Manual for Urban Roads and Streets, 2013, DoECLG or any updates thereof.

ISUA 02

Infill development shall take account of the character of the area and where possible retain existing features such as building line, height, railings, trees, gateways.

5.3. Natural Heritage Designations

- Lough Oughter and Associated Loughs SAC (000007)
- Lough Oughter SPA (004049)

5.4. EIA Screening

See the re-screening and preliminary examination exercises set out in the Appendix to this report, which conclude that the need for an EIAR does not arise.

6.0 The Appeal

6.1. Grounds of Appeal

Administrative issues

- Attention is drawn to use of a registered business name “Vogue Homes” when the owner of the site is Crosserlough Construction Ltd.
- Attention is drawn to the first and second items of the PA’s further information request. In relation to the former, the PA acknowledged that the WWTS in question belongs to the residents of the neighbouring property to the north-west, and so its decommissioning needs their agreement. In relation to the latter, a separate connection to the foul water sewer was anticipated. The applicant’s response did not intimate such agreement or allow for a separate connection, i.e., it did not comply with these two items.

Points of law

- Works have occurred on site resulting in the alteration of ground levels. These works should have been the subject of an application to retain them.
- Condition No. 20 of the PA’s permission is *ultra vires* as the PA cannot require the developer to decommission a third party’s WWTS.
- In failing to pursue the above cited items, the PA’s acceptance of the incomplete response was *ultra vires*, too.

- The submitted solicitor's letter confirms that there are no *registered* wayleaves or easements over the site. However, the PA should have enquired further as the absence of registration does not mean that wayleaves and easements do not exist.

EU Habitats Directive

- The site has been dormant for the last 20 years, and so it has become overgrown. Wildlife has been attracted, including bats, and yet the applicant submitted no bat survey.

Appropriate Assessment Screening

- The site lies within 100m of watercourses that are connected with European sites (000007 and 004049). The applicant has not submitted scientific evidence to demonstrate that the proposal would not adversely affect the integrity of these sites, and the PA failed to undertake a proper screening exercise.

Design

- The design of the proposal would lack any distinctive architectural style. Insufficient POS would be provided, and the proposed blocks would be oversized. Consequently, the proposal would damage the character of the area.
- The relationship between the proposal and the residential property to the north-west would lead to overlooking and a loss of privacy.
- The proposal would contravene the zoning objective for the site.

Building line

- The site is an infill one. Under the proposal for it, the CDP's development objective ISUA 02 would be contravened.
- The building line, which should reflect that of the properties on either side, would be broken.
- The proposal would establish an adverse precedent, and its impact upon the amenities of the area would lead to the depreciation of property values.

Density

- The density exhibited by the proposal would be excessive. Under the CDP's residential development objective 01, the maximum density for the site should be 11 units.

Private rights

- Attention is drawn to the septic tank and percolation area on the site. The residents of the residential property to the north-west state that they have a wayleave/easement to and from these items, upon which their property relies. The retention of them would not be compatible with the proposal.
- The view is expressed that, in granting permission, the PA may be complicit in allowing the applicant to proceed with decommissioning of the septic tank and percolation area on the site. Alternatively, the PA has been negligent in not giving consideration to their existence, when the applicant and neighbours were either aware of or should have been aware of the same.

Archaeology

- Attention is drawn to 3 no. recorded monuments within c. 500m of the site, one of which, Swellan Fort, is a national monument, too. Archaeology could exist within the site or the proposal could disturb archaeology within the vicinity of the site.

Traffic

- Submitted traffic documentation does not take into account traffic, which would be generated by permitted development in the surrounding area. In particular, an initial phase of 28 modular units is under construction nearby.
- The site would be accessed from R198, which is deficient in pedestrian and cycling facilities. The view is expressed that, until these deficiencies are rectified, the proposal would be premature.
- While the R198 is subject to a 50 kmph speed limit as it passes the site, this speed is frequently exceeded, especially by ambulances in attendance at Cavan Regional Hospital. At peak times this road is heavily trafficked. The submitted RSA fails to interact with these factors of speed and usage.

- On-site car parking spaces would fall short of what is needed, and so overspill on-street parking would ensue.

Noise/disturbance

- The proposal would lead to light pollution at the neighbouring residential property, and traffic generated noise/disturbance.

Amenity area

- Attention is drawn to the topography of and the vegetation upon the site. The higher lands would be retained. The implications for land drainage may be an issue. The visual impact of the proposal from within the surrounding countryside have neither been depicted nor assessed.

Apartments

- Section 13.4.14 of the CDP is cited. The site is beyond the town core and the town boundary. It is poorly served by pedestrian and cyclist facilities. In these circumstances, its proposed development for apartments would contravene this Section.

Arboricultural Report

- Attention is drawn to the hedgerow on the western boundary of the site, which lies within the ownership of the residents in the neighbouring property. The Arboricultural Report fails to acknowledge this reality.
- Attention is particularly drawn to the Copper Beech tree denoted as No. 3. Its proximity to proposed Block C would cause it to be threatened during the construction phase, and conversely, it would threaten this Block during the operational phase.

6.2. Applicant Response

The applicant summarises/reviews its proposal under the headings of local context, the proposed development, national and regional policy, local policy, and design approach. It then draws attention to the applicant's address in Mount Nugent, 21.84 km from the site, and so it would be unaffected by the proposal. The view is thus expressed that the appeal comes within the ambit of Section 138(1) of the Planning

and Development Act, 2000 – 2023, and so the Board is invited to exercise its discretion in dismissing the same.

Notwithstanding the aforementioned view/invitation, the applicant responds to the appellant's grounds of appeal as follows:

Administrative issues

- The applicant's accountant has submitted a letter, which confirms that "Vogue Homes" is the business name owned, registered, and used by McGaughran Construction Ltd, which along with Crosserlough Construction Ltd, make up the Vogue Holdings Group of companies. Jim and Ann McGaughran own this Group of companies in their entirety. The view is expressed that, in the light of this information, the appellant's ground of appeal "administrative issues" can be set aside.

Irish Water

- The PA and Irish Water are satisfied that the proposal can be served by the public water mains and foul and stormwater sewers.

Points of law

- Previous enabling works on the site were permitted under 03/1508. Further implementation of this permission did not occur, due to the recession following the Celtic Tiger era.
- The appellant's critique of Condition No. 20 is misplaced, as the decommissioning of the septic tank and percolation area would be appropriate, as it is unauthorised, on the applicant's land, unaccompanied by any legal wayleaves/easements, and an environmental liability.
- Nevertheless, the applicant proposes "to provide a direct foul line for the neighbouring dwelling as part of overall site development works." The case planner supports this solution, as did the previous inspector, who reported on PL02.208549.

EU Habitats Directive

- The appellant refers to bats. And yet there are no structures on the site within which bats could roost. The applicant has commissioned a bat survey, which

concludes that, subject to mitigation measures, e.g., the minimisation of lighting during the operational phase, the removal of trees from the site would not significantly affect bats.

Appropriate Assessment Screening

- Attention is drawn to the serviced nature of the site and how both the PA and the Board have previously concluded that its development would not have a significant effect upon any European site.

Design

- The design approach exhibited by the proposal reflects the comments of the inspector, who reported on ABP-309254-21, and private, communal, and POS standards of the CDP.
- The site of the neighbouring dwelling house is c. 8m higher than the application site and so the proposal would be neither overbearing nor would it lead to overlooking of this dwelling house or its curtilage. The applicant's Daylight and Sunlight Assessment further demonstrates that the lighting of this dwelling house would not be adversely impacted.
- National planning policies promote the development of infill/brownfield sites. They recognise that a balance needs to be struck between compact urban form/higher density aspirations and the reasonable protection of the visual and residential amenities of surrounding areas. The current proposal achieves such a balance, as testified to by the case planner.

Density

- The density of the current proposal (45.9 units per hectare) exceeds that of its predecessor, which was critiqued for being too low (31 units per hectare). Compliance with Section 6.11(b) of the SRDUA Guidelines would thereby be achieved.
- The site lies within an area, the character of which is defined by a mixture of land uses and building typologies. The proposal would be appropriate within this context, and its density would reflect the need to graduate densities towards the outskirts of settlements.

Private rights

- The applicant has submitted a solicitor's letter, which confirms that there are no wayleaves/easements registered against the site.

Archaeology

- Notwithstanding the proximity of Swellan Fort on higher lands to the south-west, the site is zoned existing residential and so its development for residential use had been accepted in principle by the CDP.
- The previous enabling works involved significant excavations of the site. Nevertheless, a condition could be attached to any permission requiring that monitoring for archaeology be undertaken.

Traffic

- The applicant confirms that the traffic generated by the proposal would not cross any of the thresholds for a TTA.
- Attention is drawn to the submitted Stages 1 & 2 RSA, and to the absence of objection to the proposal by the Roads Design Office.

Noise and disturbance

- Separation distances and the screening afforded by the hedgerow and the neighbouring residential property to the north-west would ensure that, under the proposal, the amenities of this property would not be adversely impacted upon.

Amenity area

- The lower portion of the site would be developed. The applicant's land rises to the south-west. Accordingly, no visual impact assessment of the proposal is needed from countryside beyond.

Principle of apartments

- Under Paragraph 2.5 of the SUH: DSNA Guidelines, apartments can be included in the mix of housing on any urban site identified for residential use.
- The adjoining site to the south-east has already been developed to provide apartments.

Aborist's report

- Attention is drawn to the findings of the aborist's report, which indicate that three quarters of the trees on the site either need to be removed because of their condition or they are of low quality.
- The existing hedgerow, including its trees, would be retained along the north-western boundary of the site.

6.3. **Planning Authority Response**

The PA confirms the findings of its screening exercise for appropriate assessment, and it stands over its decision.

6.4. **Observations**

Declan & Ann Breslin, who reside in the property, which adjoins the site to the north-west.

The observers begin by reiterating the appellant's concern over the applicant's use of the name "Vogue Homes".

They proceed to make the following observations:

- Attention is drawn to their septic tank and percolation area within the site.
- Their property was purchased in 1996 and they relied upon undertakings given by the then owners of the site concerning the septic tank and percolation area.
- The solicitor's letter is carefully worded. The same solicitors dealt with the purchase of the observers' residential property and the applicant's purchase of the site, and so it was aware and advised on the septic tank and percolation area to all parties.
- In 2013 works on the site led to the percolation area being damaged and repaired by the applicant.
- The septic tank is registered with Cavan County Council, and it is maintained without interference by the applicant.

- They challenge any contention that the septic tank and percolation area are malfunctioning.
- They express confidence with respect to their rights to use the septic tank and percolation area and access/egress the site for the purpose of maintaining the same. A letter from their solicitor is submitted in this respect.
- The PA acknowledged the situation in their request for further information, the response to which it failed to follow through upon.
- Concern is expressed over the applicant's approach to these matters.
- The observers do not accept that the proposed connection of their property via the developed site to the foul sewer would be at all satisfactory.

6.5. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the following national policy documents:

- National Planning Framework (NPF),
- Sustainable Residential Development and Compact Settlements (SRDCS) Guidelines,
- Sustainable Urban Housing: Design Standards for New Apartments (SUH: DSNA) Guidelines, and
- Design Manual for Urban Roads and Streets (DMURS),

the Cavan County Development Plan 2022 – 2028 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Administrative and legal matters,
- (ii) Land use and density,
- (iii) Development standards,

- (iv) Visual amenity,
- (v) Residential amenity,
- (vi) Traffic, access, and parking,
- (vii) Archaeology,
- (viii) Ecology,
- (ix) Water, and
- (x) Screening for Appropriate Assessment.

(i) Administrative and legal matters

- 7.2. The appellant raises concerns over the applicant's use of a registered business name and to its handling of a septic tank and percolation area within the site. These concerns have generated several exchanges between the parties, which in substance parallel similar exchanges under the previous appeal on the site (ABP-309254-21). The inspector who reported on this appeal concluded that the former matter was effectively adjudicated upon by the PA in its validation of the application, and the latter matter was a civil matter between the appellant and the applicant. I concur with these conclusions.
- 7.3. The applicant draws attention to the appellant's address, which is for a property that would be unaffected by the proposal. It, therefore, invites the Board to dismiss this appeal, under Section 138(1) of the Planning and Development Act, 2000 – 2023.
- 7.4. I note the applicant's invitation, and I note, too, the appellant's grounds of appeal, which relate, in the main, to material planning considerations. In these circumstances, I am unable to advise the Board to dismiss this appeal under the said Section of the Act.
- 7.5. I conclude that there are no administrative or legal matters that inhibit the Board from assessing/determining this application/appeal in the normal manner.

(ii) Land use and density

- 7.6. Under the CDP, the site is zoned existing residential, wherein the objective is to "Protect and enhance the amenity of developed residential communities." The site is an infill site, and so subject to the CDP's development objectives ISUA 01 & 02. The former objective refers to the Sustainable Residential Development in Urban Areas

(SRDUA) Guidelines, which have recently been superseded by the Sustainable Residential Development and Compact Settlements Guidelines. The latter objective states that infill development should have regard to the character of the area and “where possible retain existing features such as building line, height, railings, trees, gateways.”

- 7.7. Under the proposal, the 0.37-hectare site would be developed to provide 17 no. residential units, i.e., a mixture of one/two-bed apartments/duplexes. The envisaged residential after-use would be acceptable in principle from a land use perspective.
- 7.8. Cavan Town has a population of over 5000 and so, under Section 3.3.3(i) of the SRDCS Guidelines, it is categorised as a key town. Under Table 3.5 of these Guidelines, suburban sites within key towns should normally be developed to achieve net residential densities of between 30 and 50 dwellings per hectare. Under the proposal, a net residential density of 45.9 dwellings per hectare would be achieved.
- 7.9. The appellant draws attention to Section 13.4.1 of the CDP, which envisages that on infill sites within Cavan Town, net residential densities of 22 – 30 dwellings per hectare should be achieved. Accordingly, it states that the site should not be developed for more than 11 dwellings. The applicant has responded by drawing attention to the refusal (ABP-309254-21) of its previous proposal for the site, partly on the grounds of inadequate density, which at 31 dwellings per hectare was deemed to be too low under Section 6.11(b) of the then operative SRDUA Guidelines.
- 7.10. By way of response, I note that SRDCS Guidelines have come into effect since the CDP was adopted and the Board is required to have regard to them in determining applications/appeals. I also note that Section 13.4.1 of the CDP is accompanied by a statement, which clarifies that density ranges are targets, which should not be read as maxima. In these circumstances, I consider that there is no in principle objection to the density of the proposal.
- 7.11. I conclude that both the proposed land use for the site and the density of the proposal would be acceptable in principle.

(iii) Development standards

- 7.12. Under the proposal 17 no. residential units would be constructed, i.e., 7 no. one-bed/two-person apartments (floorspace range of 52.9 – 53.2 sqm), 7 no. two-bed/four-person duplexes (floorspace range of 87.9 – 88 sqm), and 3 no. two-bed/four-person apartments (floorspace range of 77.4 – 80.3 sqm). Accordingly, a mix of residential unit types and sizes would be provided.
- 7.13. The applicant has submitted a Housing Quality Assessment (HQA), which cites the quantitative standards in the most recent SUH: DSNA Guidelines. The HQA indicates that, under the proposal, full compliance would be achieved with these standards.
- 7.14. Turning to qualitative standards, each of the residential units would be at least dual aspect, and the principal elevations of the blocks would be orientated either north-west/south-east or north-east/south-west. The applicant has submitted a Daylight and Sunlight Assessment, which confirms that all of the proposed habitable rooms would be well lit, i.e., relevant target values would be achieved without exception.
- 7.15. Communal open space would be laid out beside the south-western end elevations of Blocks A and C and beside the bicycle and bin sheds, respectively. The former space would have an area of 143.8 sqm, and the latter space would have an area of 81.7 sqm, i.e., a total of 225.5 sqm. Under the SUH: DSNA Guidelines, the 7 no. one-bed/two-person units and the 10 no. two-bed/four-person units should be served by 35 sqm and 70sqm respectively, i.e., a total of 105 sqm. Accordingly, under the proposal, the standards would be exceeded.
- 7.16. I conclude that the proposal would meet the relevant development standards and so it would afford a satisfactory standard of amenity to future residents.

(iv) Visual amenity

- 7.17. The site is an infill or gap site on the south-western side of Farnham Road (R198). It lies between the observers' detached two-storey dwelling house within its own grounds to the north-west and 2 no. four-storey apartment blocks to the south-east, which parallel one another to the front and rear of their site. Further to the north-west lies a row of 3 no. three-storey apartment blocks, and further to the south-east lies two modern dwelling houses. The principal elevations of all of these buildings

address the regional road and they are sited in positions that are set back from the road frontage.

7.18. The planning history of the site indicates that permission (03/1508 & PL02.208549) was previously granted for 21 no. apartments in 1 no. four-storey block, which would have been sited in a set back position comparable to the existing buildings on the adjoining sites on either side. More recently, permission was refused (20/34 & ABP-309254-21) for 12 no. residential units, which would have been laid out in a linear format across the south-eastern half of the site. This layout was of concern, and so the inspector, as quoted in the PA's planner's report, expressed the opinion that "in view of the site configuration, an alternative design with mix of unit types including apartments and duplexes, perhaps more similar to that previously permitted, in a single more centrally located 3-4 storey block may be preferable." The current proposal reflects this opinion with respect to the mix of unit types, as distinct from the envisaged site layout. Instead, 3 no. three storey blocks clustered around a cul-de-sac with a hammer head are proposed for the site. Two of these blocks would be sited in positions adjacent to the site's road frontage.

7.19. Under Section 4.4 of the SRDCS Guidelines, key indicators of quality design and placemaking are set out. These include the need for (v) responsive built form, which is articulated under the following key principles:

(a) New development should support the formation of a legible and coherent urban structure with landmark buildings and features at key nodes and focal points.

(b) New development should respond in a positive way to the established pattern and form of development and to the wider scale of development in the surrounding area. The height, scale and massing of development in particular should respond positively to and enhance the established pattern of development (including streets and spaces).

(c) The urban structure of new development should strengthen the overall urban structure and create opportunities for new linkages where possible.

(d) Buildings should generally present well-defined edges to streets and public spaces to ensure that the public realm is well-overlooked with active frontages.

(e) New development should embrace good modern architecture and urban design that is innovative and varied, and respects and enhances local distinctiveness and heritage.

(f) Materials and finishes should be of high quality, respond to the local palette of materials and finishes and be highly durable.

Clearly, the size and context of the site mean that some of these principles are of greater relevance to the current proposal than others. I will, therefore, draw upon them as appropriate in my assessment below.

- 7.20. The appellant has critiqued the proposal on visual amenity grounds with respect to the size of the proposed blocks and their lack of a distinctive architectural style. Their siting would break the building line, and so contravene objective ISUA 02 of the CDP. The proposal would thereby fail to respect the character of the area.
- 7.21. The applicant has responded to this critique by stating that its proposal responds well to the previous refusal for development on the site, and it would strike a good balance between compact urban form/higher density aspirations and the reasonable protection of the visual and residential amenities of surrounding area.
- 7.22. The submitted site layout on drawing no. PL22-056-001 shows by means of a red line the projection of the front building line exhibited by the pair of modern dwelling houses further to the south-east of the site. The four-storey apartment block at the front of the intervening site is set back behind this front building line, and its siting is comparable to that of the detached dwelling house and the row of three-storey apartment blocks further to the north-west of the site. The alignment of the regional road is such that the application of the said front building line to the subject site results in a much tighter relationship with this road than is exhibited by the existing pair of modern dwelling houses. "On the ground", the site is viewed in conjunction with the buildings immediately on either side of it rather than the more distant pair of modern dwelling houses. The relative consistency of their front building lines and that of the row of three-storey apartment blocks is such that the greater shared set back distance is the more relevant point of comparison for the subject site.
- 7.23. At present the streetscape formed by the above cited buildings is partially screened by the presence of roadside trees, especially in front of the detached dwelling house and along the frontage of the subject site. Under the proposal, trees along the frontage of the site would be removed, and so the proposal would be highly visible. Thus, the north-eastern end elevations of the three-storey Blocks A and C would

face the regional road at an offset angle, and they would be seen in conjunction with their accompanying principal elevations.

- 7.24. In the light of the above discussion, I am concerned that the proposal would be unduly prominent within the streetscape. The subject site is a mid-row one, which would not normally lend itself to a prominent form of development. While the proposal would exhibit a distinctive architectural style and layout, the size of the site and its proximity to a stretch of streetscape with commonalities that it would fail to share would militate against its successful incorporation within this streetscape. Instead, a discordant form of development would result. I, therefore, consider that the proposal would be of insufficiently responsive built form.
- 7.25. Beyond the above concern, I am also concerned that the aesthetic of the proposal, in its own right, is not fully realised, due to the anomaly of the front and rear gables that would be specified over units nos. 1 and 4 in Block A. While these units differ somewhat from other units in this Block, the introduction of these gables would interrupt the otherwise consistent form of Block A, which is mirrored in the consistent forms of Blocks B and C.
- 7.26. I conclude that the proposal would, due to its siting close to Farnham Road, be unduly prominent and out of character with the area, and so it would be seriously injurious to visual amenity.

(v) Residential amenity

- 7.27. The appellant expresses concern that the proposal would overlook the observers' adjoining residential property to the north-west leading to a loss of privacy. Light spillage and traffic noise/disturbance are also anticipated. The proposal would risk an adverse precedent and the devaluation of property.
- 7.28. The applicant has responded by drawing attention to the elevated position of the observers' dwelling house and so it considers that the proposal would neither be overbearing in relation to this dwelling house nor would it lead to overlooking. It also draws attention to the retained hedgerow between the site and the adjoining residential property, which would mitigate any light spillage, and the separation distances that would ensue and so mitigate noise/disturbance.
- 7.29. I note that the rear elevation of Block C would face north-west, and so it would overlook the site entrance and front portion of the front garden to the adjacent

residential property. I note, too, that such overlooking would be mitigated by the screening properties of the retained hedgerow, which would include the retention of a mature copper beech tree. Furthermore, the site entrance and front portion of the front garden, due to their proximity to Farnham Road, presently enjoy limited privacy levels.

- 7.30. Under the CDP, the site is zoned “established residential” and so its development for residential use is acceptable in principle. Accordingly, if such development is to occur, then a degree of light spillage and noise/disturbance would be inevitable. Nevertheless, the hedgerow and layout of the proposal would, as stated by the applicant, afford some mitigation.
- 7.31. The applicants submitted Daylight and Sunlight Assessment examines the impact of the proposal upon the lighting of windows in the elevations of surrounding buildings that face the site. It concludes that any reduction in available daylight would be minimal and within accepted parameters, and any reduction in sunlight would be negligible.
- 7.32. I conclude that the proposal would be compatible with the residential amenities of the area.

(vi) Traffic, access, and parking

- 7.33. Under the proposal, 17 no. residential units would be provided, and they would generate traffic during the construction and operational phases. The appellant expresses concern that the applicant’s reassurances over the capacity of Farnham Road (R198) to accommodate such traffic are not informed by the recent addition of modular housing, which is accessed off this Road, and the pattern of usage, i.e., congestion during am and pm peaks and vehicle speeds, e.g., emergency ambulances in attendance at the nearby Cavan Regional Hospital. The applicant has responded by insisting that traffic generation would not be significant, i.e., none of the thresholds requiring a TTA would be crossed.
- 7.34. During my site visit, I observed that Farnham Road forms part of the R198 between Cavan and Longford, and it affords access to multiple properties and several housing estates in the north-western suburbs of the town. I, therefore, concur with the applicant’s position that the proposal would not require to be the subject of a TTA. I

note that the PA's Road Design advice raised no objection to the proposal on traffic generation grounds. I, likewise, consider that no capacity issues would arise.

- 7.35. The appellant's concerns over the pattern of usage would, under the proposal, be relieved insofar as it would entail the removal of overbearing roadside trees and the provision of a new 2m wide footpath and accompanying open space along the entire site frontage. This footpath and open space would improve visibility levels for road users, e.g., drivers exiting both the dwelling house to the north-west and the apartment site to the south-east of the site, and it would contribute to the provision of satisfactory sightlines for drivers exiting the proposed egress from the site. Likewise, the visibility of cyclists would improve, and the footpath would extend the provision of pedestrian facilities in the area. Accordingly, concerns over the prematurity of the proposal with respect to the provision of pedestrian and cycling improvements are misplaced.
- 7.36. The appellant also expresses concern over the level of car parking provision proposed and it anticipates that overspill parking would arise. Under the proposal, 21 no. car parking spaces would be provided, including 2 no. EV spaces and 2 no. disabled spaces. Under the SRDCS and SUH: DSNA Guidelines, the site, which is 1km from Cavan town centre, would be, in terms of its accessibility, an intermediate location. Under the CDP, a maximum of 2 spaces per dwelling is cited with an accompanying note, which states "Smaller bedroom units to be examined on a case-by-case basis." Under the proposal, a rate of 1.24 spaces per unit would be achieved. Given that of the 17 no. units, 7 no. would be one-bed units and 10 no. would be two-bed units, the proposal would comprise "smaller bedroom units" and so the CDP's qualifying note would apply. Any reduction in car parking provision would need to be accompanied by adequate cycle parking provision. In this respect, if the minimum number of cycle spaces under the SUH: DSNA Guidelines are applied to the proposal then, the standard of 1 no. cycle space per bedroom for residents would prompt the provision of 27 no. cycle spaces, and the standard of 1 no. cycle space per 2 no. units for visitors would prompt the provision of 9 no. cycle spaces. *Prime facie* the proposed bike shed would need to be extended/supplemented to provide the 36 no. cycle spaces that would thereby be required. If the Board is minded to grant, this level of provision should be conditioned.

7.37. I conclude that the traffic generated by the proposal would be capable of being accommodated on Farnham Road, the access arrangements would be satisfactory, and, subject to additional cycling provision, parking arrangements would be too.

(vii) Archaeology

7.38. The appellant draws attention to the presence of 3 no. recorded monuments within c. 500m of the site, including Swellan Fort, which is a national monument, too. The possibility of archaeological remains underneath the site thus exists.

7.39. The applicant has responded by stating that under an earlier permission for the site significant excavations occurred by way of site preparation. Nevertheless, under the current proposal, archaeological monitoring of further site preparation works could be undertaken.

7.40. I conclude that, if the Board is minded to grant, then archaeological monitoring should be conditioned.

(viii) Ecology

7.41. The appellant states that, with the abandonment of the site, bats have come to frequent it. At the appeal stage, the applicant submitted a "Bat Habitat Technical Note", which identifies existing vegetation on the site as providing a habitat that is of moderate value for commuting and foraging. Additionally, some trees would be of moderate value for roosting. The Technical Note goes on to outline mitigation measures for both the construction and operational phases of the proposal. The former would relate to the timing of tree felling and the specification of lighting, while the latter would relate to the installation of bat boxes and, again, the specification of lighting. It concludes that once fully mitigated, the impact of the proposal upon local bat populations would not be significant.

7.42. I conclude that, if the Board is minded to grant, then the proposed mitigation measures for bats should be conditioned.

(ix) Water

7.43. Under the proposal, the site would be connected to the public water main and the public foul sewer in Farnham Road. The applicant's engineer has submitted a document entitled "Foul water, surface water, attenuation calculations and details". Under Appendix D of this document, a copy of Uisce Eireann's confirmation of the

feasibility of these connections is included. Furthermore, as a consultee to the current application, Uisce Eireann raised no objection to the proposal.

- 7.44. Under the proposal, the site would be the subject of a stormwater drainage scheme, which would capture surface water run-off from roofs and other impermeable surfaces. This scheme would incorporate a bypass separator, an attenuation tank sized to handle 1 in 100-year storm events plus a 20% allowance for climate change, and a hydro-brake set at a limit of 2 l/s. The PA's Environment consultee raised no objection to the proposal.
- 7.45. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.
- 7.46. The appellant and the observer draw attention to the existing septic tank and percolation area on the site, which serves the adjoining residential property to the north-west. The applicant proposes to remove these items and to re-route the foul water pipe to its proposed foul water sewerage network, which would discharge to the public foul water sewer in Farnham Road. The adjoining landowners have not been able to agree on these matters, which I have concluded are essentially a civil matter under the first heading of my assessment. In these circumstances, I am satisfied that the application does outline a potential way forward.
- 7.47. I acknowledge that, in principle, a connection to the public foul sewer is preferable to reliance upon a septic tank and percolation area. I acknowledge, too, that Conditions Nos. 20 and 21 of the PA's permission require this outcome. Given the absence of agreement between those affected and the civil nature of this matter, I consider that, if the Board is minded to grant, then these conditions should be omitted.
- 7.48. I conclude that, under the proposal, no water issues would, in principle, arise. I also conclude that the foul water servicing arrangements for the adjoining residential property to the north-west are for the neighbouring landowners to agree upon.

(x) Screening for Appropriate Assessment

- 7.49. The site is within an urban area, and, under the proposal, it would be connected to the public foul and stormwater sewerage system. No capacity issues are attendant upon this system. The nearest European Sites are c. 2.3km to the north north-west of the site, i.e., Lough Oughter and Associated Loughs SAC (000007) and Lough Oughter SPA (004049).

- 7.50. The appellant states that there is a watercourse within 100m of the site, which flows into the aforementioned European Sites. The Cavan River is the only water course shown on the EPA map within the locality of the site and it passes to the east at a distance of c. 225m. While this River flows into these European Sites, I am not aware of any source/pathway/receptor route between the site and it and hence these or any other European Sites. I, therefore, consider that, under the proposal for the site, no Appropriate Assessment issues would arise.
- 7.51. Having regard to the nature, scale, and location of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be refused.

9.0 Reasons and Considerations

Having regard to Section 4.4(v) of the Sustainable Residential Development and Compact Settlement Guidelines and Development Objective ISUA 02 of the Cavan County Development Plan, it is considered that the proposal would, due to its siting close to Farnham Road, be unduly prominent and out of character with existing development on the south-western side of Farnham Road (R198), and, as such, it would represent a discordant addition to the streetscape, which would be seriously injurious to the visual amenities of properties in the vicinity. The proposal would thus fail to reflect relevant advice in the above cited Guidelines, and it would contravene Objective ISUA 02 of the Development Plan. Accordingly, this proposal would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Hugh D. Morrison
Planning Inspector

13th February 2024

Appendix 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317354-23		
Proposed Development Summary	Construction of 17 no. residential units in 3 no. three-storey blocks, site entrance, car park, bin and bicycle stores, connections to foul and surface water sewers, and all associated works.		
Development Address	Farnham Road, Drumnavanagh, Cavan		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	x
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No		Class 10(b)(i) of Part 2:	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes		Threshold is more than 500 dwelling units, proposal is for 17 units.		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317354-23	
Proposed Development Summary	Construction of 17 no. residential units in 3 no. three-storey blocks, site entrance, car park, bin and bicycle stores, connections to foul and surface water sewers, and all associated works.	
Development Address	Farnham Road, Drumnavanagh, Cavan	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site lies within an existing residential area.</p> <p>No</p>	<p>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Site lies within the vicinity of other apartment blocks.</p>	<p>No</p>

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	No	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site lies within Cavan town, and it is c. 6km from the nearest European sites. Significant impacts on these sites would not arise.</p> <p>No</p>	<p>No</p> <p>No</p>
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)