



An
Bord
Pleanála

Inspector's Report

ABP-317702-23

Development	Construction of 76 dwellings with all associated site works.
Location	Dun na Carraige, Kingscourt, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	22275
Applicant(s)	Destrina Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	(1) Claire Smith (2) Dun na Carraige Residents.
Observer(s)	Inland Fisheries Ireland.
Date of Site Inspection	22 nd of May 2024.
Inspector	Stephanie Farrington

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 4.15 ha, is located to the west of Kingscourt, Co Cavan. The site, as revised in response to Cavan County Council's request for further information, includes the existing Dun na Carriage Estate and the greenfield site to the north of the estate. The site is bounded by Dunaree Lane (L7572-0) to the north, Rocks Road to the south, Thorndale Close to the east and greenfield land to the west. Access to Dun na Carriage is provided via Rocks Road.
- 1.2. The existing Dun na Carriage Estate comprises 38 no. residential units, access and associated services. The northern portion of the appeal site which has a stated site area of 2.4 ha, is currently greenfield and undeveloped. This area of the site is enclosed by planted boundaries to the north and east and security fencing adjacent to Dun na Carriage to the south. ESB cables currently traverse the site. An existing pedestrian pathway runs to the east of the site connecting the site and Thorndale Close to Dunaree Lane. The topography of the site varies from 145mOD to the east to 154 mOD to the west (as illustrated on topographical survey PL-002).
- 1.3. The existing pattern of development in the vicinity of the site is primarily residential. An existing National Monument (Ringfort Rath Ref: CV01647) is located to the southwest of the site. This is described in the 'Archaeological Inventory of County Cavan' as follows: *Raised circular area (int. diam. c. 33m) enclosed by a substantial earthen bank. Outside the bank from S-W is a modern narrow laneway which may represent the remains of an infilled fosse. Original entrance not recognisable.*

2.0 Proposed Development

- 2.1. The development, as originally proposed relates to permission for 76 no. residential units on the site, access, associated site infrastructure and site development works on the 3.89 ha site.
- 2.2. Significant revisions to the development were made in response to Cavan County Council's request for further information. Alterations were made to the application site boundary to omit the existing ringfort to the west of the site and include the existing residential estate at Dun na Carriage to the south of the site. The overall quantum of residential units on site was reduced from 76 to 33.

2.3. The following provides a summary of the key development statistics.

Table 1: Key Development Statistics	
Site Area	4.15 ha gross
No. of Units	33 no. units
Unit type	33 no. houses
Unit mix	<u>Phase 1 (15 units)</u> <ul style="list-style-type: none"> • 4 x 4 beds • 11 x 3 beds <u>Phase 2 (10 units)</u> <ul style="list-style-type: none"> • 2 x 4 beds • 8 x 3 beds <u>Phase 3 (08 units)</u> <ul style="list-style-type: none"> • 4 x 4 beds • 4 x 3 beds
Unit Floor Areas	Type A - 148.6 sq.m. Type A1 - 153.5 sq.m. Type B – 117.6m
Density	14 units per ha (i.e. 33 houses on a 2.4ha site).
Height	9.84m
Open Space	5,988 sq.m.
Car Parking	2 no. in curtilage spaces per unit

2.4. Access to the majority of the proposed residential units is proposed via the existing entrance to Dun na Carriage Estate from Rocks Road. Access to the proposed dwellings to the north of the site is proposed via Dunaree Lane. The proposal seeks to connect to the existing water supply infrastructure. A temporary on-site wastewater treatment plan is proposed to the northeast of the site. The development includes landscaping and all site development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cavan County Council issued a notification of decision to grant permission for the development in accordance with the following reasons and considerations:

“Having regard to the provisions of the Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town 2022-2028, to the scale and nature of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the development plan and would not adversely affect the residential amenities of the area. The proposed development, would therefore, be in accordance with the proper planning and sustainable development of the area”.

- 3.1.2. The decision of the Council to grant permission for the development was subject to 31 no. conditions. The following conditions attached to the decision are of note:

- Condition no 4 relates to the submission of a cash bond of €150,000 to CCC to secure provision and satisfactory, completion, maintenance, decommissioning and reinstatement of the area associated with the proposed temporary wastewater treatment plant prior to the estate being taken in charge by CCC and other related services required in connection with the development.
- Condition no. 6: outlines that none of the dwellings in Phase 2 of the development (i.e. dwellings no. 26-33) shall be made available for occupation by the developer until the completion and successful commissioning of the proposed upgrade to the Kingscourt Wastewater Treatment Plant.
- Condition no. 10: outlines that an indicative vehicular access point to adjoining lands to the west shall be indicated on a revised site layout plan and agreed in writing with the Planning Authority.
- Condition 12: outlines that prior to the commencement of development specific details on the proposed ongoing maintenance and management of the proposed temporary on-site wastewater treatment system shall be agreed in writing with the Planning Authority.

- Condition no 16: relates to improvement works to the L-7572 public road prior to the commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (18/08/2022)

The initial planner's report recommended a request for further information. The following provides a summary of the key issues raised:

- The report refers to the changing policy context and the adoption of the Cavan County Development Plan on the 11th of July 2022. The majority of the site is zoned for Low Density purposes. The western portion of the site is unzoned and located outside of the development boundary of Kingscourt.
- The report raises concern in relation to the scale and density of the development and the provision of houses on unzoned lands.
- The report raises concern in relation to the interface of a number of the proposed dwellings with existing dwellings at Dun Na Carriage on the basis of existing and proposed site levels.
- The report recommends enhanced pedestrian permeability within the site in accordance with Specific Objective 7 of the Cavan County Development Plan.
- The report refers to legacy issues identified with the Dun na Carriage Estate which has not been taken in charge by CCC and appears to be under the control of the applicant. The report raises concern in relation to the visibility splay at the entrance to Rocks Road and the vacant site between units 18 and 31 Dun na Carriage.
- The report recommends a request for further information in respect of the following:
 - (1) Revised proposals for a reduced density of development having regard to the zoning of the site (low density and unzoned).
 - (2) Proposals for widening of Dunaree Lane and provision of a public footpath.
 - (3) Revised proposals for the internal road network.

- (4) Provision of permeability with Thorndale Close in accordance with Specific Objective 7 of the CCDP.
- (5) Revised finishes for residential units to incorporate red brick rather than grey brick finish.
- (6) provision of brick finish on prominent gables within the scheme.
- (7) Proposals to improve sightlines at entrance to Dun na Carriage at Rocks Road.
- (8) Proposals for open space within the vacant site between units 18 and 31 Dun na Carriage.
- (9) Contractual agreements for maintenance of proposed WWTP.
- (10) Confirmation from Irish Water that it will accept effluent from the development.
- (11) Revised proposals to avoid abrupt transitions between existing and proposed development (i.e. 7 m height difference between proposed units 43 and 44 and 31 to 34).
- (12) greenspace south of units 4 and 45 is considered residual open space, revised proposals are recommended.
- (13) Construction management plan which addresses construction access.
- (14) details of quantum's of soil to be imported and exported from the site.
- (15) Design details for proposed retaining walls.
- (16) public lighting details.

Planner's Report on Further Information (05/07/2023)

- The report provides a summary and assessment of the applicant's FI response.
- The report outlines that the proposed density has been significantly reduced to 14 units per ha (i.e. 33 units on a 2.4ha site) and the site is now outside of the zone of notification of the Recorded Monument. The density of the development is deemed acceptable.

- The report outlines that all of the items raised within the FI response have been addressed to a standard that enables a decision to be made.
- The report recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

MD Engineer (29/7/2022)

The report recommends a request for further information in relation to the following:

- Provision of carriageway widths of 5.5m in accordance with DMURS; Drawing illustrating sightlines onto Rocks Road, proposals for widening of Dunaree Lane and provision of footpaths (carriageway width of 7m and 2m footpaths), special contribution for improvement to footpaths in the area, Submission of a Stage1/2 Road Safety Audit, CCTV of existing surface water drainage network on Dunaree Lane, Public Lighting proposals and details of proposed retaining structure.

Road Design Office (03/08/2022)

The report recommends a request for further information in relation to the following:

- Submission of a TTA which addresses pedestrian connections to the site, details of visibility splays at Rocks Road and Dunaree Lane, details of retaining structure, details in relation to surface water drainage to ensure no flows of water from the site, public lighting details, Road Safety Audit.

Waste Management (03/08/2022)

The report recommends a request for further information in relation to the following:

- Volume calculations in relation to earthworks “cut”, “fill” and “net” calculations.
- Volumes of green waste from the development.

Environment Section (29/07/2022)

The report raises significant concern in relation to the proposed temporary wastewater treatment system. The recommends a request for further information in relation to ongoing maintenance and management of the temporary system, written confirmation from IW that they will accept the effluent from the system, details of decommissioning of the system and confirmation that it is a closed system.

The report outlines that significant details, clarity, contracts and agreements would need to be in place as well as a timeline for the temporary system being removed and proper connection being facilitated in order to protect the environment and public health before a grant of permission could be considered.

Reports on Applicant's Further Information Response

Environment Section (09/06/23)

The report requests clarification of further information in relation to the proposed ongoing maintenance and management of the proposed temporary system and outlines that this should include completed contracts and agreements with all relevant parties named on same.

Municipal District Senior Executive Engineer Report (5th July 2023)

- The report recommends a grant of permission subject to the conditions of Road Design being adopted.
- It is stated that the application has been assessed in line with the Traffic and Transport Assessment Guidelines and it is considered that the proposal does not meet the thresholds at which preparation of a TTA is required.
- The report recommends a Special Contribution of €30,000 towards the improvement of pedestrian connectivity to the town centre.

Road Design Office (30/06/2023)

The report recommends clarification of further information in relation to the following:

- Illustrate that sightlines of 3.0 x 59m can be achieved at the entrance to the development from Rocks Road
- Provide evidence that sufficient space has been provided within each site to allow (a) safe maneuvering of vehicles (b) visitor parking and (c) sufficient hardstanding within each site to negate against reversing onto the public road.
- Demonstrate sightlines at all proposed entrances to Dunaree Lane.

Special Contribution Estimate

An itemised breakdown of the calculation of the Special Contribution for footpath infill is attached to the file. A total contribution of €29,163.00 is detailed.

Correspondence on file from Ciaran Fitzpatrick (31/05/2023)

This email correspondence raises no issue to the development. The correspondence outlines that a new pre connection enquiry should be made to Uisce Éireann to confirm the feasibility prior to permission being granted.

3.3. Prescribed Bodies

Inland Fisheries Ireland (19/07/2022)

The report recommends a request for further information in relation to the nutrient removal capabilities of the proposed on-site treatment plant.

Inland Fisheries Ireland (21/06/2023)

- The submission refers to the proposal to pre-treat wastewater arising from the development on site prior to discharge to the wastewater treatment plant at Kingscourt in accordance with Irish Water recommendations as the WWTP at Kingscourt is currently overloaded. It is stated that pre-treatment will be to Urban Wastewater Standards of 25 mg/l BOD and 35mg/l COD and does not address nutrient removal.
- The treated wastewater from Kingscourt regularly exceeds emission limit values for Ammonia, ortho-Phosphate and BOD.
- The submission outlines that treated wastewater from the Kingscourt Wastewater Treatment Plant discharges to the Mullantra River which is a sub catchment of the River Glyde and includes valuable fisheries habitat and supports stocks of brown trout, European eel and lamprey among other species.
- The submission recommends that approval for the proposed development is not permitted until such time as additional capacity is provided for at the wastewater treatment plant at Kingscourt.
- IFI objects to the development on the basis of the information submitted to date as the proposed pre-treatment would not address nutrient removal prior to discharge to Kingscourt WWTP and is considered unsuitable on the basis of the lack of capacity of the WWTP. The development is likely to result in

further negative impacts on the quality of the receiving water and potentially in turn to the ecological status of the waterbody.

Uisce Éireann (14/07/2022)

Recommends further information in relation to submission of a Pre-Connection enquiry in order to determine the feasibility of connection to public water/wastewater infrastructure.

3.4. **Third Party Observations**

Over 20 no. submissions were received within the initial public consultation period from existing residents in the Dun na Carriage Estate and surrounding residential areas. The following provides a brief summary of the key concerns raised within submissions on the original application:

- Access and Transport: The submissions raise concern in relation to the road safety and visibility at the existing entrance to Dun na Carriage from Rocks Road and the proposed access points from Dunaree Lane. The submissions raise safety concerns in relation to construction traffic.
- Issues in Dun na Carriage: The submissions refer to outstanding issues within the Dun na Carriage Estate in relation to insufficient parking, access, lighting, drainage, water pressure and lack of public open space. The submissions specifically refer to the existing vacant site within the estate.
- Wastewater Proposals: The submissions raised concern in relation to the lack of capacity in the Kingscourt WWTP and the proposed temporary on-site wastewater treatment system. Concerns in relation to the management of the treatment facility are raised.
- Design and Impact on Residential Amenity: The submissions raise concern in relation to the height of the proposed dwellings, and potential overlooking.
- Density and Compliance with Zoning: The submissions outline that the development constitutes an overdevelopment of the site which is not in compliance with the low-density zoning objective pertaining to the site as set out within the CCDP.

- Retaining Walls: The submission raise concern in relation to the structural stability of existing retaining walls and potential flooding and drainage issues within the properties. Concerns are raised in relation to the visual impact of the proposed retaining walls.
- Recorded Monument: The submissions raise concern in relation to the interface of the development with the existing Recorded Monument on site.
- Boundary Treatment and Permeability: The submission on file from the Thorndale Close Residents Association requests that the existing pedestrain access through the site linking Thorndale Close to Dunaree Lane and existing treeline boundary treatment is maintained.

The following provides a summary of the points raised within the submissions on the applicant's FI response:

- The revised layout/proposal does not sufficiently address concerns in relation to legacy issues within the existing Dun na Carriage Estate.
- The submissions raise concern in relation to the timeframe for the delivery of the open space area on the former creche site and outlines that no public open space will be provided during construction phase of the development.
- The submissions restate concerns in relation to traffic safety at the entrance to the development from Rocks Road, insufficient water pressure and the proposed wastewater treatment system.

4.0 Planning History

The following planning history relates to the appeal site.

- PA Ref: 06/536 – permission granted in August 2006 for construction of 109 residential units on site. The first phase of this development was completed (38 no. units). The remaining 71 no. units were not commenced. An Extension of Duration was given until the 16th of November 2016. This was not availed of and has expired.

- PA Ref: 05/584 – Permission refused for 112 houses on site in December 2005 for reasons relating to water services, waster supply and storm water proposals.

5.0 Policy Context

5.1. Development Plan

Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town, 2022-2028

Chapter 1 – Core Strategy

- 5.1.1. Kingscourt is designated as a Self- Sustaining Town within the Cavan Settlement Hierarchy (Table 5). Table 5 outlines the following guidance for such designated settlements *“Self-Sustaining Towns with high levels of population growth but which require targeted ‘catch up’ investment to become more self-sustaining”*.
- 5.1.2. Table 8 of the Plan sets out the population growth scenarios for various settlements within the county. Kingscourt had a population of 2,499 in 2016, an allocated population of 2,824 by 2022 and 3,148 by 2028. The table identified that the town will accommodate 6.9% of the share of the County Population growth 2022-2028.
- 5.1.3. Table 11 sets out the Core Strategy Table. This identifies that 3.4ha of lands are zoned for low density purposes within the CCDP which will yield 27 no. units on the basis of an assumption of 8 units per ha.
- 5.1.4. Section 2.15 of the Plan relates to Residential Density. This outlines that generally the number of units provided on site should be determined with reference to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). The Plan outlines that due to the difficult topography of County Cavan, there are many instances where specified densities cannot be achieved. The densities outlined in Section 13.4.1 of this Plan indicate approximate key residential outputs over the life time of the plan and site density will be determined on a case by case basis.
- 5.1.5. The following objectives are of relevance:

- RD 01: Encourage the densities in accordance with Section 13.4.1 of this Plan throughout the County in accordance with the Core Strategy.
- RD 03: Ensure densities of proposed developments reflect the key attributes and character of the surrounding/ adjoining area.

Chapter 2 – Settlement Strategy

5.1.6. Chapter 2 of the CDP sets out the settlement strategy for the County. Section 2.7 relates to Kingscourt. A density of 12-16 units per ha is recommended for future developments within Kingscourt.

5.1.7. Section 2.4.7 relates to Physical Infrastructure and outlines that Kingscourt is served by an existing wastewater treatment plant which has a project underway to upgrade its plant. Water is from a borewell at Descart, Co. Monaghan (Groundwater Supply). The following Development Objectives are of relevance:

- KI 01: Support the investment in water and wastewater infrastructure facilities serving Kingscourt in order to ensure the continued sustainable development of the Town.
- KI 02: Support improvements in the pedestrian and cycling infrastructure in the town that will improve connectivity and permeability and promote more sustainable modes of transport.

5.1.8. Section 2.7.7 relates to Sustainable Communities and outlines that the development strategy for Kingscourt is to support new housing and population growth, consistent with the Core Strategy, facilitating compact growth together with providing a viable alternative to rural one-off housing within the surrounding countryside.

5.1.9. Sustainable Communities Development Objectives include:

- KSC 01 - Provide for new residential development in accordance with the requirements of the Housing and Core Strategy.
- KSC 02- Require that an appropriate mix of housing type, tenure, density and size is provided in all new residential developments to meet the needs of the population of Kingscourt.
- KSC 08 - Support the provision of serviced sites on lands zoned for low density residential development.

5.1.10. Section 2.7.10 of the Plan relates to Heritage. The following Development Objectives are of relevance:

- KH 12 - Ensure heritage assets which are the focus for heritage development in Kingscourt are appropriately managed and their special interest is conserved from potential adverse effects from visitors or development in general and that best practice in relation to the environmental management of tourism enterprises is adhered to.
- KH 13 - Ensure Archaeological assessment is carried out as required and promote 'preservation in situ of archaeological sites and /or features.

Map Based Specific Objectives

5.1.11. Section 2.7.12 relates to Map based Specific Objectives. Specific Objective 07 relates to the appeal site and seeks to *"Provide pedestrian and cycle linkages to connect adjoining residential areas"*.

Chapter 3 - Housing Strategy

5.1.12. The following Development Objectives are of relevance:

- HS 05: Ensure that a suitable variety and mix of dwelling types and sizes is provided in developments to meet different needs, having regard to demographic and social changes.
- HS 09 Support the development of quality residential schemes with a range of housing options having regard to the standards, principles and any specific planning policy requirements (SPPRs) set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009); Urban Development and Building Heights Guidelines for Planning Authorities' (2018) and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).

Chapter 7: Transport and Infrastructure

5.1.13. Table 7.4 sets out Parking Standards – A maximum requirement of 2 parking spaces per units is set out for residential developments.

Chapter 8 Environment, Water and Drainage

- 5.1.14. Section 8.4.3 relates to Wastewater Capital Investment Plan, Wastewater Treatment Plant Early Contractor Involvement (CIP WWTP ECI) programme. This investment programme includes for County Cavan, the following wastewater treatment plants - Bailieborough, Ballyjamesduff, Kingscourt, Cootehill, & Virginia. Bailieboro, Kingscourt and Cootehill projects are currently at Gate 1 stage (Feasibility study).
- 5.1.15. The Plan outlines that ongoing projects beings progressed as part of Irish Water's 2020-2024 Capital Investment Plan includes upgrades at the following Wastewater Treatment Plants- Virginia, Bailieborough, Cootehill, Kingscourt, Ballyjameduff, Bailieborough, Mullagh, Ballyconnell.
- 5.1.16. The following Development Objectives are of relevance:
- FDW 8 Ensure all new developments connect to the public wastewater infrastructure, where available, and to encourage existing developments that are in close proximity to a public sewer to connect to that sewer, subject to connection agreements with Irish Water. New developments connecting to Irish Water network shall be assessed through Irish Water's New Connection Process.
 - FDW 09 Protect against development proposals, involving individual treatment systems, which would increase effluent loading within existing housing clusters located within areas of high groundwater vulnerability.

Chapter 11 – Built and Cultural Heritage

- 5.1.17. Section 11.8 relates to Archaeological Heritage. Development Objective AH 3 is of relevance as follows:
- AH 3: Development adjacent to or near an archaeological site or monument should not interfere with the character of the site, or its setting. Proposed developments should be sited to ensure minimal impact on the site or monument. Development which has a negative impact on a site or monument will not be permitted.

Chapter 13: Development Management

- 5.1.18. 13.4 relates to Residential Density and outlines that generally, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

The densities outlined in the table below indicate approximate key residential outputs over the lifetime of the plan and site density will be determined on a case by case basis.

5.1.19. The following density ranges are identified for Self-Sustaining Towns:

- Density in Proposed Residential – 14 to 18 units per ha
- Density in Proposed Low Density Residential – 8 to 10 units per ha

5.1.20. The following Development Objectives are of relevance:

Density:

- RD 01: Encourage densities in accordance with the above table throughout the County in accordance with the Core Strategy.
- RD 03: Ensure densities of proposed developments reflect the key attributes and character of the surrounding/ adjoining area.

Private Open Space

- POS Require the following minimum open space requirements for new dwelling houses - One/Two bedroom, 48sqm-55sqm and 3/4/5 bedroom unit, 60 sqm-75sqm.

Public Open Space

- PCOS 01 Ensure public open spaces in new residential developments comply with the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, DEHLG (2009) and the accompanying Urban Design Manual (2009) or any updates thereof.
- PCOS 2: Ensure public open space is well designed, of a high visual standard, generally flat, retain natural features and proposes appropriate landscaping or wetland and has a high level of surveillance and overlooking.

Design and Layout

- DL 01 Require that all proposals for residential development demonstrate compliance with the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), the Urban Design Manual- A Best Practice

Guide 2009 and the Urban Development and Buildings Heights Guidelines for the Planning Authorities (2018), or any updates thereof.

Chapter 14 Land Use

Zoning Objective:

5.1.21. The appeal site is subject to 2 no. separate zoning objectives within the Kingscourt Zoning Map as follows:

- The southern portion of the appeal site which accommodates the existing Dun na Carriage Estate is zoned for “Existing Residential” purposes with an objective to: *“Protect and enhance the amenity of developed residential communities”*.
- The northern “greenfield” portion of the site is zoned for Proposed Low Density Residential purposes with an Objective to *“Facilitate serviced low density residential development in a structured and coordinated manner”*.

5.1.22. The Vision of Existing Residential zoned lands as set out in Section 14.5.2 seeks to: *Ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill developments should be in keeping within the character of the area. Seek to enhance associated open space and community uses and improve the quality of existing residential areas.*

5.1.23. The vision for Low Density Residential zoned land as set out within Section 14.7.2 of the Plan is to *“Ensure the provision of high quality low density residential environments with good layout and design. All Low Density Residential zoned lands 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. Where appropriate, development design proposals shall provide for further access to adjacent zones of residential lands in order to facilitate their future access and development”*.

5.1.24. Residential is listed as a use which is permitted in principle on lands zoned for low density residential purposes and existing residential purposes.

5.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities

- 5.2.1. Section 3.3.4 of the Sustainable Residential Development and Compact Settlement Guidelines relates to Settlement, Area Types and Density Ranges for Small and Medium Sized Towns (1,500 – 5,000 population). According to the 2022 Census Kingscourt had a population of 2,955 in 2022. The town therefore falls within this category. Section 3.3.4 of the Guidelines describes the towns as follows:

Small to medium sized towns outside of metropolitan areas vary considerably in terms of population, employment and service functions and the level of public transport provision. Some small to medium sized towns have a district-wide service and employment function and are largely self-sustaining. Others, particularly those within commuting distance of cities, have experienced rapid residential expansion in recent decades based on population growth that is generated by economic drivers in larger urban centres. Many of these 'commuter' type towns have a high population but are reliant on other centres for employment and services and tend to be heavily car-dependent.

The recommended approach for small to medium sized towns will be to plan for growth arising from economic drivers within and around the settlement and to offer an improved housing choice as an alternative, including serviced sites, to housing in the countryside. Given the range of settlement types in this tier, planning authorities will, as part of the statutory plan making process, need to refine the density standards set out in Table 3.6 to respond to local circumstances.

- 5.2.2. Table 3.6 relates to Areas and Density Ranges Small to Medium Sized Towns and outlines that: *"The edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns".*
- 5.2.3. Section 3.2 of the Guidelines relates to Tailoring Policy to Local Circumstances. This outlines that while densities should generally be within the ranges set out in Section 3.3 it may be necessary and appropriate in some exceptional circumstances to

permit densities that are above or below the ranges set out in Section 3.3. In such circumstances, the planning authority (or An Bord Pleanála) should clearly detail the reason(s) for the deviation in the relevant statutory development plan or as part of the decision-making process for a planning application, based on considerations relating to the proper planning and sustainable development of the area.

- 5.2.4. Section 4.4 relates to key indicators of quality urban design and placemaking including (i) Sustainable and Efficient Movement (ii) Mix and Distribution of Uses (iii) Green and Blue Infrastructure (iv) Public Open Space and (v) Responsive Built Form.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located within any designated European site. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Breakey Loughs p NHA – 5.7km
- Ballyhoe Lough p NHA – 6.3 km
- Killyconny Bog (Cloghbally) SAC & p NHA – 15.6km
- Stabannan-Braganstown SPA and pNHA – 23km
- River Boyne And River Blackwater SAC - 19.6km

5.4. EIA Screening

- 5.4.1. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class 10(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:

- (i) construction of more than 500 dwelling units,
- (iv) urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

- 5.4.2. The proposal comprises the construction of 33 no. residential units on a 4.14 ha site (2.4 ha relates to the greenfield area of the site). The site area is therefore well below the applicable threshold for urban development. The proposed development falls below the development threshold and mandatory EIA is therefore not required. The site is located within the settlement boundary of Kingscourt. The nature of development within the vicinity of the site is primarily residential. The development will not have an adverse impact in environmental terms on surrounding land uses.
- 5.4.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a serviced site within the development boundary of Kingscourt will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of natural heritage and the proposed development and in my view is not likely to have a significant effect on any designated Natura 2000 site as detailed further in Section 8 of this report. I note the presence of a Recorded Monument (Ring Fort) to the southwest of the site. The development does not impact on the zone of notification of this feature. The application is accompanied by an Ecological Impact Assessment and a Bat Survey Report.
- 5.4.4. 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 and drainage services of Uisce Éireann and Cavan County Council. I note that the existing Wastewater Treatment Plant serving Kingscourt is currently at capacity and the proposals for an onsite wastewater treatment system. This is addressed within Section 7 of this report.
- 5.4.5. 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 within the development boundary of Kingscourt, which is served by public infrastructure, and the existing pattern of development in the vicinity,
 - The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),

- 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),

5.4.6. 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.

6.0 The Appeal

6.1. Grounds of Appeal

2 no. third party appeals were submitted in respect of Cavan County Council’s (CCC’s) notification of decision to grant permission for the development. The following provides a summary of the grounds of appeal.

Dun na Carraige Residents, c/o Michael Donohoe

Road Design of Existing Development

- The appeal refers to the lack of parking provision within the existing Dun na Carriage estate. The appeal outlines that parking on the existing internal road network restricts two-way traffic movements. It is stated that the construction of additional units will exacerbate the problem.
- The appeal refers to the requirements of Condition no. 14 of the PA’s decision in relation to visibility from the estate to Rocks Road. It is stated that this does not address fundamental concerns in relation to road safety.
- The appeal raises concern in relation to the design of the road in the vicinity of units 19-38 and existing sharp bend. Additional units will exacerbate safety issues in this area.

Open Space – Insufficient Green Areas

- The appeal raises concern in relation to the unfinished nature of areas of the estate, including the site earmarked for a creche, which is overgrown and in a dangerous condition. The estate has not been taken in charge by CCC.
- It is stated that the only viable open space area for the estate is adjacent to unit no. 38 which will be removed to make way for construction access. The appeal raises concern in relation to construction traffic access through the estate.

Wastewater Treatment Plant

- The appeal outlines that the construction of a temporary wastewater treatment plant on site is of concern to residents. The appeal cross refers to the submission on the application from Inland Fisheries Ireland.
- The appeal refers to a decision of ABP in Ballyjamesduff in Cavan under ABP Ref: PL02.312752 which relates to the upgrade of the Wastewater Treatment Plant.
- The appeal raises concern in relation to the applicant's intention to maintain a temporary treatment plant to the required standard.
- The appeal also raises concern in relation to the requirements of Condition no. 6 of CCC's notification of decision to grant permission for the development.
- The Board is requested to overturn the decision of CCC and refuse permission for the development and consider the points raised within the submissions on the application.

Claire Smith, Dunaree Lane, Kingscourt

Access and Road Safety

- The appeal outlines that concerns raised within submissions to the planning authority in relation to road safety standards were not considered.
- The appellants family home is located at Dunaree Lane. The appeal raises concern in relation to the direct access from the proposed dwellings facing Dunaree Lane onto the road. The appeal outlines that there is limited turning area provided within the proposed driveways and raises concern in relation to

the reversing of 16 no. vehicles associated within 8 no. dwellings onto to the road, which operates with a speed limit of 80 kmph. The appeal outlines that this represents a major safety issue, does not comply with road safety standards or DMURS.

- The appeal outlines that access to these dwellings should be provided via an internal roadway similar to the existing arrangement within the Dun na Carriage development in the vicinity of the entrance from Rocks Road.
- The appeal outlines that the revised and reduced scale of development could cater for an independent road to serve the houses fronting Dunaree Lane by extension of the roadway serving units 22 to 29.

6.2. **Applicant Response**

The applicant provided a response to the grounds of appeal. The following provides a summary of the key points raised:

- The appeal response requests that the decision of Cavan County Council to grant permission for the proposed 33 no. residential units is upheld by An Bord Pleanála.

Response to Appeal from Dun na Carriage Residents

- The appeal response outlines that the concerns raised within the appeal have been addressed within the applicant's FI response. The main concerns relate to the earlier phases of development and do not relate to the subject appeal.

Road Design

- The concerns raised in relation to the road design of the existing Dun na Carriage development relate to the original phase of the development and is outside of the scope of the appeal.
- The development proposes the provision of 2 no. in curtilage parking spaces per residential unit in accordance with the maximum permitted standards. This should negate against on – street parking. The concern raised within the appeal in relation to insufficient parking for the existing Phase 1 development is outside of the scope of the application. The appeal response outlines that

permission was previously granted for a more dense scheme on the site with the same access proposals.

Insufficient Green Areas

- The appeal response outlines that the development boundary of the site was extended in response to CCC's request for further information to include the former creche site. This area is now proposed as a landscaped area of public open space.
- To refuse permission would be detrimental to the residential amenity of existing residents in the area.

Wastewater Treatment Plant

- The appeal response outlines that the proposal is materially different to the development proposed within Ballyjamesduff (ABP Ref: PL02.312752) as cited within the appeal. The on-site pre-treatment system in the current scheme discharges to the main sewer system with no contaminants rather than a stream or watercourse as proposed in the Ballyjamesduff development proposal.
- The appeal response refers to the reference in the appeal to the submission from Inland Fisheries Ireland but outlines that Irish Water has confirmed capacity to accommodate the development. The appeal response cross refers to the report prepared by Molloy Environmental in response to CCC's FI request which outlines that the development will not add biological or nutrient loading to the existing Kingscourt Wastewater Treatment Plant and thus no discharge to any watercourse including the Glyde River.
- The appeal response outlines that the lands are zoned for development and that the upgrade of the Kingscourt Wastewater Treatment Plant is imminent and contained within Irish Water's (Uisce Éireann's) Capital Investment Plan 2020-2024.

Conclusion

- The appeal response outlines that the proposal is in accordance with the proper planning and sustainable development of the area and requests the Board to uphold the decision of Cavan County Council.

Response to Appeal from Claire Smith

- The appeal response outlines that the appellant does not object to the principle of residential development on site. The main concerns raised relate to road safety concerns.
- The appeal response outlines that the concerns raised have been addressed in response to CCC's request for further information. The revisions include the widening of Dunaree Lane and provision of a 2m footpath along the road. It is stated that the Thorndale development to the east of the appeal site provides similar access arrangements onto Dunaree Lane. The development forms a natural extension of the Thorndale development.
- The appeal response outlines that the development does not result in road safety issues along Dunaree Lane and will result in a DMURS compliant road layout.
- The appeal response outlines that the speed limit along Dunaree Lane in the vicinity of the site is 50 km/ph. The development will provide for an expanded road width of 6.6m and provide a 2m public footpath along Dunaree Lane improving safety conditions in the area. The alternative design response as suggested by the applicant would result in a poor design approach as it provides a barrier to the public realm and not improve the overall public road network.

6.3. Planning Authority Response

Response to Appeal from Dun na Carraige Residents (17.08.2023)

Cavan County Council provided a response to the appeal from Dun na Carraige Residents. The following provides a summary of the key points raised:

- The report outlines that the matters raised within the appeals have been addressed in the assessment of the planning application and in the conditions attached to the decision. The Board is referred to the Planner's Report in this regard.
- The proposed development has significantly reduced in density from the original plans submitted.

- Irish Water has confirmed that wastewater from the site would be accepted from the proposed development subject to meeting a standard of 25/35mg/l/BOD Suspended Solids as a minimum requirement. The ability to meet this requirement has been demonstrated by the applicant.
- The application boundary was extended at further information stage to address the concerns of residents of the existing estate.
- A public open space is proposed within an existing vacant site in the estate. Within the appeal site, the new public realm would be formed at the eastern perimeter of the site next to Thorndale Estate with potential for future pedestrian/cyclist connectivity in accordance with Objective 7 of the CDP.
- Public safety, including road design and visibility has been assessed in detail during the determination of the application and are reflected in the conditions of the Council's decision.
- The Planning Authority considers that the grounds of appeal cannot be sustained and that its decision should be upheld.

Response to Third Party Appeal from Claire Smith (17.08.2023)

Cavan County Council provided a response to the grounds of appeal. The following provides a summary of the key points raised:

- The report outlines that the matters raised within the appeals have been addressed in the assessment of the planning application and in the conditions attached to the decision. The Board is referred to the Planner's Report in this regard.
- Public safety, including road design and visibility has been assessed in detail during the determination of the application and are reflected in the conditions of the Council's decision.
- The Planning Authority considers that the grounds of appeal cannot be sustained and that its decision should be upheld.

6.4. Observations

Inland Fisheries Ireland (08/08/23)

An observation on the appeal was received from Inland Fisheries Ireland. The following provides a summary of the key issues raised:

- The report cross refers to Irish Waters 2021 Annual Environmental Report for Kingscourt which states that the Kingscourt WWTP has no remaining capacity. Upgrade for the plant is included in IW's 2020-2024 Investment Plan however IFI is not aware of when the project is likely to get underway.
- The observation cross refers to IFI's submissions on the application in June 2022 and June 2023. These are attached to the observation. Based on the applicant's FI response it is recommended that permission is not granted for the development until such time as additional capacity is provided at the wastewater treatment plant in Kingscourt.
- IFI consider that the pre-treatment proposals to Urban Wastewater standards without sufficient nutrient removal prior to discharge to the WWTP is unsustainable and likely to result in further negative impacts on the quality of the receiving water and potentially ecological status of the waterbody.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development – Compliance with Policy
- Design, Layout and Impact on Residential Amenity
- Access and Transportation
- Wastewater Capacity
- Other Issues

7.2. Principle of Development – Compliance with Policy

7.2.1. The appeal site is located within the settlement boundary of Kingscourt and extends to include the existing Dun na Carriage Estate and the existing undeveloped greenfield site to the north. The greenfield area of the site is zoned for Low Density Residential purposes with an objective to *“Facilitate serviced low density residential development in a structured and coordinated manner”* within the Cavan County Development Plan 2022-2028 (CCDP). The southern portion of the appeal site which accommodates the existing Dun na Carriage development is zoned for “Existing Residential” purposes with an objective to: *“Protect and enhance the amenity of developed residential communities.”* Residential is listed as a use which is permitted in principle on lands zoned for low density residential and existing residential purposes.

7.2.2. Kingscourt is designated as a Self- Sustaining Town within the Cavan Settlement Hierarchy (Table 5). Table 5 outlines the following guidance for such designated settlements *“Self-Sustaining Towns with high levels of population growth but which require targeted ‘catch up’ investment to become more self-sustaining”*. The policies and objectives of the CCDP support residential development within Kingscourt (Section 2.7.7. and Development Objective KSC 08).

Density

7.2.3. The vision for low density zoned lands as set out within the CCDP seeks to *“Ensure the provision of high-quality low density residential environments with good layout and design”*. The proposed development seeks the construction of 33 no. units on a 2.4ha site resulting in a density of 14 units per hectare.

7.2.4. Objective RD 01 of the Plan seeks to *“Encourage the densities in accordance with Section 13.4.1 of this Plan throughout the County in accordance with the Core Strategy”*. The following densities are recommended within Section 13.4 of the Development Plan.

- Density in Proposed Residential – 14 to 18 units per ha.
- Density in Proposed Low Density Residential – 8 to 10 units per ha.

7.2.5. The Plan sets out the following guidance in respect of the application of density standards: *“Generally, the number of units to be provided on a site should be*

determined with reference to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). The densities outlined in the table below indicate approximate key residential outputs over the lifetime of the plan and site density will be determined on a case-by-case basis”.

- 7.2.6. Section 3.3.4 of the Sustainable Residential Development and Compact Settlement Guidelines relates to Settlement, Area Types and Density Ranges for Small and Medium Sized Towns (1,500 – 5,000 population). According to the 2022 Census, Kingscourt had a population of 2,955 in 2022. The Guidelines recommend densities in the range of 25 to 40 units per hectare for Small and Medium Sized Towns.
- 7.2.7. While the proposed density is below the density range for Small and Medium Sized Towns set out within the Compact Settlement Guidelines of 25 to 40 units per ha, and above that identified for low density zoned lands within the CCDP (8 to 10 units per ha) I consider that the principle of the proposed density is acceptable and in accordance with the existing site context and provisions of Objective RD-03 of the Cavan County Development Plan which seeks to *“Ensure densities of proposed developments reflect the key attributes and character of the surrounding/ adjoining area”*.
- 7.2.8. I consider that the proposed density of 14 units per ha is acceptable on the site having regard to existing site development constraints include site topography, the proximity of an existing national monument in the vicinity of the site, and the location of the site at the edge of Kingscourt. I note that Cavan County Council has not raised objection to the proposed density and the issue of the density of the development is not raised within the grounds of appeal. I furthermore consider that density is just one of many factors which influence the quality of a development.

Conclusion

- 7.2.9. In conclusion, I consider that the principle of the development of existing low density residentially zoned lands within the settlement boundary of Kingscourt for residential purposes is acceptable subject to appropriate design, layout, residential amenity, access and infrastructural capacity.

7.3. Design, Layout and Impact on Residential Amenity

- 7.3.1. The proposal, as revised in response to CCC's request for FI, comprises the construction of 33 no. residential units, together with public open space site access and associated site development. Vehicular access to the majority of the units is proposed via connection to the existing road network which serves the Dun na Carriage Estate. Access to the proposed residential units to the north of the site is proposed via Dunaree Road. The layout has been designed to allow for pedestrian connectivity to lands at Thorndale Close to the east.

Design and Unit Mix

- 7.3.2. The development primarily comprises 3 to 4 bed semi-detached (32 no.) and 1 detached unit. Dwelling materials of brick and render reflect those established within existing properties in the area.

Built Form

- 7.3.3. The Sustainable Residential Development and Compact Settlements Guidelines outline that the layout, position and composition of buildings and to how buildings address streets and open spaces is a key element in ensuring the creation of attractive and well-designed settlements. I consider that layout of the development is acceptable on a low-density zoned site and provides active supervision with the open space areas.

Impact on Residential Amenity

- 7.3.4. In terms of the residential amenity of the proposed units I note that the internal layout of each of the proposed houses, in particular the combined living space and bedrooms, exceeds the recommendations of the Quality Housing for Sustainable Communities (2007) guidelines. I note that private open space for each dwelling is provided in excess of the guidance set out within the Cavan County Development Plan. The proposed public open space areas are well located and overlooked public amenity space which will serve existing and future residents of the area.
- 7.3.5. I consider that the development has been designed to negate against overlooking of existing residential units at Dun na Carriage. I recommend the inclusion of a condition outlining that the proposed side facing window openings to bathrooms are permanently maintained in obscure glass in the instance that the Board is minded to grant permission for the development.

Sustainable and Efficient Movement

- 7.3.6. Key principles for Sustainable and Efficient Movement as identified within the Guidelines include the creation of connections to the wider urban street and transport networks and improved connections between communities. I consider that the proposal provides appropriate connection to the existing road network to the north and south and pedestrian connectivity to lands to the east.

Public Open Space

- 7.3.7. The proposed development includes the provision of 5,988 sq.m. of public open space to serve the 4.15ha site. I am satisfied that the quantum of public open space within the scheme is in excess of the minimum requirements of 10% of net site area as set out within the Policy and Objective 5.1 of the Sustainable Residential Development and Compact Settlement Guidelines. Policy and Objective 5.1 of the Guidelines furthermore outlines that the provision of public open space is no more than 15% of the net site area. While I note that the undeveloped area of the site has a stated area of 2.4ha, I consider that the provision of open space should relate to the full site given the existing under provision of open space within the existing Dun na Carriage development.
- 7.3.8. I consider that the form, size and distribution of the proposed public open spaces within the scheme is appropriate, responds to the site characteristics and would facilitate a high level of surveillance and overlooking. I also consider that the large area of open space to the south of the site provides an appropriate interface with existing properties at Dun na Carriage and the existing National Monument to the southwest.
- 7.3.9. The application site boundary extends to include the existing residential development at Dun na Carriage to the south of the site. The appeal made on behalf of the Dun na Carriage Residents raises concern in relation to the inadequate provision of public open space within the existing Dun na Carriage Estate. The appeal raises concern in relation to the unfinished nature of areas of the estate, including the site earmarked for a creche, which is overgrown and in a dangerous condition and the proposed removal of the existing green area to the east of the site adjacent to No. 38 to facilitate access to the development.

7.3.10. On site inspection I noted the lack of public open space serving the existing residential dwellings at Dun na Carriage. This point was raised within submissions on the initial application and within Cavan County Council's request for further information. The development, as revised in response to Cavan County Council's FI request, proposes to develop the former creche site within the estate for public open space. While the appeal from Dun na Carriage Residents outlines that proposals for the former creche site are unclear I am satisfied that this site is identified within the proposed landscape plan. I recommend a condition that landscaping proposals for site are implemented at the initial phase of the development in the instance that the Board is minded to grant permission for the development. While the development of this area of the site for public open space would preclude the development of the creche, I consider that this is acceptable in this instance given the lack of open space serving Dun na Carriage and the scale of the existing and proposed development (71 units) which is below the threshold for the requirement for a creche facility.

7.3.11. I note the concerns raised in relation to the loss of the open space area to the east of no. 38 Dun na Carriage to facilitate access to the development. I consider that the loss of open space in this area is acceptable given the overall provision of public open space within the development which would serve both existing and future residents.

Conclusion

7.3.12. On an overall basis, I consider that the layout and design of the development is acceptable and has been designed to response to the topography of the site, the low density zoning objective and reflect the pattern established of development within the area.

7.3.13. I consider that the proposed separation distances between the proposed and existing units and the design and layout of the scheme achieves a balance of protecting the residential amenities of existing residents in the area and providing a quality amenity for future occupants.

7.4. Access and Transportation

7.4.1. The appeal site is located between the L-3536 Rocks Road to the south, the L-7572 Dunaree Lane to the north and Thorndale Close to the east. Access to the majority

of units on site is proposed via the existing entrance from Rocks Road which serves existing residential dwellings at Dun na Carraige. 8 of the proposed units are served by direct access from Dunaree Lane to the north.

- 7.4.2. The third-party appeals raise a number of concerns in relation to the principle of the proposed accesses arrangements. The appeal made on behalf of Dun na Carraige Residents raises concern in relation to the visibility at the entrance to the site from Rocks Road and the capacity of the existing estate road within Dun na Carraige to accommodate the development. The appeal outlines that the existing road network within the estate is narrow in width, accommodates on street parking and does not facilitate passing vehicles. The appeal also raises concern in relation to construction access to the site.
- 7.4.3. Rocks Road runs in a straight alignment in the vicinity of the site and operates within a speed limit of 50 kmph. Drawing no. 025 "Sightlines at Existing Entrance" illustrates sightlines of 45 m at the existing entrance to Dun na Carraige from Rocks Road in accordance with DMURS. I refer to the requirements of condition no. 14 of CCC's notification of decision to grant permission for the development which relates to submission of a Road Safety Audit prior to the commencement of development which specifically addresses sightlines at the entrance to the site. I refer to the concerns raised within the submissions on the application and within the appeal on behalf of the Dun na Carraige Residents in relation to existing sightlines together with the recommendations of the planning authority in relation to improvements to same. I am satisfied that any required improvement to sightlines can be addressed within the applicant's ownership in compliance with Condition no. 14 in the instance of a grant of permission.
- 7.4.4. The appeal from Dun na Carraige Residents furthermore raises concern in relation to the internal road network serving the Dun na Carraige development and insufficient capacity of same to cater for additional development. Particular concern is raised in relation to insufficient road width for passing vehicles associated with on street parking and insufficient in curtilage parking. The principle of the proposed access arrangements are questioned in this regard.
- 7.4.5. The applicant's appeal response outlines that the concerns raised in relation to the existing road network relates to the initial phase of the Dun na Carraige application

and is outside of the scope of the existing application to addresses. However, I note that the red line application boundary extends to include the existing estate. From review of the application drawings, I note that the internal road network appears to be in accordance with DMURS standards (c. 5.5m in width). While I observed on street parking, I do not consider this to be uncommon in residential estates.

- 7.4.6. The development proposes the provision of 2 no. in curtilage parking spaces per residential unit in accordance with the maximum permitted standards. This should negate against overflow of parking. I consider that options for the provision of visitor parking within the development should be addressed by means of condition in the instance of a grant of permission. I note that the Road Design Office in CCC raised no objection to the principle of access to the site from the existing road network. Having regard to the small scale of the development proposed, I do not consider that the proposed development would represent a scale or format of development which would result in significant additional traffic volumes through the estate.

Access from Dunaree Lane

- 7.4.7. Dunaree Lane operates within a speed limit of 50 km/ph within the vicinity of the site. The Lane is currently narrow in width and has no public footpath in the vicinity of the site. I consider that the FI proposals for an expanded road width of 6.6m and provide a 2m public footpath along Dunaree Lane are welcome and will improve safety conditions in the area. The key concerns raised within the appeal from Claire Smyth relates to direct access to 8 no. dwellings to the north of the site to Dunaree Lane and turning movements associated with same. The appeal outlines that this represents a major safety issue, does not comply with road safety standards or DMURS. The appeal outlines that access to these dwellings should be provided via an internal roadway similar to where the front row of where Dun na Carriage development is accessed from Rocks Road.
- 7.4.8. Dunaree Lane runs in a straight alignment in the vicinity of the site, and I see no restrictions to achievement of sightlines. The proposed residential units accessed from Dunaree Lane include in curtilage parking for 2 no. vehicles. While I consider that in principle the proposed access arrangements are acceptable and reflect those established in the Thorndale development to the east, I recommend that the applicant submit revised drawings to illustrate sufficient in curtilage hardstanding

space for turning vehicles within each property to negate against reversing vehicles onto Dunaree Lane in accordance with the recommendations of the report on file from the Road Design Office (30/06/2023). I am satisfied that this can be addressed by means of condition in the instance of a grant of permission. I also refer to the requirements of Condition no. 14 relating to sightlines from each dwelling.

Construction Access

- 7.4.9. The appeal made on behalf of Dun na Carriage Residents raises concern in relation to construction traffic access through the estate. I refer to the construction management plan submitted in response to CCC's request for further information which outlines that construction access will be provided from Dunaree Lane to the north of the site and not through the estate. I consider that this would sufficiently address the concerns raised in the appeal in relation to construction traffic.

Pedestrian Access & Permeability

- 7.4.10. Specific Objective 07 relates to the appeal site and seeks to "*Provide pedestrian and cycle linkages to connect adjoining residential areas*". The Proposed Landscape Plan (Drawing no. AI-711) illustrates a potential pedestrian connection to the east of the site linking to Thorndale Close. At present there is an overgrown walkway through the site connecting Thorndale Close with Dunaree Lane to the north. I note that the submission of file from the Thorndale Close Residents which requests the maintenance of the existing pathway. I am satisfied that the development provides appropriate permeability with adjoining residential areas in accordance with the requirements of Specific Objective 07.

Conclusion

- 7.4.11. In conclusion, I consider that the proposed access arrangements to the development are acceptable in principle. I do not consider that the proposed development would represent a scale or format of development which would result in significant traffic impact. I recommend that conditions relating to improvements to sightlines and in curtilage parking provision should be attached in the instance of a grant of permission.

7.5. Wastewater Capacity

- 7.5.1. The appeal made on behalf of Dun na Carriage Residents outlines that the Kingscourt Wastewater Treatment Plant is at capacity and raises concern in relation

to the proposed temporary wastewater treatment plant. Such concerns are also raised within the observation on the file from Inland Fisheries Ireland.

- 7.5.2. The proposed development seeks to install a foul sewer network which would gravitate to a proposed temporary Wastewater Treatment System to the northeast of the site as illustrated within Drawing no. 030 Proposed Foul and Storm Water Layout. It is then proposed to connect to the existing manhole on Dunaree Lane to the north of the site which outfalls to the Kingscourt Wastewater Treatment Plant. The proposed temporary on-site system would serve 25 of the 33 no. proposed residential units. The additional 8 no. units 26-33 are located in the area in which the proposed temporary treatment system is proposed. These units are proposed to be constructed once the proposed temporary treatment system is decommissioned and removed.
- 7.5.3. The Kingscourt Wastewater Treatment Plan is managed by Uisce Éireann and is currently at capacity. I refer to the Wastewater Treatment Capacity Register for Cavan published by Uisce Éireann dated June 2023. This register provides an indication of available wastewater treatment capacity based on loads received in 2022 and available treatment plan capacity now or by completion of a project at construction (where relevant). The Uisce Éireann Wastewater Treatment Capacity Register outlines that the Kingscourt WWTP (Ref. D0083) has a 'Red Status'. Red status means that there is "no spare capacity at present". It is also noted that a 'WWTP Project Planned/Underway'.
- 7.5.4. The submission on file from Uisce Éireann (14/07/2022) recommends a request for further information in relation to submission of a Pre-Connection enquiry in order to determine the feasibility of connection to public water/wastewater infrastructure. Item 10 of CCC's request for further information requested the applicant to submit written confirmation from Irish Water that it will accept effluent from the proposed temporary wastewater treatment system.
- 7.5.5. The applicant's FI response cross refers to correspondence from Uisce Éireann dated the 21st of July 2020 which outlines the following:
- The Kingscourt Wastewater Treatment Plant (WWTP) is overloaded and unable to accept new connections without an upgrade.

- An upgrade is planned and included in the next Irish Water Capital Investment Plan (2020-2024) however the timeframe for completion is unconfirmed.
- If the applicant wishes to connect to the Irish Water (IW) foul water network ahead of the planned upgrades, then connection via a full on-site pre-treatment system may be feasible subject to pre-treatment system meeting UWWTR standards of 25/35mg/BOD Suspended Solids as a minimum.
- The pre-treatment system will ensure that the proposed connection doesn't impact on the biological load of the plant. As the load will be foul only, it will not impact on the peak hydraulic load to the plant.
- Once the Kingscourt WWTP has been upgraded, the applicant shall decommission the full on-site treatment unit- and connect to the Irish Water foul sewer network that leads to the Kingscourt WWTP.
- Irish Water will not take over the applicant's on-site wastewater treatment plant and the applicant should put in place an operational contract to maintain the unit.

7.5.6. The applicant's appeal response outlines that Uisce Éireann has accepted the principle of the proposed on-site wastewater treatment system, that the proposed on-site treatment system will adhere to the standards set out within the submission and a maintenance contract shall be in place for the management of the unit.

7.5.7. Notwithstanding the above, I note that correspondence from Uisce Éireann attached to the FI response pre-dates the application and relates to a residential development of 56 no. units at Dun na Carriage. The correspondence from Uisce Éireann attached to applicant's the FI response reflects that attached to Site Services Design Report submitted in conjunction with the original application. I note that Uisce Éireann recommended a request for further information on their submission dated 14/07/2022.

7.5.8. I refer to the requirements of Development Objective FDW 8 of the Cavan County Development Plan which seeks to *"Ensure all new developments connect to the public wastewater infrastructure, where available, and to encourage existing developments that are in close proximity to a public sewer to connect to that sewer, subject to connection agreements with Irish Water. New developments connecting to*

Irish Water network shall be assessed through Irish Water's New Connection Process".

- 7.5.9. On the basis of the information on file, I am not satisfied that the applicant has sufficiently addressed Item 10 of Cavan County Council's request for further information which requested the applicant to demonstrate that Uisce Éireann will accept wastewater from the proposed temporary wastewater treatment system. I do not consider that the applicant has demonstrated necessary consent for the proposed connection to the Kingscourt WWTS in accordance with the requirements of Development Objective FDW 8 of the Cavan County Development Plan.
- 7.5.10. The appeal response outlines that the lands are zoned for development and that the upgrade of the Kingscourt Wastewater Treatment Plant imminent and contained within Irish Water's (Uisce Éireann's) Capital Investment Plan 2020-2024. Notwithstanding this, I have concern in relation to the principle of the proposed temporary on-site wastewater treatment system particularly having regard to the fact that a timeframe for the upgrade of the Kingscourt Wastewater Treatment System has not been confirmed.
- 7.5.11. The appeal made on behalf of Dun na Carriage Residents raises concern in relation to the applicant's intention to maintain a temporary treatment plant to the required standard. Such concerns are reflected within the submission on file from the Environment Section in CCC (9/6/2023) which raises "grave concerns" regarding the recommendation for a temporary WWTP to serve the development. The report outlines that ownership, operation and maintenance of facilities and troubleshooting as problems arise have led to significant environmental and public health issues in the experience of the department.
- 7.5.12. In terms of ownership, I refer to the submission from Uisce Éireann (27/07/2020) which outlines that the proposed treatment plant will not be maintained or taken over by the authority. Condition no. 4 of CCC's notification of decision to grant permission for the development refers to the decommissioning of the treatment plant prior to the development being taken in charge by the planning authority. The proposed treatment system will therefore remain in private ownership. I consider that this is contrary to Circular Letter PD 1/08 relating to Taking in Charge of Residential

Developments/Management Arrangements which recommends that wastewater treatment plants and associated buffer zones are taken in charge.

- 7.5.13. I refer to the requirements of Condition 12 of CCC's notification of decision to grant permission for the development which outlines that the proposed ongoing maintenance and management of the proposed temporary on-site wastewater treatment system and the proposals submitted by the applicant in response to the Council's FI request which refers to a 2-year maintenance contract. However, in the absence of a definitive timeline for upgrade of the Kingscourt Wastewater Treatment Plant and the decommissioning temporary treatment system I consider that potential issues with its management and maintenance could have adverse implications for the environment and public health. I am not satisfied that this can be addressed by means of condition.
- 7.5.14. I note the concerns raised in relation to potential impacts on water quality as raised within the observation on file from Inland Fisheries Ireland and the appeal on behalf of Dun na Carriage Residents. In terms of potential impact on water quality, I note that treated wastewater from the Kingscourt Wastewater Treatment Plant discharges to the Mullantra River. I refer to Uisce Éireann's Annual Environmental Report 2023 in relation to Kingscourt (D0083-01) available at (https://www.water.ie/docs/aers/2023/D0083-01_2023_AER-rev-1.pdf). The report outlines that the WWTP discharge was not compliant with the ELV's set in the wastewater discharge licence for the following: Ammonia-Total (as N) mg/l, ortho-Phosphate (as P) - unspecified mg/l. The report outlines that while a deterioration in water quality has been identified, it is not known if it or is not caused by the WWTP.
- 7.5.15. The appeal made on behalf of the Dun na Carriage Residents refers to a decision of An Bord Pleanála in Ballyjamesduff in Cavan under ABP Ref: PL02.312752 wherein permission was refused for the development of 21 no. residential units in June 2023. The reasons for refusal in this case related to material contravention of the zoning objective and potential impact of the on-site wastewater treatment plant on site on the water quality. The appeal response outlines that the proposal is materially different to the development proposed within Ballyjamesduff (ABP Ref: PL02.312752) as cited within the appeal. The on-site pre-treatment system in the current scheme discharges to the main sewer system with no contaminants rather than a stream or watercourse as proposed in the Ballyjamesduff development

proposal. I acknowledge the point raised within the appeal response and note that the appeal has been assessed on its individual merits. Notwithstanding this I consider that extra loading on the currently wastewater treatment plant in Kingscourt could result in water quality impacts.

Condition no. 6

7.5.16. The appeal also raises concern in relation to the requirements of Condition no. 6 of CCC's notification of decision to grant permission for the development which outlines that *"none of the authorised dwellings in Phase 2 of this proposed development i.e. dwelling units 26 to 33 inclusive may be made available for occupation by the developer until the completion and successful commissioning of the proposed upgrade to the Kingscourt Wastewater Treatment Plant"*.

7.5.17. I share the concerns of the appellant in relation to the wording of this condition. At the outset, I note that proposed units 26-33 relate to Phase 3 of the development, not Phase 2 as referred to within the condition. These units are located in the area of the proposed on-site WWTS. The upgrade to the Kingscourt WWTP and decommissioning of the existing on-site system would be required to be completed prior to the construction of proposed units 26-33 rather than the occupation of the units as referred to within the condition. I recommend the rewording of this condition in the instance that the Board is minded to grant permission for the development.

Conclusion

7.5.18. On the basis of the information submitted in conjunction with the application and appeal response I consider that the proposal is premature pending the upgrade of the Kingscourt Wastewater Treatment Plant. While I note the proposal for a proposed temporary on-site treatment system, I do not consider that the applicant has demonstrated sufficient consent for connection of this system to the existing wastewater treatment plant which is at capacity. I also have concern in relation to the long term maintenance and operation of same in the absence of a timeframe for the commencement of the upgrade to the Kingscourt Wastewater Treatment Plant. I consider that the proposed development could result in implications for the environment and public health and is premature pending the completion of the Wastewater Treatment Plant. I recommend that permission is refused for the development on this basis.

7.6. Other Issues

Water Supply – Insufficient Water Pressure

- 7.6.1. The proposal seeks to connect to the existing Uisce Éireann network on Dunaree Lane as illustrated on Drawing no. 031 Proposed Watermain Layout. The appeal on behalf of the Dun na Carriage Residents raises concern in relation to insufficient water pressure within the existing estate. Such concerns are reflected within the submissions from local residents on the planning application.
- 7.6.2. As earlier detailed, I do not consider that the applicant has engaged in consultation with Uisce Éireann in respect of the subject application. The correspondence attached to the Site Services Report from Uisce Éireann dated the 21st of July 2020 outlines that *“the pressure in the existing water network surrounding the proposed site is poor and unable to accept new connections, therefore in order to enable a connection to this proposed development, a number of water booster stations shall be required and funded by the applicant”*. I see no evidence that this has been addressed within the application. I consider that the requirements of Uisce Éireann require further consideration in this regard.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located in an urban and serviced site within the development boundary of Kingscourt where the closest Natura 2000 site is the located over 15km from the site Killyconny Bog (Cloghbally) SAC (Site Code 000006).
- 8.3. The proposed development comprises of the construction of 33 no. residential units on the site, access, associated site infrastructure including a wastewater treatment system and site development works on the 4.15 ha site as detailed within Section 2 of this report.
- 8.4. No nature conservation concerns were raised in the planning appeal with respect to Natura 2000 sites. A Screening Report prepared by Enviroguide Consulting was submitted in conjunction with the application which concludes that there is no potential for significant effects on European sites given the absence of a pathway

between the appeal site and any European sites. Cavan County Council's AA Screening as set out within the Planner's report (11/09/2022) concurs with the findings of the applicant's assessment.

8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature and scale of the low-density development on urban and serviced land.
- The lack of proximity between the appeal site and any Natura 2000 site and the lack of direct connections between same.

8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission is refused in accordance with the following reasons and considerations.

10.0 Reasons and Consideration

1. The proposed development seeks the installation of a temporary wastewater treatment system on-site to serve the proposed residential units which would connect to the existing Wastewater Treatment Plant in Kingscourt. The Kingscourt Wastewater Treatment Plant is managed by Uisce Éireann and currently at capacity. While there are plans for the upgrade of this plant, there is no confirmed timeframe for the delivery of the upgrade.

On the basis of the information submitted in conjunction with the application the Board is not satisfied that the applicant has obtained consent from Uisce Éireann to connect the proposed temporary wastewater treatment system to the public sewer network in accordance with Development Objective FDW 8

of the Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town, 2022-2028. The also Board has concern in relation to the long-term maintenance and management of the proposed temporary on-site system in the absence of a confirmed timeframe for the upgrade of the Kingscourt Wastewater Treatment Plant. The proposed development would therefore be premature pending the completion of the Kingscourt Wastewater Treatment System, would pose an unacceptable risk to public health and the environment and 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.

Stephanie Farrington
Senior Planning Inspector

12th of June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317702-23			
Proposed Development Summary	Construction of 33 no. dwellings, temporary waste water treatment system, access and associated site works			
Development Address	Dun na Carriage, Kingscourt, 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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		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	X	Class 10(b) of Schedule 5 to Part 2		Proceed to Q.4

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

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317702-23	
Proposed Development Summary	Construction of 33 no. dwellings, temporary wastewater treatment system, access and associated site works	
Development Address	Dun na Carriage, Kingscourt, Cavan	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	No. The development is located within an existing urban context. No significant waste, emissions or pollutants are envisaged.	No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing		No No

and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No	No No
<div style="text-align: center;"> • Conclusion </div>		
There is no real likelihood of significant effects on the environment. EIA not required. X	• There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: _____