



An  
Bord  
Pleanála

1.1.1.

## Inspector's Report

### ABP-318406-23

#### Development

Construction of a single storey retail unit, drive thru café unit, petrol filling station and all associated site works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) were submitted with this application.

#### Location

Townparks & Tullymongan Lower (to the east of Main Street), Cock Hill, Cavan Town, Co. Cavan

#### Planning Authority

Cavan County Council

#### Planning Authority Reg. Ref.

238

#### Applicant(s)

Tesco Ireland Limited.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

First & Third Party

#### Appellant(s)

Tesco Ireland Limited.

Cian O' Donoghue.

**Observer(s)**

None.

**Date of Site Inspection**

10<sup>th</sup> of September 2024.

**Inspector**

Stephanie Farrington

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Appendix 1 – Screening for Appropriate Assessment

Appendix 2 – Stage 2 Appropriate Assessment

## 2.0 Site Location and Description

- 2.1. The appeal site, which has a stated area of 4.126 ha, is located in the townlands of Townparks and Tullymongan Lower to the east of Main Street, at Cock Hill, Cavan. The site is bounded to the north by St Clare's National School; to the west by the surface car park serving the existing Tesco (and separated from same by a steep embankment) and to the south by single storey residential units at St. Francis Estate. Cock Hill Road, which forms part of the Eastern Access Road, is located to the south and east of the site. Killymooney Lough is located to the east at the opposite side of Cock Hill Road.
- 2.2. The site is located on an elevated embankment defined by the town centre to the west and primarily comprises a hardstanding area. The northwestern area of the appeal site is currently enclosed by fencing and occupied by storage containers. The site comprises small areas of grass verges and treelines along the site boundaries. The western area of the site is defined by a steep planted embankment which adjoins the existing town centre car park at Cock Hill serving the existing Tesco store at Main Street and Cinema. The application boundary extends to include an area of the existing car park.
- 2.3. The topographical survey submitted in support of the application illustrates that site levels vary by c.20m across the site from 71.4mOD to 93mOD. The lowest elevation is situated to the west where the site connects with the junction between Cock Hill Road (to the west) and Main Street car park. The highest elevation is located to the southwest of the site backing onto the existing St. Francis Estate. A steep cliff of loose rock forms the boundary between St. Francis estate and the appeal site. Access to the site is provided via Cock Hill Road.

## 3.0 Proposed Development

- 3.1. The proposed development comprises the construction of a mixed retail development including a licensed Tesco supermarket with a gross floor area of 5,197 sq.m.(2,194 sq.m. convenience net sales area, 957 sq.m. net comparison sales area), a 4 pump petrol filling station and a drive through café (174sq.m. gfa). The development includes signage, landscaping and all associated site development works.

- 3.2. Access to the development is proposed via the existing entrance from Cock Hill Road. A left in/left out access is proposed at the southern boundary of the site. The development includes pedestrian linkages to the site by way of the provision of a sloped pedestrian walkway and steps on the western boundary of the site linking the site to Main Street Cavan town centre. The development seeks to connect to existing water and wastewater services along Cock Hill Road.
- 3.3. The following provides a summary of the key development statistics:
- Site Area – 4.126ha
  - Retail Store Gross Floor Area of retail store: 5,197 sq.m. (Convenience retail floor area – 2,194 sq.m. net, Comparison retail floor area – 957 sq.m. net)
  - Drive Through/ Café – 174 sq.m. gross
  - Petrol filling station – (canopy area of 255sq.m.)
  - Car wash/jet wash (89 sq.m.)
  - Car Parking – 297 spaces
  - Height – Tesco Store 7.9m-8.5m, Drive Through - 3.9m, Petrol Filling Station – 4.8m.

Application Documentation

- 3.4. The application is accompanied by the following documentation:
- Application Drawings, Application Cover Letter, Public Notices and Completed Application Form
  - Letter of Consent from Cavan County Council
  - Planning Report
  - Retail Impact Statement
  - Transport Assessment
  - Sustainability Statement
  - Lighting Strategy
  - Engineering Planning Report
  - AA Screening and Natura Impact Statement
  - Construction Environmental Management Plan
  - Operational Waste Management Plan

- Flood Risk Assessment
- Landscape Design Statement
- Tree Survey and Arboricultural Impact Assessment
- Architectural Design Report
- Environmental Impact Assessment Report – Volume 1 Non-technical Summary – Volume II Main Report & Volume 3 Appendices

3.5. The following documentation was submitted in response to Cavan County Council's request for further information:

- FI Response Cover Letter prepared by RMLA Planning Consultants
- FI Public Notices
- Revised Application Drawings
- Environmental Impact Assessment Addendum Report
- Landscape Management Plan
- Tree Survey and Arboricultural Impact Assessment
- Construction Environmental Management Plan
- Construction Waste Management Plan
- Construction and Development Management Plan
- AA Screening and Natura Impact Statement
- CGI Booklet
- Stage 1/2 Road Safety Audit
- Systra response to further information
- Response to FI prepared by Pinnacle Consulting Engineers

## 4.0 **Planning Authority Decision**

### 4.1. **Decision**

4.1.1. Cavan County Council issued 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 the Cavan Local Area Plan 2022-2028, to the scale and nature of the development, it is considered that, subject to compliance with the conditions set out below, the development would be in accordance with the provisions of the development plan and would not adversely affect the residential amenities of the area. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.*

4.1.2. The decision of the Council to grant permission was subject to 34 no. conditions. The following conditions are of relevance:

- Condition 4: Relates to a Special Development Contribution of €1.5 million under Section 48(2) of the Planning and Development Act in respect of public infrastructure and facilities benefitting the development namely the Cavan Town Eastern Access Route.

Reason: It is considered reasonable that the developer should contribute towards the exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.

- Condition 5: relates to Landscaping proposals and outlines that (a) landscaping, pedestrain links and civic spaces and boundary treatment shall be completed prior to the operation of the retail unit (c) the pedestrain route connecting the site to the town centre shall be open for public use 24 hours a day and 7 days a week.
- Condition 9: outlines that the applicant shall include a Stage 1 Petrol Vapor Recovery as part of the proposed development. Stage 2 Petrol Vapour Recovery must be included if the actual/intended petrol throughput is greater than 500m<sup>3</sup> /year.
- Conditions 15 & 17: Condition 15 outlines that any incidents of surface or groundwater pollution should be report to CCC and Condition 17 sets out measures to address any observed contamination.
- Condition 22: relates to the submission of a final Site Layout Plan which fully incorporates all the recommendations of the Stage ½ Road Safety Audit.

- Condition 33: relates to implementation of all measures set out within the EIAR.
- Condition 34: relates to implementation of the mitigation measures set out within the NIS.

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

#### Initial Planner's Report (dated 10/03/2023)

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

#### *Principle of Development/Compliance with Zoning*

- The report refers to the proposed mix of uses on site in terms of compliance with the site's town core zoning objective. Retail is listed as a use which is permitted in principle. The proposed uses of Drive- through café and filling station are not specifically listed as either permitted or not permitted under the zoning objective. The report outlines that the use café is listed as a permitted use on lands zoned for town core purposes. In terms of the proposed filling station the report refers to the guidance set out within Section 14.1.3. of the County Development Plan which outlines that such uses will be considered on their individual merits. These uses are considered as acceptable having regard to the location and access to the site.
- The planner's report refers to the previous permission for retail development on the site. The principle of the proposal is deemed acceptable.

#### *Retail Impact*

- The report refers to the previous permission for a retail superstore on site with a gross floor area of 8,239 sq.m. under PA Ref:19911992. The permitted retail floorspace been taken into consideration in the County Retail Strategy and the report refers to the reduced retail footprint of the development now proposed (8,239 sq.m. permitted 5,197 sq.m. proposed). The report refers to the Retail

Impact Statement submitted in support of the application and concludes that this aspect of the proposal has been comprehensively addressed.

### *Design and Layout*

- The report raises concern in relation to the visual impact of the proposed western elevation of the proposed Tesco Store on the town centre. The report furthermore outlines that the design should be revised to enhance the architectural merits of the scheme at the proposed entrance (east facing elevation) and onto the public walkway (south facing elevation).
- The report refers to the proposed pedestrian walkway and plaza linking the site to Cavan town centre and outlines that these proposals significantly differ from the extant permission. The previous permission proposed a lift shaft to access the site from Main Street.
- The report questions the usability, visual impact and contribution of the proposed landscaping scheme to the public realm. The report outlines that the proposed stepped access should be revisited to provide enhanced design solutions. Revised proposals are recommended in this regard.
- The report refers to the location of St. Clare's National School to the north of the site. The report outlines that there is insufficient information within the application in relation to the interface of the proposal with the school, details of boundary treatment and potential visual and noise impacts. A request for further information is recommended in this regard.
- Signage proposals are deemed acceptable having regard to the size of the site and the orientation of signage towards the Eastern Access Road. The planner's report that the proposed signage would not result in visual clutter.

### *Flood Risk*

- The report refers to the Flood Risk Assessment submitted in support of the application. The report outlines that the applicant has complied with the development management standards for Flood Zones as set out within the Development Plan.

### *Internal Technical Reports*

- The report recommends a request for further information in respect of the issues raised within the internal CCC and consultee reports received on the application (as summarised within Section 2 of the planner's report).

### *Environment Impact Assessment*

- The report outlines that the EIA assessment is robust and detailed but recommends further information in relation to the impact of the proposal on the adjacent school site (St. Clare's) which is noted as being under construction at the time of the assessment.
- The report raises specific concern in relation to the following: potential long-term impacts on of noise and vibration on St. Clare's School, construction related impacts associated with dust (Air Quality and Climate), visual impact and Traffic and Transportation impacts.

### *Appropriate Assessment*

- Section 5 relates to Appropriate Assessment. The report recommends clarification on the applicant's Appropriate Assessment Screening and Natura Impact Statement and outlines that determination is premature pending clarification on a number of points raised.

### *Recommendation*

- The report recommends a request for further information in respect of the following:
  - Item 1: Revised layout and design: revised elevation proposals, contextual elevations illustrating adjacent school, boundary treatment along the northern boundary, revised landscaping proposals.
  - Item 2: Revised NIS which addresses points of clarification in relation to reference to 2014-2020 Cavan County Development Plan and planning history for the area.
  - Item 3: Submission of a Resource and Waste Management Plan.

- Items 4 & 7: Clarification in relation to the volumes and types of waste materials that may need to be imported on site and details of potential sites to be used for disposal of same.
- Item 5: Submission of a Construction Environmental Management Plan
- Item 6: Submission of details of surface water drainage proposals and discharge point to Killymoney Lough
- Item 8: Engagement with Uisce Éireann
- Item 9: Road Design Issues
- Item 10: Submission of a Stage 1/ 2 Road Safety Audit
- Item 11: Revised EIAR which addresses the potential impact on St. Clare's National School.

Planner's Report on Further Information Response (FI) (12/10/2023)

The planner's report provides a summary and assessment of the applicant's FI response. The report recommends a grant of permission subject to conditions.

The following provides a summary of the key points raised:

- The revised drawings address the concerns raised in respect of elevation treatment. The design is a significant improvement on the previous stairway layout.
- The report includes a review of assessment of the EIAR addendum report submitted in response to the FI request. The report recommends the implementation of the mitigation measures identified.
- The Planning Authority's AA Concluding Statement outlines that subject to adherence to the mitigation measures that the development will not result in adverse impacts on the Natura 2000 sites identified.
- The report recommends a grant of permission subject to conditions.

#### 4.2.2. Other Technical Reports

##### Municipal District Engineers (08/03/2023)

- The report raises no objection to the development. A request for further information is recommended in relation to a road safety audit, HGV auto track analysis and bus stop location.

##### Road Design Office (06/03/2023)

- The report raises no objection to the principle of the development. A request for further information is recommended in relation to:
  - Revised site layout to address concerns in relation to the configuration of the main access to the site, the internal roads layout, provision of an on-site bus stop and submission of a Road Safety Audit.
- The report specifically refers to the requirement for a contribution towards public infrastructure and services benefitting the development as per planning condition no. 4 of the grant of parent permission 11991992.

##### Environment Section (08/03/2023)

- The report recommends a request for further information in relation to the following:
  - Confirmation of connection to Irish Water infrastructure, submission of a Construction Environmental Management Plan and details of surface water proposals and discharge to Killymoney Lough.

##### Waste Management Section (17/02/2023)

- The report recommends further information in relation to the following:
  - Submission of a standalone Waste Management Plan, clarification of the volumes, sources and types of waste materials and details of potential site for disposal of excess soils/materials.

##### Waste Management (21/08/2023)

- The report recommends further information in relation to the applicant's response to Item 3 of the FI request. It is stated that the document submitted is not in accordance with the requirements of the "Best Practice Guidelines for

the preparation of resource and waste management plans for construction and development projects. The applicant's response to Items 4 and 7 FI request is deemed acceptable.

Waste Management (9/10/2023)

- The report recommends a grant of permission subject to conditions.

Environment Section (01/09/2023)

- The report recommends a grant of permission subject to conditions. The report recommends the attachment of a condition for the provision of a Stage 1 Petrol vapour recovery as part of the development. A Stage 2 Petrol Vapour recovery is required in the instance that actual/intended petrol throughput is greater than 500m<sup>3</sup>/year.

Road Design (09/10/2023)

- No objection subject to conditions.

#### 4.3. Prescribed Bodies

Department of Housing, Local Government and Heritage (22/02/2023)

- The report refers to the archaeological assessment within the EIAR and details of archaeological pre-testing and subsequent excavation previously carried out on site. The report outlines that any new/additional ground works should be subject to archaeological monitoring. The report recommends a grant of permission subject to conditions relating to archaeological monitoring.

Uisce Éireann (16/01/2023)

- The report recommends engagement with Uisce Éireann through a Pre-Connection Enquiry request.

Uisce Éireann (19/04/2023)

- The applicant was requested to liaise with UE within CCC's request for further information. A confirmation of feasibility from Uisce Éireann is attached to the applicant's FI response. This confirms that Water Connections and Wastewater Connection are feasible without upgrade.

#### 4.4. Third Party Observations

4.4.1. 2 no. observations were submitted during the initial public consultation period. The concerns raised primarily reflect those raised within the grounds of appeal and are briefly summarised below:

- The AA and NIS do not meet the requirements set out in Article 6(3) and Article 6(4) of the Habitats Directive and are not compliant with the Water Framework Directive.
- A robust assessment of the EIAR is required.
- Traffic Impact - the proposal would exacerbate existing traffic congestion in the town.
- Requirement for Petrol Filling Station – Cavan is currently oversaturated with fuel forecourts and the development of additional fossil fuel facilities is contrary to national and international commitments.
- Concerns are raised in relation ownership status of the site.
- Design- the development is unintegrated with the surrounding area and fails to achieve ease of accessibility or satisfactory connections with its surroundings.
- Retail Impact – The submission raise concern in relation to the impact of the proposal on the vitality and viability of Cavan town centre.
- Visual Impact – The observation outlines that the imposing nature of the structure and associated signage will have an adverse visual impact from vantage points around the town. Particular concerns are raised in relation to visual impact on views from Killymooney Lough and St. Clare’s Convent (Protected Structure).

4.4.2. 1 no. 3<sup>rd</sup> party observation was submitted in respect of the applicant’s FI response. The points raised primarily reflect those within the original submission as summarised above. The observation raised additional concerns in relation to the following:

- Visual Impact on Abbeylands Area.

- Impact on Residential Amenity of St. Francis Estate- the observation refers to the siting of the service yard and car park in close proximity to these properties.
- The appeal raises concern in relation to the impact of the proposal on St. Clare's National School.

## 5.0 Planning History

5.1. The following planning history relates to the site.

PA Ref: 11991992, ABP Ref: PL48.240097

5.2. Permission granted by An Bord Pleanála in January 2013 for the construction of a supermarket including a licensed alcohol sales area, cafe unit and all associated site development works and site services on site subject to 14 no. conditions.

5.3. The following provides a summary of the key development statistics:

- Gross Floor Area – 8,239 sq.m.
- Net Floor Area – 5,009 sq.m.
- Car parking provision – 250
- Convenience retail floorspace – 2,954 sq.m.
- Comparison retail floorspace – 2,005 sq.m.

5.4. The following conditions attached to the decision are of relevance:

- Condition no. 4: restricted the parking to serve the development to a maximum of 250 no. spaces.
- Condition no 14: related to a special development contribution of €1,500,000 (one million five hundred thousand euro) (as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended in respect of public infrastructure and facilities benefitting the development namely the Cavan Town Eastern Access Route.

PA Ref: 15/61, ABP Ref: PL02.244839

5.5. Permission granted by An Bord Pleanála in September 2015 for an additional 235 no. car parking space to that permitted under PA Ref: 11991992, ABP Ref: PL48.240097.

PA Ref: 17/473:

5.6. Extension of duration granted by Cavan County Council in January 2018 for 11991992, ABP Ref: PL48.240097. Condition no. 2 of this permission outlines that the development shall be completed within 5 years (13/01/2023).

PA Ref: 20/356:

5.7. Extension of duration granted by Cavan County Council in October 2020 for 15/61, ABP Ref: PL02.244839. Condition no. 2 of this permission outlines that the development shall be completed within 5 years (01/09/2025).

Existing Tesco Store, Main Street

5.8. The following planning history relates to the existing Tesco Store on Main Street.

PA Ref: 11991993

5.9. Under PA Ref: 11991993 Cavan County Council issued a split decision to grant permission to amalgamate the existing Tesco store to accommodate a comparison department store use and refuse permission for a café unit and service yard in January 2012.

PA Ref: 17/474

5.10. Extension of duration granted by Cavan County Council in January 2018 for 11991993. Condition no. 2 of this permission outlines that the development shall be completed within 5 years (20/12/2023).

## 6.0 Policy Context

### 6.1. Development Plan

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

*Chapter 1 – Core Strategy*

6.1.1. Cavan Town is designated as a Key Town within the County Settlement Hierarchy. Cavan is described as the County Town with large economically active services that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers.

6.1.2. The following Development Objectives are of relevance:

- KTC 01: *Support the continued growth and sustainable development of Cavan Town to act as a growth driver in the region and to fulfil its role as a Key Town, focused on employment, retail, quality of life and economic investment.*
- KTC 04 seeks to: *“Require sustainable, compact, sequential growth in Cavan Town by consolidating the built-up footprint through a focus on regeneration and development of town centre infill and brownfield sites, and encouraging regeneration of underutilised, vacant and derelict lands for residential development and mixed use to facilitate population growth”.*

*Chapter 2 Settlement Strategy - Cavan Town Local Area Plan*

6.1.3. The Plan outlines that the revitalisation and regeneration of town centres and the concept of compact growth are key priority policies. The plan seeks to support the regeneration of underused town centres and encourage their appropriate redevelopment to ensure better permeability with a strong focus on the pedestrian. The Plan furthermore outlines that the scale and nature of development permissible for the settlement shall be appropriate to its position in the Settlement Hierarchy and shall be consistent with relevant Core Strategy Policies.

6.1.4. Town Centre First Policy Objective 1 is of relevance as follows:

- TCFO 1: Reconsider the approach to town centres in light of their changing functions and encourage and support the incorporation of appropriate public

realm spaces and the need to strengthen pedestrianisation within town centres, thus enhancing their vitality.

6.1.5. The Cavan Town Local Area Plan is set out within Section 2.2 of the Cavan County Development Plan 2022-2028. Development Objective CTD 01 of the LAP outlines that:

*“It is a development objective of Cavan County Council to:*

- *CTD 01 Apply the visions, policies, objectives, standards and guidance contained within the Cavan County Development Plan 2022-2028, as outlined throughout the Plan and associated appendices and maps, to the Cavan Town Local Area Plan 2022-2028”.*

6.1.6. Section 2.2.10 of the Plan relates to Commercial and Retail Developments. This outlines that Cavan Town is designated as Tier 1 of the retail hierarchy as per the Cavan County Retail Strategy 2021-2028 (Appendix 2).

6.1.7. The Plan identifies that the primary retail street in Cavan Town is Main Street, while the main administration and commercial core is centred along Farnham Street. The Plan outlines that notwithstanding, the topographical issues that arise in Cavan Town, that Main Street and Farnham Street form the backbone of retailing in the town and these streets need to be used in an efficient manner. Site amalgamation will be considered in the context of an overall plan for the town. Three Masterplan sites are identified in the Cavan Town Local Area Plan to support the role of Cavan town centre.

6.1.8. The following Development Objectives are of relevance:

- *CTG 01: Promote the development of Cavan Town as a driver of economic growth and fulfil its role as a designated Key Town.*
- *CCR 01: Sustain and enhance the retail and services offer of Cavan Town Centre in line with the County Retail Strategy with a principle of ‘town centre first’ approach being prioritised.*
- *CCR 02: Support commercial opportunities within Cavan town centre which harnesses the potential of the town for economic growth and sustainability.*

- CCR 03: *Reinforce the centre of Cavan Town as the proper location for new commercial and retail development, with emphasis on quality of design, positive contribution to the existing streetscape and protection of existing heritage landscapes.*
- CCR 04: *Support the provision of mixed-use developments in the town centre which create opportunities to live, work and shop within the town and reduce the car-based travel.*
- CCR 05: *Encourage and facilitate the re-use and regeneration of derelict land and buildings for retail and other town centre uses with due cognisance to the Sequential Approach prescribed in the Retail Planning Guidelines 2012.*
- CCR 06: *Promote the priority of pedestrian movement in the town core.*

6.1.9. Section 2.2.11 of the LAP relates Regeneration and Placemaking and outlines that three Masterplan sites have been identified for comprehensive redevelopment or refurbishment on existing brownfield/infill lands over the lifetime of the plan namely:

- Masterplan 1: Abbeylands
- Masterplan 2: Main Street, Ashe Street, Farnham Street and Abbey Street.
- Masterplan 3: Northwest of Farnham Street

6.1.10. The LAP outlines that the redevelopment of these sites represents an opportunity to contribute to Cavan towns rejuvenation and revitalisation and in contributing to the overall improvement of the public realm and visual amenity. Cavan Town Placemaking and Regeneration Development Objectives include the following:

- CPR 01: *Support the implementation of the Cavan Town Revitalisation Plan 2018.*
- CPR 02: *Encourage the appropriate reuse and regeneration of derelict and underused premises and sites in Cavan Town.*
- CPR 03: *Promote the regeneration of backlands of Cavan town in a sustainable manner.*
- CPR 04: *Continue to identify sites in poor state of repair or neglect under the Derelicts Sites Act and support their regeneration.*

- CPR 05: *Ensure that the Town centre is accessible to all members of the community, including people with mobility issues, the elderly and people with young children.*
- CPR 06: *Actively engage with the community, developers and other agencies to secure resources for the enhancement, renewal and regeneration of the Cavan Town.*
- CPR 07: *Support the provision of mixed-use developments in the town centre which create opportunities to live, work, shop etc. within the town and reduce the need to travel by private car.*
- CPR 08: *Provide and promote the delivery of the Abbeylands Masterplan, having successfully secured URDF capital funding.*
- CPR 09: *Require the preparation of Masterplans 2 and 3 to ensure the orderly and integrated development of these key strategic sites.*

#### *Chapter 4 – Sustainable Communities*

6.1.11. Section 4.15 of the Plan relates to Schools and Facilities. The following Development Objectives are of relevance:

- CE 04: *Ensure that appropriate and adequate lands are available in County Cavan for the provision, expansion and/or improvement of educational facilities and to prohibit development adjoining existing public educational facilities which could hinder the future development of such facilities and any associated ancillary infrastructure.*
- CE 05: *Work collaboratively with the Department of Education to ensure a planned approach to education provision and to the location of school facilities with access to public transport and sustainable travel modes (i.e. walking, cycling).*
- CE 07: *Develop a programme for existing schools to facilitate safe walking, cycling or ease of access to public transport alternatives.*
- CE 09: *Reserve sites for educational use in those areas where the younger population has increased and there is a demographic demand for further school places.*

- CE 10: *Ensure the needs of communities including education facilities are appropriately provided for in the County.*

#### *Chapter 5 – Climate Change*

6.1.12. Chapter 5 of the Development Plan relates to Climate Change. The following vision is set out within this chapter of the plan: *“To transition to a low carbon, competitive, climate resilient and environmentally sustainable County, with an emphasis on reduction in energy demand and greenhouse gas emissions, through a combination of effective mitigation and adaptation responses to climate change”.*

6.1.13. Section 5.5 outlines that a Decarbonising Zone incorporating Cavan Town and surrounding areas will be progressed subject to departmental approval. The following Development Objective is of relevance:

- Decarbonising Zone Development Objective DZ 01- *Support a decarbonising zone incorporating Cavan Town and surrounding areas, subject to Departmental approval.*

6.1.14. Section 5.5.1 of the Plan relates to the Climate Action Plan (Action 165) which relates to Decarbonising Zones. The Plan outlines that the main projects that could be implementable in the zone include:

- electricity sourcing, heat management, reducing needs for travel and shifting travel modes towards active and public transport, enhanced building energy efficiency, carbon sequestration and energy storage and management system.

6.1.15. Section 5.5.2 relates to the potential contents of plans for decarbonising zones. Table 5.1 of the Plan sets out Climate Mitigation Measures and Table 5.2 sets out Climate Adaption Measures. Relevant measures are summarised below:

- Transport: Transport should be developed in accordance with the CO<sub>2</sub> emissions hierarchy.
- Buildings: Energy efficient buildings which limit energy demand.
- Air Quality: Implementation of a range of measures, including low emissions methodology should overlap with air quality monitoring and improvement.

- Waste Management: Leadership role regarding waste management, the circular economy and green procurement.

6.1.16. The following Climate Change Development Objectives are of relevance:

- CC 01: *Support the implementation and achievement of European, national, regional and local objectives for climate adaptation and mitigation as detailed in the following documents, taking into account other provisions of the Plan (including those relating to land use planning, energy, sustainable mobility, flood risk management and drainage) and having regard to the Climate mitigation and adaptation measures which have been outlined through the policy objectives in this Development Plan:*
  - *Climate Action Plan (2019 and any subsequent versions),*
  - *National Climate Change Adaptation Framework (2018 and any subsequent versions),*
  - *Any Regional Decarbonisation Plan prepared on foot of commitments included in the NWRA RSES;*
  - *Relevant provisions of any Sectoral Adaptation Plans prepared to comply the requirements of the Climate Action and Low Carbon Development Act 2015, including those seeking to contribute towards the National Transition Objective, to pursue, and achieve, the transition to a low carbon, climate resilient and environmentally sustainable economy by the end of the year 2050; and*
  - *Cavan County Council Climate Change Adaptation Strategy 2019-2024.*
- CC 03: *Support and facilitate European and national objectives for climate adaptation and mitigation having regard to the measures detailed in Table 5.1 and Table 5.2 (these have been informed by available guidance on Climate Action and Mitigation, including that from the EPA).*

#### Chapter 6 – Economic

6.1.17. Section 6.15 of the plan relates to the importance of town and village centres within the County and the challenges faced by evolving shopping patterns and the need to

offer more than the traditional retail offering. Relevant Town and Village Economic Development Objectives include the following:

- ETV 04: *Provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging mix of uses and maximising the use of land.*
- ETV 05: *Support and sustain the vitality and viability of town and village centres by ensuring that retail proposals enhance the public realm.*

6.1.18. Section 6.16 of the Plan outlines that compact growth and regeneration are a key focus of the Plan with a central objective to regenerate the County's towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice.

6.1.19. Compact Growth Development Objective CGD 02 seeks to: *Facilitate the delivery of sustainable, compact, sequential growth and regeneration of town and village centres by consolidating the built footprint through a focus on regeneration and development of identified key town centre infill/brownfield/back land sites promoting sustainable appropriate densities and the establishment of a mix of uses to encourage greater vibrancy outside of business hours.*

#### *Natural Heritage*

6.1.20. Chapter 10 of the County Development Plan refers to Natural Heritage. The following development objectives are of relevance:

*It is a development objective of Cavan County Council to:*

- *NH1 Conserve, protect and manage the County's natural heritage assets for future generations while encouraging appreciation, understanding and enjoyment of the amenity value for the present generation.*

6.1.21. Section 10.16.1 of the Plan relates to Landscape Categories within County Cavan. 5 no. landscape character areas are identified within Cavan. Cavan Town is located within Character Area 2: The Lakelands.

## *Chapter 13 – Development Management*

- 6.1.22. Section 13.3.6 relates to Special Contributions and outlines that where appropriate, the Planning Authority, will in addition to the terms of a scheme, require the payment of a Special Contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by the Local authority, in respect of public infrastructure and facilities which benefit the proposed development, in accordance with Section 48(2)(c) of the Act.
- 6.1.23. Section 13.6.5 relates to Retail Development and outlines that the vitality and viability of the traditional town and village centres is recognised as an important objective, and the overriding aim is to promote healthy competitive retail environments, commensurate to the settlement size and function.
- 6.1.24. The Plan outlines that the assessment of planning applications will focus on the qualitative aspects of the proposal including urban design, integration with the built fabric of the town centre and its contribution to the quality of life to both the town centre and the wider area. All applications for retail must demonstrate compliance with the provisions of the Cavan Retail Strategy. The following Retail Development Objectives are of relevance:
- *RET 01: Require that the scale, design and proposed uses of all retail development comply with the Retail Planning Guidelines for Planning Authorities, April 2012 and The Retail Design Manual (or any updates thereof) and the Cavan County Retail Strategy.*
- 6.1.25. Section 13.6.7 relates to signage and outlines that Advertising signage, where permitted should be simple in design, sympathetic to its surroundings, non-illuminated and not unduly obtrusive.
- 6.1.26. Section 13.6.8 of the Plan relates to Service Stations and outlines that these should be located on the outskirts of a town or village and inside the 50km to 60 km speed limits. Service stations and associated truck parking facilities in locations at or near national roads will be assessed having regard to Section 2.8 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- 6.1.27. The following Service Station Development Objectives are of relevance:

- SERS 01: *Proposals for new or extended service stations will be carefully considered and will not generally be encouraged within the town/village centre areas of towns and villages or in rural areas outside of villages and community nodes and shall be located within the speed limit zones.*
- SERS 02: *Service stations will not generally be permitted in/adjoining residential areas, unless it can be clearly demonstrated that there will be no significant effect on residential amenities by reason of noise, traffic, visual obtrusion, safety considerations or fumes and smells. Hours of operation will be limited where a service station is permitted in a residential area. Proposals to demonstrate the above will be required to be submitted with planning application.*
- SERS 03: *The following shall be required to be submitted as part of planning application.*
  - *A detailed design statement for the proposed development*
  - *A high-quality design including roof design, layout and external finishes to ensure it integrates and complements the surrounding environment*
  - *Standard petrol station canopies are not acceptable and should be replaced with more sympathetic canopies of light steel and glass or slated roofs with no attached advertising*
  - *Developments shall be located within the 60kph speed limit and are usually acceptable within the edges of designated settlements.*
  - *Proposed developments which have the potential to restrict traffic flow and/or create traffic hazard will not be permitted. Generally, two access points to a minimum width of 7.3 metres and a maximum width of 9.1metres will be required, with appropriate turning curve based on road design speed and relevant standards*
  - *The frontage of the site shall be defined by a boundary wall, not exceeding 0.5metres in height. Footpaths and lighting to ESB standards shall be provided to the roadside boundary.*
  - *The layout should provide for safe pedestrian access to the shop and rest facilities.*

- *Adequate provision of rest areas and toilets accessible by pedestrians and cyclists.*
- *Where the development would be likely to have significant impact on the historic or architectural character of the area, the use of standard corporate designs and signage may not be acceptable.*
- *Proposals for the service station including method of disposal of wastewater from car-wash areas, surface water outlet and oil interceptors.*
- *The development shall be designed and operated in such a manner that it does not adversely affect existing road drainage in the area.*
- *No pumps shall be located within 7 metres of the roadside boundary and no other structures other than pumps, shall be located within 15 metres of the roadside boundary.*
- *Retail uses not associated with the motor industry shall be considered in the context of the existing retail outlets in the vicinity. Only uses which contribute to the vibrancy and service level of the settlement shall be considered.*
- *Any retailing component shall not exceed 100sq.m of retailing area and shall be restricted to convenience goods only. Where permission is sought for retail floorspace in excess of 100sq.m, the sequential approach to retail development shall apply.*
- *Forecourt lighting, including canopy lighting, shall be limited. All external lighting shall be cowled and diverted away from the public roadway to prevent a traffic hazard.*
- *The placing of signs on footpaths, grass verges or any part of a public roadway will not be permitted. No advertisements or other structures, whether temporary or permanent, shall be placed on the forecourt, which would interfere with the sightlines of motorists entering/ existing the site. L*
- *EV Charging points for electric cars shall be provided with every new/extended service station.*
- *Detailed landscaping proposals in order to effectively integrate the proposed development into its surroundings*

6.1.28. Section 13.7.1 of the Plan relates to Flood Zones and Appropriate Uses and cross refers to the guidance set out within the 2009 Flood Risk Management Guidelines for Planning Authorities.

#### *Chapter 14 – Land Use*

6.1.29. The appeal site is primarily zoned for town core purposes with an objective to *“Protect and enhance the special physical and social character of the town and village core while protecting and/or improving town/village centre facilities”*. A small portion of the site to the west of St. Francis Residential Estate is zoned for “Existing Residential” purposes with an objective to *“Protect and enhance the amenity of developed residential communities”*.

6.1.30. The vision for town core zoned lands as set out within the Development Plan seeks to: *Maintain and build on accessibility, vitality and viability of the existing town and village centres in the County. Develop and consolidate these town/village cores with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop their urban fabric in accordance with the principles of urban design, conservation and sustainable development. Refurbishment, renewal, reuse and regeneration of existing buildings and derelict sites will be encouraged. Retail provision will be in accordance with County Retail Strategy. All Town Core 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 regeneration and residential purposes where appropriate.*

6.1.31. Section 14.3.3 relates to permitted in principle uses. The uses retail comparison, retail shop-major and restaurant/cafe are listed as uses which are “permitted in principle” on lands zoned for town core purposes.

6.1.32. The proposed development includes a Petrol Filling Station and drive through café use. These uses are not listed as either permitted in principle or not permitted uses. Section 14.1.3 of the Plan relates to Uses not listed in either category and outlines the following *“Proposed land-uses which are not listed in the indicative land-use zoning matrix will be considered on their merits having regard to the overall vision and objective of the zoning, the most appropriate use of a similar nature indicated in the matrix, the proper planning and sustainable development of the area and*

*compliance with the relevant policies and objectives, standards set out in both this Plan and relevant Section 28 Guidelines”.*

- 6.1.33. The south eastern portion of the site is identified within Flood Zones A and B within the zoning map. Section 14.2 of the Plan relates to Flooding. Development Objective CLU 01 seeks to: Facilitate the appropriate management and sustainable use of Flood Zones A and B identified by the Strategic Flood Risk Assessment.

*Appendix 2- Cavan County Retail Strategy*

- 6.1.34. Appendix 2 of the Development Plan sets out the Cavan County Retail Strategy. Section 8.1.1 relates to the retail hierarchy in Cavan and Cavan Town is designated as the Tier 1 Primary Retail Centre.
- 6.1.35. The town core boundary for Cavan town is identified within Section 8.1.3 of the retail strategy. The town core extends to include the appeal site. The Plan outlines that ‘town core’ areas identified for each of the settlements in the zoning maps accompanying the Development Plan, generally conform to the retail boundaries for the settlements. However, retail boundaries at variance to ‘town cores’ are set out, for example, where recent retail permissions have been granted adjacent to town cores and where core consolidation is advisable.
- 6.1.36. The retail strategy refers to the convenience retail offer within Cavan including Dunnes Stores and Tesco. Other retailers including Super Valu, Aldi and Lidl are present within peripheral parts of the town (Dublin Road and Athlone Road). The Plan outlines that although Tesco was granted planning permission to build a new store on the eastern edge of the town centre (Cock Hill), however this has not been implemented. The retail strategy outlines that considering the extant permission for the Tesco store, there will be limited additional capacity for convenience large-scale floorspace.
- 6.1.37. The retail strategy refers to the presence of retail parks disconnected from the town centre. Key actions identified for the town centre include the need to re-channel retail development into the town centre. The retail strategy outlines that while it is recognised that there are topographical restrictions to achieving this, the channel of level land broadly running along Farnham Street and Main Street needs to form the backbone to the retail centre and these lands need to be used in an efficient manner.

Site accumulation may be necessary to identify suitable sites within this channel that could cater for future demand in a sequential manner.

- 6.1.38. The retail strategy outlines that the 'Masterplan' lands identified in the Development Plan within the central block surrounded by Bridge Street, Farnham Street, Thomas Ashe Street and Main Street offer the most appropriate opportunity site for expansion of retailing within the town centre in this regard.
- 6.1.39. Other key actions include the preparation of an Integrated Land Use and Transportation Study, improvements to surface car parks and provision of pedestrian priority, monitoring vacancy, managing service station retailing, shopping initiatives including town centre management and distribution of retail floorspace beyond Cavan town centre.
- 6.1.40. Section 7 of the retail strategy relates to projected retail floorspace requirements/ capacity. Table 7.10 identifies additional indicative capacity for convenience (2,925 sq.m.) comparison (2,598 sq.m.) and retail warehouse (2,506 sq.m.) floorspace within the county to 2028. Section 8.1.4 of the Plan relates to the Location and Scale of Retail Development and outlines that the preferred location for retail development is within existing town centres.
- 6.1.41. Retail Policies are identified in Section 8.1.5 of the Retail Strategy. The following are of relevance:
- To promote and encourage the major enhancement of retail floorspace, primarily in comparison goods, and town centre functions in Cavan Town in order to sustain and develop its competitiveness as an important Hub and economic driver in the Northern and Western Region.
  - To reinforce the economic roles of the County's main urban centres by facilitating retail development on the basis of the Retail Hierarchy which designates the following: Tier 1 Cavan Town – Primary Retail Centre and Tier 2 - Virginia, Bailieborough, Ballyjamesduff, Cootehill and Kingscourt – Key Support Retail Centres.
  - To support the development of core retail areas as identified within the County Retail Strategy and reinforce the role and function of these core retail areas.

## 6.2. Cavan County Council Development Contribution Scheme 2017-2020

6.2.1. Section 3 'Level of Contribution' identifies the following contribution rates, per square metre of development: -

- Dwelling House - €23 per sq.m. (subject to a minimum payment of €5,000)
- Commercial/ Industrial - €25 per sq.m.
- Hospitals and Schools - €13 per sq.m.

6.2.2. Appendix 2 contains a list of projects to benefit from contributions. The following routes are listed:

- Cavan Town Centre Relief Road
- Cavan Southern Access
- Northern Strategic Route
- Projects identified in Transport Studies

## 6.3. Cavan County Council Climate Action Plan 2024-2029

6.3.1. The Cavan County Council Climate Action Plan 2024-2029 was adopted by CCC in February 2024. The primary goal of this plan is to ensure a sustainable future for the people of Cavan while creating a low-carbon, resilient county.

6.3.2. Section 4 of the Plan relates to the identification of a Decarbonising Zone for Cavan Town as identified in Figure 4.1. The identified zone extends to include the appeal site. The Plan outlines that A Decarbonising Zone (DZ) is defined as a designated area identified by the local authority, within which various measures and stakeholders are identified to address local energy efficiency, greenhouse gas emissions, and climate-related needs. The overarching goal is to achieve national emission reduction targets, including a minimum annual reduction of 7% in carbon emissions until 2030, leading to a cumulative 51% reduction by 2030 and net-zero emissions by the end of 2050 compared to the baseline year of 2018.

6.3.3. Section 4.4 of the Plan provides a summary of emissions within the Cavan Town Decarbonisation Zone. The Plan outlines that the commercial and public sector accounts for 41% of the DZ's carbon emissions and carbon emissions associated with the transport sector equate s to 9.14% of the total emissions within the DZ.

Within the transport sector, private car use equates to 53% of carbon emissions within the Cavan DZ. Section 4.4.4 of the Plan outlines that petrol and diesel are the most common sources of fuel for transport and account for 99.95% of fuel used. Just 0.05% rely on electricity for transport fuel.

- 6.3.4. Section 4.7 of the Plan identifies Decarbonising Zone Actions. Table 4.3 relates to the Built Environment and Transport. In terms of the Built Environment relevant actions include - ensuring all new buildings are zero energy and enhancing the resilience of the built environment to climate impact. Transport objectives include: (1) Promote a modal shift from private to public transport in Cavan Town, (2) Support the development of active travel infrastructure, cycling and walking initiatives and (3) Promote and enable the transition of vehicles within the Cavan Town DZ to electric or other low-carbon transport options. Table 4.4 relates to Natural and Green Infrastructure and seeks to incorporate a number of measures including promotion of SUDs measures within development. Table 4.6 relates to Sustainability and Resource Management and sets out measures including supporting the circular economy.

#### 6.4. Ministerial Guidelines

##### Retail Planning Guidelines for Planning Authorities – Department of Environment Community and Local Government (April 2012)

- 6.4.1. The Guidelines acknowledge that the retail sector is a key element of the national economy in terms of employment, economic activity and the vitality of cities and towns. A key aim of the Guidelines is that the planning system should promote and support the vitality and viability of city and town centres in all their functions.
- 6.4.2. Section 2 outlines five key objectives which are intended to guide and control retail development, namely: -
1. Ensuring that retail development is plan-led;
  2. Promoting city/town centre vitality through a sequential approach to development;
  3. Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;

4. Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
  5. Delivering quality urban design outcomes.
- 6.4.3. Section 2.4 of the Guidelines relates to National Policy on Retail Caps and outlines that a cap of 3,000 sq.m. net will apply to convenience floorspace in retail centres outside of Dublin City and Cork, Limerick/Shannon, Galway and Waterford.
- 6.4.4. Section 4.4 contains guidance on the sequential approach to retail development. It outlines an order of priority for retail development, directing the retail development should be located in city and town centres (and district centres if appropriate) and that edge-of-centre or out-of-centre locations should only be considered where all other options have been exhausted.
- 6.4.5. Section 4.4 of the guidelines furthermore outlines that *“where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required”*.
- 6.4.6. Section 4.11.1 states that large convenience stores comprising supermarkets, superstores and hypermarkets should be located in city or town centres or in district centres or on the edge of these centres and be of a size which accords with the general floorspace requirements set out in the development plan/retail strategy.
- 6.4.7. The guidelines define superstores as *“generally single level, self-service stores selling mainly food, or food and some non-food goods, with at least 2,500m<sup>2</sup> net retail floorspace but not greater than 5,000m<sup>2</sup> net retail floorspace and with integrated or shared parking”*.

#### Retail Design Manual

- 6.4.8. The companion document to the Retail Planning Guidelines promotes high quality urban design in retail development, to deliver quality in the built environment. It sets out 10 principles of urban design to guide decisions on development proposals.

## 6.5. Northern and Western Regional Assembly Regional Spatial and Economic Strategy (RSES) 2020-2032

- 6.5.1. Cavan is designated as a key town within the RSES and performs a regional function, being the largest town within the Cavan-Monaghan-Leitrim sub-region. The following objectives are of relevance:

*RPO 3.1: Develop urban places of regional-scale through:*

- *Delivering on the population targets for the Metropolitan and Regional Growth Centres through compact growth;*
- *Delivering significant compact growth in Key Towns and;*
- *Developing derelict and underutilised sites, with an initial focus within town cores.*

## 6.6. Natural Heritage Designations

- 6.6.1. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Lough Oughter and Associated Loughs SAC (000007) – 3.4km
- Lough Oughter Complex SPA (004049) – 3.7km
- Drumkeen House Woodland pNHA (000980) – 2.3km
- Lough Oughter and Associated Loughs pNHA (000007) – 3.4km

## 7.0 The Appeal

### 7.1. Grounds of Appeal

#### Third Party Appeal

- 7.1.1. A third-party appeal was submitted in respect of Cavan County Council's (CCC's) notification of decision to grant permission for the development by Cian O' Donoghue on behalf of Friends of Killymooney Lough. The following provides a summary of the main grounds of appeal:

*Principle of Development*

- The appeal outlines that the development is not aligned with the provisions of the Cavan County Development Plan 2022-2028. Notwithstanding the planning history of the site, the Board is asked to reassess the development in light of national and international focus on climate action, the proximity to the adjoining school, the renewed plans by CCC to develop the Abbeylands area within the town core and the presence of an Aldi supermarket in close proximity to the proposed Tesco store.

*Connectivity with Cavan town centre:*

- The appeal raises concern in relation to the connectivity of the development to Cavan town centre. The appeal outlines that the site's physical location and height difference places it on the periphery of the retail core making it more appropriately described as an "edge of centre site". The appeal outlines that the proposed pedestrian linkages would prove challenging for older individuals and those with disabilities. The development will be predominately car based.

*Visual Impact of Proposal:*

- The appeal outlines that the visual representations of the proposed store are monotonous, lack representations from various vantage points (including Killymooney Lough, Abbeylands area and St Clare's Convent a Protected Structure) resulting in uncertainty about the visual impact of the development.
- The appeal outlines that the proposal will encroach upon the streetscape and roofline of the surroundings. The appeal raises concern in relation to the height of the structure in this regard.
- The appeal raises concern in relation to the provision of a superstore overlooking the town and outlines that the proposal is contrary to the guidance set out within Section 5.5 of the CCDP which refers to Urban/ Suburban Spatial Planning and seeks to promote the unique urban skyline.

*Contrary to Retail Planning Guidelines:*

- The appeal outlines that the development is not in accordance with the sequential approach as set out within the Retail Planning Guidelines given the topographical and physical constraints.

- The appeal outlines that the development is contrary to Key Policy Objectives 2,4 and 5 of the Guidelines.
- The appeal outlines that the proposal does not support the Town Centre First policy objectives of the Cavan County Development Plan including Development Objectives CCR 01 to CCR 06.
- The appeal outlines that the development exceeds the recommended sq.m. floorspace for retail developments of 3,000 sq.m. as outlined in the RPG's and the Cavan County Retail Strategy (Section 2.4.1 of the Retail Planning Guidelines – Convenience Retail Floorspace Caps – 3,000 net sq.m.).
- The appeal includes an extract from Chapter 4 of the Retail Planning Guidelines which relates to retail warehouse units in excess of 5,000 sq.m. It is stated that the proposal is not in accordance with this guidance.

*Retail Impact on Cavan Town Centre:*

- The appeal outlines that there is insufficient information within the application in relation to the impact of the proposal on the vitality and viability of the retail sector of Cavan town centre and Tier 2 and 3 towns within the County.
- The appeal refers to the Town Centre First policy particularly TCFO 1 of the Development Plan and outlines that the development does not support the LAP focus on the Abbeyland Cultural Quarter and the implementation of the “Cavan Town Revitalisation Plan 2018”. The proposal is contrary to Development Objectives CPR 01 – CPR 08 of the CCDP in this regard and the development should be refused on this basis.

*Traffic Impact and Traffic Safety:*

- The appeal raises traffic safety concerns in relation to the pedestrian access and reliance of the development on vehicular access. The proposed café and filling station intensify such concerns.
- The appeal refers to the existing provision of retail parks on the outskirts of Cavan which result in significant congestion in the town. The appeal outlines that the proposal, with significant car borne custom, will significantly exacerbate existing traffic congestion.

#### *Environmental Concerns:*

- The appeal raises environmental concerns in relation to the impact of the development on Killymooney Lough.
- The appeal outlines that the information set out within the application is inadequate particularly regarding water quality and compliance with the Water Framework Directive. The appeal refers to lack of up to date information in relation to the biodiversity of Killymooney Lough.
- The appeal furthermore raises concern in relation to the visual impact of the proposal on Killymooney Lough. The appeal outlines that the development is contrary to Map Based Objective 3 of the LAP which relates to the Lough, and which seeks to “*3 Promote the amenity at Killymooney Lough taking advantage of its high point with views over Cavan town. Support the development of a public open space, amenity and recreational area, building on this area of natural importance. Identify a potential link from the existing Greenway to connect with Killymooney Lough*”.

#### *Climate Action:*

- The appeal raises concern in relation to compliance of the development with objectives NPO54 and NPO60 of the Cavan County Development Plan and the Cavan County Climate Adaptive Strategy 2019-2024.
- The appeal questions the alignment of the development with national policy including the Northern and Western Regional Assembly RSES and the Climate Action Fund National Development Plan 2018-2027 within the framework of Project Ireland 2040. The appeal outlines that the planner’s report do not mention these policy documents.
- The appeal refers to Section 5.5 of the CCDP which supports the development of a decarbonization zone within Cavan. The proposed Tesco store, drive through café and filling station are located within a designated decarbonising zone within the draft Climate Action Plan for Cavan. The appeal outlines that the proposal should be reviewed in the context of the Draft Climate Action Plan and the CCDP.

#### *Impact on Residential Amenity:*

- The appeal raises concern in relation to the impact of the development on Saint Francis housing development and the travelling community.

#### *Impact on Educational Facilities:*

- The appeal refers to the proximity of the site to St. Clare's National School and Gaelscoil Bhréifne. The appeal refers to the guidance set out within Section 4.15 of the CCDP in relation to School and Educational Facilities and Development Objectives CE 04, CE09 and CE 10 which seek to ensure that lands are available for the provision and expansion of educational facilities. The appeal outlines that the appeal site would provide an excellent location for future extension of the school and playing facilities.
- The appeal raises concern in relation to the lack of consideration of the impact of the proposed development on St. Clare's School.
- The appeal outlines that the development of a superstore in close proximity to the school impedes compliance with Development Objectives CE 5 and CE 7 of the Development Plan which relate to providing sustainable travel modes to schools.

#### *Service Station*

- The appeal outlines that the development of a service station in a town centre location is not in accordance with the guidance set out within Section 13.6.8 and Development Objectives SERS 01 and SERS 02 of the Development Plan.
- The appeal raises concern in relation to the visual impact of the service station and car wash from Killymooney Lough and outlines that the development is not in accordance with Development Objective SERS 03 or Map Based Objective 2.2.14 of the Development Plan in this regard.

#### *Signage*

- The appeal raises concern in relation to the visual impact of the proposed signage and its impact on the natural beauty and vistas from Killymooney Lough.

- The appeal includes extracts from Section 13.6.7 of the Development Plan and Development Objectives SIGN 01,02 and 03.

#### First Party Appeal

- 7.1.2. A first party appeal was submitted in respect of Condition no. 4 of Cavan County Council's notification of decision to grant permission for the development which relates to a Section 48 (2) Special Contribution of €1,500,000 in relation to the "Cavan Town Centre Eastern Access Route".
- 7.1.3. The following provides a summary of the grounds of appeal:
- The appeal does not question the principle of the attachment of a financial contribution in relation to the Eastern Access Route. The appeal outlines that the development contribution has not been appropriately applied. The appeal outlines that the correct Special Development Contribution applicable to the proposed development is €100,130.89.
  - The appeal outlines that there is no information or commentary regarding the calculation of the Special Development Contribution. This information was requested from the Local Authority but not provided.
  - The appeal refers to the Part 8 permitted for the Eastern Access Route in June 2010. The route was cited as costing €6 million. The appeal outlines that according to CCC's website funds of €2.3 million has been secured to provide for the Eastern Access Route. A balance of €3.7 remains.
  - The appeal outlines that the applicant is the first landowner subject to the Special Contribution and that a substantial portion of the lands benefitting from the Eastern Access Route remain undeveloped to date (as illustrated in Figure 1).
  - The appeal asserts that the special development contribution for the CEAR should at a minimum be apportioned among the 3 sites which are immediately adjacent to the CEAR. It is furthermore stated that there are other sites adjacent to the N3 which could be considered for the application of costs (Sites 4 to 6).

- Tables 1-4 of the first party appeal set out revised calculations for the Development Contribution Scheme varying from €100,130.80 (Table 3) to €333,920 (Table 4).
- The appeal outlines that the appropriate metric for calculating development contributions should be with reference to plot ratio in accordance with the calculation of standard development contributions.
- The appeal makes reference to the planning history pertaining to the site and the development permitted under PA Ref:11991992. Condition 14 of this permission applied a Section 48 (2) (c) Special Development Contribution of €1.5 million in respect of the Eastern Access Route. The appeal outlines that the current proposal is of a smaller scale to that previously permitted on site (i.e 5,748 sq.m. gfa proposed, 8,239 sq.m. previously permitted). It is stated that the current proposal should be subject to a lesser contribution no greater than €288,443.
- The appeal requests that the Board revise the Special Development Contribution under Condition no. 4 to no more than €100,130 having regard to the significant amount of future development lands within the vicinity of the Cavan Town Eastern Access route which will benefit from the road infrastructure.
- The appeal is accompanied by the following Appendices:
  - Appendix 1 – Notification of Decision Reg. Ref. 238
  - Appendix 2 – Request for calculation breakdown of the Special Development Contribution as set out in Condition no. 4.

## 7.2. Applicant Response

### Applicant Response to third party appeal (05/12/2023)

- 7.2.1. A response to the third-party appeal was submitted on behalf of the applicant. The following provides a summary of the points raised:

*Principle of Development:*

- The appeal response refers to the precedence that exists for the development of a retail store on the site under ABP Ref: PL48.240097. The proposed development is significantly reduced in size from the development previously permitted.

*Connectivity and Accessibility:*

- The appeal response provides a summary of pedestrian access to the site namely at the main entrance from the Eastern Access Road, pedestrian entrances to the south of the site and a pedestrian walkway to the west accessible from Main Street. The pedestrian walkway has been designed in full accordance with the building regulations which addresses the concerns expressed by the appellant in relation to walkability due to topography of the site. The appeal response outlines that a comprehensive design assessment was undertaken in conjunction with CCC which confirmed that there is no way in providing a level pedestrian access between Main Street and the site.
- The proposed development will result in the development of a key town centre zoned site, provides an appropriate sequential expansion of the town centre and improves consumer choice.
- The appeal response outlines that the site is located directly to the east of Main Street with strong pedestrian linkages provided as part of the development. The appeal response furthermore refers to the town core zoning objective pertaining to the site.

*Visual Impact:*

- The appeal response refers to Chapter 14 of the EIAR which includes a Landscape and Visual Impact assessment. This addresses the townscape and visual impact of the proposal on the town centre and concludes that the development will not result in any significant/negative visual impacts. The appeal response outlines that the quality design and materials will make a positive contribution to the urban setting. Furthermore, the scale of the development has been reduced from the previously permitted scheme.

*Retail Impact:*

- The appeal response outlines that having regard to the town core zoning objective pertaining to the site the proposal is in line with the provisions of the Retail Planning Guidelines. Notwithstanding this a RIS was submitted in support of the application which confirms that capacity exists for the proposed development.
- Cavan town centre is designated as the Tier 1 Primary Retail Centre within the County and performs important retail function in this regard.

*Accessibility and Traffic Impact/ Safety Concerns:*

- The appeal response provides a justification for the proposed development and associated parking having regard to the format of development proposed. The appeal response cross refers to the Traffic Assessment submitted in support of the application which demonstrates that trips associated with the development can be accommodated on the adjoining road network. The appeal response also refers to the proposed strong pedestrian linkages.

*Environmental Concerns:*

- The appeal response refers to the EIAR submitted in support of the application. It is stated that the mitigation measures set out within Section 8.7 of the EIAR (Hydrology and Hydrogeology) are more than adequate to protect Killymooney Lough from adverse impacts.
- The appeal furthermore outlines that the ecology sensitivity of the Lough is low. The appeal refers to the NIS and Ecological Impact Assessment submitted in conjunction with the application and the mitigation measures set out therein.

*Climate Change Concerns:*

- The appeal response cross refers to the Sustainability Statement submitted in support of the application and outlines that the development is energy efficient and of low carbon demand. The proposal maintains links with Main Street and removes unnecessary car trips from the street. The Cavan Climate Action Plan is in draft format.

*Impact on Residential Development:*

- The appeal response outlines that no objections to the proposal were received from the residents of St. Francis housing development. The appeal response refers to boundary treatment and public realm improvements proposed.

*Educational Facilities:*

- The appeal response notes the reference in the appeal to the use of the site as an extension to St. Clare's National school and refers to the town centre zoning objective pertaining to the site, the previous permission relating to the site, and the recently constructed extension at the school.

*Service Station:*

- The appeal response outlines that the service station is a complementary offer to the retail foodstore. The principle of the proposed service station was also accepted by CCC.

*Killymooney Lough Views:*

- The appeal response outlines that the site is not subject to any heritage protection status or protected views and is separated from Killymooney Lough by the Eastern Access Route.

### **7.3. Planning Authority Response**

Response to 3<sup>rd</sup> Party Appeal (22/11/2023)

7.3.1. Cavan County Council provided a response to the third-party appeal. The following provides a summary of the key points raised:

- The concerns raised have been adequately addressed in the original planning application and technical reports submitted.
- All matters raised have been assessed by the Planning Authority.
- The Board is requested to uphold the decision of the Planning Authority and grant permission for the development.

## Response to 1<sup>st</sup> Party Appeal (7<sup>th</sup> of December 2023)

7.3.2. Cavan County Council provided a response to the first-party appeal. The following provides a summary of the key points raised:

- The appeal does not question the principle of the application of a Contribution in respect of the Cavan Eastern Access Road (CEAR). The appeal disputes the amount of the Contribution applied in the condition. In this regard the PA has restricted its response to the quantum of special development contribution applied.
- The Council's position is that the special development contribution of €1.5 million is the appropriate figure based on the traffic that will be generated by the proposed development.
- The PA's appeal response outlines that the Cavan Eastern Access Road is a designated local road L2543 of some 1.17km in length. Figure 1 of the appeal response shows the location of the CEAR relative to the appeal site.
- The PA's response outlines that the sum of €1.5 million was previously accepted by the applicant under PA Ref: 11/1993, ABP Ref: PL48.240097 (Condition 14). The applicant did not question the quantum of the contribution applied in this instance and the level of contribution applied was not subject to a first party appeal.
- The Planner's Report which informs the decision of the PA to grant permission for the development outlines that *"it is recommended that the developer shall pay a special contribution towards expenditure that was and/or is proposed to be incurred by the Planning Authority in respect of public infrastructure benefitting the development as per planning condition no. 4 of the grant of parent permission 11991992"*.
- The report outlines that a Part 8 for the CEAR was approved at the Council meeting in June 2010. Construction of the route commenced in March 2011 and was substantially complete in May 2013.
- Table 1 of the PA's response relates to the costs associated with the delivery of the CEAR. This outlines that the actual costs associated with the delivery of the CEAR were €8,549,142. A grant of €1,400,000 was received under the

ERDF (European Regional Development Fund) and €2,386,014 from the National Transport Authority (NTA) and the Department of Transport, Tourism and Sport (DTTAS). The remaining shortfall is €4,763,128.

- The appeal response refers to the case made in the appeal that the contribution should be apportioned between three sites which are immediately adjacent to the CEAR which includes the appeal site (identified as Site 1). The PA's response outlines that only 2 of the identified landholdings should be considered on the basis that they are zoned for development within CCDP and will be accessed from the CEAR.
- The PA's response refers to Sites nos. 4 to 6 identified by applicant as being appropriate for the application of the Special Development Contribution Scheme. These sites are not relevant and should not be considered for the application of a Special Development Contribution on the basis of their zoning for Strategic Reserve purposes and alternative access arrangements from the Dublin Road.
- The appeal response refers to the applicant's "plot ratio" methodology for the calculation of development contributions. The PA's response outlines that this is not the case. The general development contribution attached as Condition no. 2 of the Council's permission is calculated by reference to the GFA of the development. The appeal response outlines that it is the Council's position that traffic associated with the development using the infrastructure is a more transparent way to calculate the Special Development Contribution.
- In the instance that the Board considers that the use of plot ratio is the appropriate mechanism for the calculation of development contribution the PA question the plot ratio applied by the applicant. The appeal response outlines that the applicant ignores traffic intensive elements of the development including the petrol filling station and the regional home delivery service. Appendix 2 of the appeal response sets out a review of plot ratios of similar zoned developments in Cavan. Table 3 and 4 of the appeal response set out alternative calculations for the development on the basis of the application of plot ratio.

- Section 2 of the PA's appeal response sets out an alternative calculation of the Special Development Contributions on the basis of car parking. It is stated that the special development contribution based on car parking spaces would be €1,181,119.
- Section 2.2 sets out a calculation of the Contribution using traffic generated by the development. The Council presents a number of scenarios which show that the development contribution can vary from between €660,554 to €2,992,172. The figure of €1.5 million attached as Condition is stated as being a fair, reasonable and appropriate contribution to the CEAR.
- The appeal response is accompanied by the following Appendices:
  - Appendix 1 – Memo from Roads and Transport Department relating to expenditure on the Cavan Eastern Access Road.
  - Appendix 2 – Road Design Calculations of Apportionment Costs

#### 7.4. Observations

- None.

#### 7.5. Further Responses

##### Applicant's Response to CCC's Submission on 1<sup>st</sup> Party Appeal

- 7.5.1. Cavan County Council's response to the 1<sup>st</sup> party appeal was circulated to the applicant for comment. A response to the Council's submission on behalf of the applicant was submitted to the Board on the 10<sup>th</sup> of January 2024.
- 7.5.2. The following provides a summary of the key points raised:
- The applicant welcomes the response to the appeal by CCC and the clarification in relation to the calculation of the Special Development Contribution attached as Condition no. 4 of the PA's decision.
  - The appellant is the first landowner that has been subject to the Special Development Contribution.
  - The appellant notes the Planning Authority's use of traffic generation to calculate the development contribution. The applicant's response contends

that calculating the contribution based on floor areas (in accordance with the General Development Contribution Scheme) is the more appropriate metric as calculations based on traffic volumes can be subjective. The submission also refers to the suite of measures incorporated within the development to reduce car dependency.

- The submission outlines that the petrol filling station will be complementary to the proposed retail store and promote opportunities for linked trips. The proposed home delivery service will reduce traffic volumes to the development.
- The submission outlines that the proposal is a lesser scale of development than that previously permitted on site and a lesser contribution is considered appropriate on this basis.
- The submission asserts that sites which benefit from the Eastern Access Route including sites identified within the submission as Sites 3, 4,5 and 6 should all be subject to the development contribution. It is stated that these sites are zoned within the Development Plan.
- The Board is requested to revise the level of contribution under Condition no. 4 to no more than €128,901.68 having regard to the significant amount of future development lands that will benefit from the Route.

## 8.0 **Assessment**

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

- Principle of Development/ Compliance with Policy
- Retail Impact on Cavan Town Centre
- Design and Visual Impact
- Impact on Residential Amenity

- Impact on Educational Facilities
- Traffic Impact and Access
- Impact on Killymooney Lough
- Other Issues
- Development Contribution – Condition no. 4

## 8.2. Principle of Development / Compliance with Policy

- 8.2.1. The proposed development comprises the construction of a mixed retail scheme comprising a Tesco supermarket (5,197 sq.m.), a drive-thru café (174 sq.m.) and petrol filling station, car parking, landscaping and associated development. The proposal involves the redevelopment of a largely brownfield undeveloped site to the east of Cavan town centre on an elevated embankment defined by the town centre to the west and Killymooney Lough to the east.
- 8.2.2. The site is located within the town core as identified within the Cavan County Retail Strategy and primarily zoned for town core purposes within the Cavan LAP with an objective to *“Protect and enhance the special physical and social character of the town and village core while protecting and/or improving town/village centre facilities”*.
- 8.2.3. Cavan town is designated as a Key Town within the County Settlement Strategy and a Tier 1 Retail Centre within the Cavan County Retail Hierarchy. The development objectives of the Cavan County Development Plan support the development of the Cavan town as a growth driver in the region, seek to sustain and enhance the retail and services offer of the town, and promote sustainable, compact and sequential growth within the town (Development Objectives KTC 01, KTC 04, CTG 01, CCR 01).
- 8.2.4. The third-party appeal raises concern in relation to the principle of the proposed development and outlines that the proposal is not in accordance with the provisions of the Cavan County Development Plan or the Retail Planning Guidelines as summarised under the headings below:
- Non-Compliance with Zoning Objective – the appeal raises specific concerns in relation to the service station use in this regard.

- Location of Site and Compliance with Policy - The appeal raises concern in relation to the siting of the proposed development at a location removed from the town centre of Cavan and outlines that the development is not in accordance with the sequential approach as set out within the Retail Planning Guidelines given the topographical and physical constraints. The appeal outlines that the development is contrary to Key Policy Objectives 2,4 and 5 of the Retail Planning Guidelines and the Town Centre First policy objectives of the Cavan County Development Plan including Development Objectives TCFO 01 and CCR 01 to CCR 06. The appeal outlines that the development exceeds relevant floorspace caps set out within the Retail Planning guidelines (Section 2.4.1 and Chapter 4).

8.2.5. I consider the issues raised within the appeal in turn in the following sections of this report.

*Proposed Mix of Uses – Compliance with Zoning Objective*

8.2.6. The proposed uses including a Tesco superstore of 5,197 sq.m comprising a mix of convenience (2,194 sq.m.net) and comparison floorspace (957 sq.m net). The proposed uses retail comparison and retail shop-major are listed as uses which are “permitted in principle” on lands zoned for town core purposes. The principle of a large-scale retail development has previously been established on site. Under PA Reg Ref. 11991992, ABP Ref: PL 48.240097 planning permission was granted for a Tesco store with a gross floor area of 8,239 sq.m. on site (2,954 sq.m. net convenience floorspace and 2,005 sq.m. net comparison floorspace). I consider that the principle of the proposed retail uses are therefore acceptable.

8.2.7. The proposed drive through use is not listed as a specific use within the zoning matrix set out within the Cavan County Development Plan. Notwithstanding this, I note that the uses of restaurant/café and take away/fast food are listed as uses which are permitted in principle on lands zoned for town core purposes. I consider that the principle of this use is therefore acceptable.

8.2.8. The proposed use of petrol filling station is not listed as a use which is “permitted in principle” or “not permitted” under the town core zoning objective. I note that this is detailed as a specific use under other land use zonings. Section 14.1.3 of the Cavan County Development Plan provides the following guidance in respect of such uses:

*“Proposed land-uses which are not listed in the indicative land-use zoning matrix will be considered on their merits having regard to the overall vision and objective of the zoning, the most appropriate use of a similar nature indicated in the matrix, the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards set out in both this Plan and relevant Section 28 Guidelines”.*

- 8.2.9. Development Objectives SERS 01, SERS 02 and SERS 03 provide guidance in relation to the siting and design of service station developments. In particular, I note that Development Objective SERS 01 outlines that proposals for new service stations will be carefully considered and will not generally be encouraged within town centres. The appeal questions the principle of the proposed filling station in this regard.
- 8.2.10. The site is zoned for town core purposes within the Cavan County Development Plan and located within the defined retail core of the town. The Planning Report submitted in support of the application outlines that the proposed petrol filling station is a complementary offer to the foodstore development and the provision of a drive thru café and petrol filling station within the site provide opportunities for linked trips between the supermarket and town centre. Cavan County Council have deemed these proposed uses to be suitable on-site having regard to the location and access to the site. In this regard I note that vehicular access to the proposed petrol filling station is proposed via Cock Hill and not from the traditional core of the town.
- 8.2.11. Development Objective SERS 02 of the plan refers to the siting of service stations and outlines that these will not be generally permitted in/adjoining residential areas. In this regard I note that the proposed service station is located within an established mixed-use commercial/educational area and over 80m from the nearest residential property located to the south of the site at the opposite side of Cock Hill. I consider that this distance is sufficient to negate against impacts of the proposed use including noise, smells etc. On the basis of the information set out within the application and having regard to the access arrangements to the proposed filling station I am satisfied that this use can be considered in accordance with the guidance set out within Section 14.1.3 of the Cavan County Development Plan.

8.2.12. A small portion of the site to the west of St. Francis Residential Estate is zoned for “Existing Residential” purposes with an objective to *“Protect and enhance the amenity of developed residential communities”*. This area of the site is proposed to accommodate landscaping.

Conclusion

8.2.13. On an overall basis I consider that the redevelopment of a town core zoned site within the retail core of Cavan for a mix of retail uses is in accordance with the zoning objective pertaining to the site. I consider that the proposed filling station and drive through uses are ancillary to the main retail use and are acceptable in principle at this location.

Location of Site – Compliance with Retail Planning Guidelines and Cavan County Development Plan

8.2.14. Cavan Town is designated as a Tier 1 Primary Retail Centre within the county and performs an important retail function. The policies and objectives of the Cavan County Development Plan compact growth, the town centre first approach and enhancement of the retail offer of the town (Development Objectives CCR 01, CCR 02, CCR 03). The Cavan County Retail Strategy attached as Appendix 2 of the CCDP identifies the appeal site within the defined town core of the town. Retail Policies as set out in section 8.1.5 of the Retail Strategy seek: *“To support the development of core retail areas as identified within the County Retail Strategy and reinforce the role and function of these core retail areas”*.

8.2.15. The principle of a large-scale retail development has previously been established on site (PA Reg Ref. 11991992, ABP Ref: PL 48.240097 and EOD 17/473). The Planning Report submitted in support of the application outlines that the current proposal is a progression from the previously permitted scheme and has been designed with a reduced footprint, reduced height, more active elevations, less parking, a mix of uses on site and enhanced landscaping and connections with the established core retail area. The report refers to the existing Tesco store on Main Street which is detailed as being no longer fit to meet the needs of modern convenience retailing. This store will be vacated to facilitate a comparison unit and café unit as permitted under PA Ref: 11991993 and 17/474.

- 8.2.16. Notwithstanding the planning history of the site, the Board is asked to reassess the development in light of a number of considerations including the renewed plans by CCC to develop the Abbeylands area and the presence of an Aldi supermarket in close proximity to the appeal site. The third-party appeal questions the designation of the site as a town core site raises concern in relation to the connectivity of the development to Cavan town centre. The appeal outlines that the proposal is contrary to Key Policy Objectives 2,4 and 5 of the Retail Planning Guidelines and the Town Centre First Development Objectives CCR 01 to CCR 06 of the Cavan County Development Plan in this regard.
- 8.2.17. The appeal outlines that the physical location of the site and height difference places it on the periphery of the retail core making it more appropriately described as an “edge of centre site”. The appeal outlines that the proposed pedestrian linkages would prove challenging for older individuals and those with disabilities.
- 8.2.18. The Retail Planning Guidelines and Retail Design Manual promote the development of centrally connected and accessible sites. The Design Statement submitted in support of the application outlines that a key consideration in the development of the proposal related to the provision of linkage with the central retail core of the town. I acknowledge the difference in height between the appeal site and main spine of Cavan town centre. However, I consider that the applicant has provided an appropriate pedestrian link to the central spine of the town centre which has been designed in accordance with Building Regulations requirements.
- 8.2.19. The Cavan County Retail Strategy refers to the existing spatial distribution of retail within the town and identifies the need to re-channel development within Cavan town centre and outlines that the ‘Masterplan’ lands offer the most appropriate opportunity site for expansion of retailing within the town centre in this regard. The Cavan Local Area Plan identifies three Masterplan sites for comprehensive redevelopment or refurbishment on existing brownfield/infill lands over the lifetime of the plan namely: Masterplan 1: Abbeylands, Masterplan 2: Main Street, Ashe Street, Farnham Street and Abbey Street and Masterplan 3: North West of Farnham Street. The objectives of the Cavan Local Area Plan which support the development of designated masterplan sites within the town to support the role of Cavan town centre, namely

- 8.2.20. I note that the appeal site is not designated as a masterplan within the Development Plan, however in this regard I note the previous permission pertaining to the site for retail development. I do not consider that the proposal would preclude the development of the identified masterplan sites and I note that Cavan County Council have not raised objection to the proposal in this regard. In terms of the reference within the appeal to the existing Aldi store in the vicinity of the site I note that this store is located on the edge of the town centre outside of the retail core.
- 8.2.21. I am satisfied that the appeal site is a suitable location for a retail development of the scale proposed. The site forms part of the designated retail core of Cavan town, is primarily zoned for town core purposes and is located in proximity to and provides accessible pedestrian linkages with the traditional retail core of Cavan town. On this basis I consider that the proposal is in accordance with Key Policy Objectives 2,4 and 5 of the Retail Planning Guidelines and the Town Centre First policy objectives of the Cavan County Development Plan including Development Objectives TCOF 01, CCR 01 to CCR 06.

#### *Floorspace Caps*

- 8.2.22. I note the reference within the appeal to non-compliance with the floorspace caps as set out within the Retail Planning Guidelines. Section 2.4 of the Guidelines relates to National Policy on Retail Caps and outlines that a cap of 3,000 sq.m. net will apply to convenience floorspace in retail centres outside of Dublin City and Cork, Limerick/Shannon, Galway and Waterford. The proposed Tesco superstore comprises a net retail floor area of 3,151 sq.m. net comprising 2,194 sq.m. of convenience floorspace and 957 sq.m. of comparison floorspace. On the basis of the application details, I am satisfied that the proposal is not in breach of the cap on convenience net floor areas as set out within Section 2.4 of the guidelines. I recommend the inclusion of a condition in relation to adherence to this cap in the instance that the Board is minded to grant permission for the development.
- 8.2.23. The appeal furthermore refers to breach of floorspace caps as set out within Chapter 4 of the Retail Planning Guidelines. This citation relates to individual retail warehouse units in excess of 5,000 sq.m. and is not of relevance to the proposal.

#### *Conclusion*

8.2.24. Having regard to the above reasons and considerations I consider that the principle of the development of a mixed retail development on an town core zoned site, within the identified retail core of Cavan town, is acceptable and in accordance with the guidance set out within the Retail Planning Guidelines, the designation of Cavan as a Tier 1 Primary Retail Centre and Development Objectives CCR 01, CCR 02, CCR 03 of the Cavan County Development Plan which seek to support compact growth, the town centre first approach and enhancement of the retail offer of the town. The proposed development will result in the development of a key vacant town centre zoned site, provides an appropriate sequential expansion of the town centre and improves consumer choice.

### **8.3. Retail Impact**

- 8.3.1. The appeal raises concerns in relation to the retail impact of the proposal and outlines that there is insufficient information within the application in relation to the impact of the proposal on the vitality and viability of the retail sector of Cavan town centre and other Tier 2 and 3 towns within the County.
- 8.3.2. Section 4.4 of the RPG's deals with "Sequential Approach to the Location of Retail Development". This section details that when a planning application has demonstrated it complies with the policies and objectives of a development plan and/or relevant retail strategy to support town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, or additional retail impact studies are not required.
- 8.3.3. In this regard, I note that Section 4.4.2 of the RPGs clearly details the order of priority is to locate retail development in the town centre. The appeal site is located on land zoned for town core purposes within the designated retail core of Cavan. In this context I am entirely satisfied the proposal is consistent with the policies and objectives of the development plan and therefore complies with the provisions of chapter 4 of the RPGs and an RIA is not required.
- 8.3.4. Notwithstanding the above, I note that a Retail Impact Statement (RIS) prepared by RMLA Planning Consultants was submitted in support of the application. The RIS outlines that the development of a long-term vacant town core zoned site, providing appropriately scaled modern retail floorspace and associated retail services, with direct pedestrian linkages, landscaping and public realm improvements will fulfil the

Cavan Town Commercial and Retail Development Objectives by enhancing the retail and services offer of the town.

- 8.3.5. The Cavan County Retail Strategy acknowledges the extant permission for Tesco within the town and outlines that there is limited additional capacity for retail floorspace over and above that already permitted. Table 7.10 identifies additional indicative capacity for convenience (2,925 sq.m.) comparison (2,598 sq.m.) and retail warehouse (2,506 sq.m.) floorspace within the county to 2028. The proposed development seeks permission for a reduced scale and format of retail store from that previously permitted on site. Under ABP PL48.240097 permission was granted for a Tesco retail store with a gross floor area of 8,239 sq.m. (comprising 2,954 sq.m. of convenience floorspace and 2,005 sq.m. of comparison floorspace). The proposed development seeks permission for Tesco superstore with a gross floor area of 5,197 comprising 2,194 sq.m. net convenience and 957 sq.m. net comparison floorspace.
- 8.3.6. The capacity for additional retail floorspace within the catchment area is addressed in Section 4 of the applicant's RIS. Table 8 of the RIA identifies that there is sufficient capacity for the proposed development within the catchment area in 2026 to accommodate the proposal with an additional spare capacity for convenience and comparison floorspace. The applicant's RIS furthermore refers to the existing Tesco store within Main Street. The actual increase in the Tesco convenience offer will only be 417 sq.m. net when existing convenience floorspace provision of the Tesco Stores within the town centre (1,777 sq.m. net) is subtracted from the proposed convenience floorspace (2,194 sq.m. net).
- 8.3.7. The issue of Retail Impact and Cumulative Impact is addressed within Sections 5 and 6 of the applicant's RIS. The assessment confirms there is capacity within the catchment to accommodate the development without resulting in a negative impact on existing centres. I note the concerns raised by the appellant in relation to the impact of the development on Tier 2 and Tier 3 centres within the retail hierarchy. I refer to the designation of Cavan town as the Level 1 Primary Retail Centre within Co. Cavan and consider that the expansion of the retail profile and role of the town is in accordance with its primary role within the retail hierarchy. I do not consider that the proposal represents a scale or format of development which would draw significant trade from designated Level 2 or 3 centres. Through the diversification of the retail offer, and associated expansion of the consumer base of the town, I

consider that there is potential for spin off benefits for existing retailers within Cavan town centre.

#### *Conclusion*

- 8.3.8. On the basis of the information set out within the application I am satisfied that the applicant has demonstrated that there is sufficient retail capacity within Cavan town to accommodate the proposal. I furthermore do not consider that the proposal represents a scale or format of development which would result in negative impacts and trade draw from existing centres.

#### **8.4. Design, Layout and Visual Impact**

- 8.4.1. The third-party appeal raises concern in relation to the design and visual impact of the development. The appeal outlines that the visual representations of the proposed store are monotonous and raises concern in relation to the height of the proposal. The appeal outlines that the proposal will overlook the town and encroach upon the streetscape and roofline of the surroundings and is contrary to the guidance set out within Section 5.5 of the CCDP which refers to Urban/ Suburban Spatial Planning and seeks to promote the unique urban skyline.
- 8.4.2. The appeal furthermore outlines that the LVIA lacks representations from various vantage points (including Killymooney Lough, Abbeylands area and St Clare's Convent a Protected Structure) resulting in uncertainty about the visual impact of the development. I consider the issues raised in relation to the design and visual impact of the development in turn as follows.

#### *Design and Layout*

- 8.4.3. The proposal includes the construction of a mixed retail development on the site comprising a retail store, petrol filling station and drive through/café. The retail store (gfa of 5,197 sq.m.) is located to the west of the site and the drive thru café (174 sq.m) and petrol filling station and associated car wash are located to the east. The central area of the site accommodates surface car parking. Vehicular access to the site is provided via Cock Hill Road.
- 8.4.4. A justification for the design and layout of the development is set out within the Architectural Design Report prepared by Joseph Doyle Architects submitted in support of the application. The proposal seeks to deliver a mixed retail scheme with

active elevations and high-quality finishes and the creation of public spaces and pedestrian routes which connect to the existing urban environment. The design report outlines that the development has been designed to address and respond to the urban context and emerging local context of Cock Hill, Cavan town centre and the Eastern Access Route. The proposed supermarket addresses the Eastern Access Route and provides active elevational treatments. The proposed service yard is screened from public view and a significant landscape buffer is provided along the perimeter of the site.

- 8.4.5. The appeal raises concern in relation to the elevational treatment of the proposed Tesco store, the visual impact of the proposed signage, the car wash, petrol filling station and drive through café.
- 8.4.6. I note that concerns were raised by Cavan County Council in relation to the elevational and boundary treatment of the proposed Tesco store within the request for further information. I refer to the revised elevations for the proposed Tesco store submitted in response to CCC's request for further information as illustrated on Drawing no. FI 400 Proposed Elevations. The revised proposal includes the provision of coloured steel batten structures along the western elevation which faces the town core. I consider that the proposed elevational treatment which comprises a mix of glazing, stone cladding panels and glazing panels are contemporary in design and provide a breakdown of the elevations. I do not consider that the design of the development is monotonous in this regard.
- 8.4.7. The proposed drive through café, car wash and filling station are located to the south of the site in the vicinity of the Eastern Access Road. The filling station canopy has a height of 4.8m, the car wash has a height of 4.2m and the drive through has a height of 3.9m. Elevational treatments for the drive through café include extensive glazing and Equitone façade panelling. The proposed finishes on the filling station canopy and car wash are unclear. I refer to the requirements of Condition no. 6 of CCC's notification of decision to grant permission for the proposed development in this regard which relates to submission of details and samples of finishes for the development for written agreement with the PA prior to the commencement of development. I recommend the inclusion of this condition in the instance that the Board is minded to grant permission for the development. I refer to the detailed guidance for service station developments as set out within Development Objective

SERS 03 of the Development Plan and consider that the siting of the proposed filling station is in compliance with the relevant guidance set out therein.

- 8.4.8. Signage proposals associated with the Tesco store include the erection of a 7m Totem sign at the proposed site entrance and signage erected to the elevation of the store. A totem sign of 7.2m is also proposed in the vicinity of the proposed filling station. The application drawings including signage areas within on the elevations of the drive through café. I am satisfied that the signage proposals will not result in visual clutter on the site and are in accordance with the guidance set out within Section 13.6.7 and Development Objective SIGN 01 of the CCDP in this regard.
- 8.4.9. On an overall basis, I consider that the applicant has provided a justification for the scale and nature of development proposed. I consider that the proposal is modern in appearance and has been appropriately designed to respond to the site characteristics. I do not consider that the development represents a scale or format of development which would negatively impact on the visual amenities of the area.

#### *Visual Impact*

- 8.4.10. At the outset, in considering the visual impact of the proposal I note that the proposed store provides a significantly reduced footprint to that previously permitted on the site under PA Ref: 11991992, ABP Ref: PL48.240097 (gfa 8,239sq.m.). I refer to the Landscape and Visual Impact Assessment attached as Chapter 14 of the EIAR and the accompanying photomontages. The appeal site is located in Area 2, The Lakelands, per the County Development Plan's landscape character designations and is not subject of any heritage protection status or protected views.
- 8.4.11. Appendix 14 of the LVIA includes 11 no. photomontages of the development from the area surrounding the site. Table 14.5 includes an assessment of the selected viewpoints. The magnitude of visual change ranges from "Medium" to "Negligible" depending on proximity and degree of intervening screening. The LVIA concludes that the proposal will not result in any significant/negative townscape visual impacts.
- 8.4.12. The appeal raises concern in relation to the limitations of LVIA and lack of representations from various vantage points (including Killymooney Lough, Abbeylands area and St Clare's Convent a Protected Structure) resulting in uncertainty about the visual impact of the development. The appeal furthermore

raises concerns in relation to the visual impact of the development on the skyline of Cavan town.

- *Visual Impact on Killymooney Lough*

8.4.13. The appeal raises concern in relation to the visual impact of the service station, car wash and proposed signage from Killymooney Lough and outlines that the development is not in accordance with Map Based Objective 3 as set out in Section 2.2.14 of the Development Plan in this regard.

8.4.14. Map Based Objective 3 as illustrated within the LAP zoning map which seeks to:  
*“Promote the amenity at Killymooney Lough taking advantage of its high point with views over Cavan town. Support the development of a public open space, amenity and recreational area, building on this area of natural importance. Identify a potential link from the existing Greenway to connect with Killymooney Lough.*

8.4.15. In considering the visual impact of the development from the Lough, I note that appeal site is separated from the Lough by the Eastern Access Road, access road to Gaelscoil Bhréifne and agricultural lands. I note that no specific photomontage is provided from the Lough but consider that the Viewpoints 04 and 08 provide appropriate depictions. On review of the proposed site layout, photomontages and having regard to existing site characteristics I do not consider that the proposal will result in a significant adverse impact to the Lough. I that the proposal will have a positive impact on the setting of the Lough over that existing. I concur with the findings as set out within Table 14.5 of the LVIA in this regard that there will be a positive visual impact from this location.

- *Visual Impact on Abbeylands Masterplan Area*

8.4.16. The Abbeylands Masterplan area is located to the west of Main Street directly opposite the existing Tesco store and car park on Main Street. The appeal refers to lack of visual representations within the LVIA from the Masterplan Area. While I note that no specific photomontages are provided from the Masterplan Area, I consider that Viewpoint 6 taken from the access road to the Main Street car park is of relevance. Table 14.5 of the LVIA outlines that the proposed development will be barely noticeable from this location. Having regard to the siting of the appeal site relative to the Masterplan area I am satisfied that the proposal will not result in undue visual impact from this location.

- *Impact on St. Clare's Convent (Protected Structure)*

8.4.17. The appeal raises concern in relation to the visual impact of the proposal on St. Clare's Church – a Protected Structure (RPS no. CV0822), (NIAH Ref: 40000266). This Church is located to the northwest of the appeal site and accessed via Main Street car park. The Church is described as follows within the Record of Protected Structures attached as Appendix 19 of the Cavan County Development Plan: *“Attached eight-bay double-height Gothic Revival Roman Catholic chapel, built 1881, with single-bay gabled entrance porch to north elevation, three-bay two-storey over basement vestry offices attached at east gable and recent glazed porch to south elevation”*.

8.4.18. Having regard to the siting of the church relative to the appeal site and having regard to the layout of the proposal I consider that there is limited intervisibility between the appeal site and the structure. On this basis I do not consider that the development will impact on the character and setting of St. Clare's Church.

- *Overall Impact on skyline of Cavan town*

8.4.19. The appeal refers to the location of the site on an elevated embankment to the east of Cavan town centre and raises concern in relation to the visual impact of the proposal on the town centre. Having considered that revised drawings submitted in response to CCC's request for further information and having regard to the height of the proposed structures and the submitted photomontages, I am satisfied that the development would not have a negative visual impact on the skyline of Cavan town centre or be contrary to Development Plan guidance in this regard.

#### *Conclusion*

8.4.20. In conclusion, I consider that the proposal has been appropriately designed to respond to the site characteristics and I do not consider that the development represents a scale or format of development which would negatively impact on the visual amenities of the area.

### **8.5. Impact on Residential Amenity**

8.5.1. The appeal raises concern in relation to the impact of the development on Saint Francis estate located to the southwest of the appeal site. No specific concerns are cited within the grounds of appeal. However, I note that the appellants submission on

the application raised concern in relation to the impact of the proposed Tesco superstore and associated plant areas on the estate. The applicant's appeal response notes that no objections to the development have been received from residents of the estate.

- 8.5.2. The relationship between the development and the existing residential properties at St. Francis is illustrated within Proposed Contextual Section 06 – Drawing no. 205 prepared by JDA Architects. At present the boundary between the estate and the site includes a landscaped embankment and boundary wall. This embankment will be maintained and increased with additional landscaping.
- 8.5.3. The Proposed Site Layout Plan illustrates that a minimum separation distance of 30m is maintained between the proposed supermarket and the nearest house within the development (no. 13). The nature of intervening development proposed between the retail store and the estate includes a footpath along the southern elevation of the store and a large landscaped open area. I am also satisfied that the impact of the proposal on St. Francis Estate has been comprehensively addressed within the technical chapters of the EIAR. Existing residential properties are identified as sensitive receptors within the relevant technical chapters of the EIAR including microclimate, noise and air quality.
- 8.5.4. I refer to the requirements of Development Objective SERS 02 of the Cavan County Development Plan which outlines that: Service stations will not generally be permitted in/adjoining residential areas. In this regard I note that the proposed filling station is located over 140m from the filling station. I consider that this distance is sufficient to negate against potential disamenity impacts.

### Conclusion

- 8.5.5. On an overall basis I consider that the layout of the development has been designed to negate against impact on adjoining residential properties within St. Francis Estate.

## **8.6. Impact on Schools**

- 8.6.1. The appeal refers to the proximity of the site to St. Clare's National School and Gael Scoil Bhréifne and outlines that the appeal site would provide an appropriate location for expansion of existing educational facilities within the town. The appeal refers to the guidance set out within Section 4.15 of the CCDP in relation to School and

Educational Facilities and Development Objectives CE 04, CE09 and CE 10 which seek to ensure that lands are available for the provision and expansion of educational facilities and Development Objectives CE 5 and CE 7 of the Development Plan which relate to providing sustainable travel modes to schools. The appeal outlines that the appeal site would provide an excellent location for future extension of the school and playing facilities.

- 8.6.2. In considering the grounds of appeal, I note that the site is not specifically designated to accommodate educational facilities within the Cavan County Development Plan 2022-2028. The site is zoned for town core purposes and located within the designated retail core of Cavan town as identified within the County Retail Strategy. I furthermore note that planning permission was previously granted for a larger scale retail development on the site. In this regard, I am satisfied that the development of the appeal site for town centre uses will not preclude any enhancement to educational facilities within the town.
- 8.6.3. The appeal raises concern in relation to the lack of consideration of the impact of the proposed development on St. Clare's School. St Clare's National School is located to the north of the appeal site. I note the concerns raised within Item 1 of CCC's FI request in relation to the interface of the proposed development with the school to the north of the site (which is detailed as being under construction at the time of the issue of FI request).
- 8.6.4. The applicant submitted revised plans and contextual elevations which illustrate the interface of the development with the school. The site layout plan illustrates that school facilities including playing fields and 2 no. ball courts associated with the school are located in the vicinity of the northern site boundary. The revised Site Layout Plan (Drawing no. FI 101) prepared by JDA Architects illustrates that the proposed supermarket is set back over 23m from the school building. The northern boundary of the proposal incorporates the service entrance, service yard, ESB substation, sprinkler tank and pump house associated with the development.
- 8.6.5. I refer to the Drawing no. FI 205 entitled "Proposed Contextual Section 05" prepared by JDA Architects which illustrates cross sections through the proposed development illustrating its relationship to the school building. Section 05 on this drawing illustrates the height of the proposed development at 9.3m relative to St.

Clare's School 9.5m. Proposed Section 05 illustrates boundary treatment between the school and the proposed development including planting and a timber screen. I consider that final details of boundary treatment should be submitted for written agreement of CCC. I am satisfied that this can be addressed by means of condition.

- 8.6.6. I also refer to the Addendum EIAR submitted in response to Item 11 of CCC's request for further information. I am satisfied that the applicant has considered that proposal in the context of its proximity to St. Clare's National School and that appropriate mitigation measures have been incorporated to negate again impacts on the school.

#### *Conclusion*

- 8.6.7. In conclusion, I am satisfied that the principle of the proposed development of the site for retail purposes is acceptable and in accordance with the zoning objective pertaining to the site. I consider that the proposed development has been designed to negate again undue impacts on St. Clare's National School to the north of the site.

#### **8.7. Traffic Impact and Access**

- 8.7.1. The appeal raises a number of traffic and transport related concerns in relation to the proposal. The appeal outlines that the proposal is inaccessible from the town core, is car dependent and would exacerbate existing congestion levels in the town. The appeal furthermore questions the accessibility of the proposed western walkway and ultimate reliance of the development on vehicular access.
- 8.7.2. The appeal site is bound by the L 2543 Eastern Access Road (Cock Hill Road) to the east and the L2537 to the south. The subject site is served by an existing access on the L 2543 which includes a dedicated right turning ghost island. Cock Hill Road operates at a speed limit of 50km/ph in the vicinity of the site and is served by footpaths and public lighting.
- 8.7.3. Access to the development is proposed via the existing access from Cock Hill Road. The main access splits into a Tesco store servicing access, car park access and an internal access road to serve the Drive Thru Café and Petrol Filling Station. The road also provides connectivity to a new left in/left out access on Cock Hill Road (Cavan Town Eastern Access Link Road 3) via an existing priority junction. A second vehicular access (left in left out) is proposed at the bottom of Cock Hill. I note the

concerns raised within CCC's request for further information in relation to the internal road layout and I am satisfied that these issues have been resolved within the revised FI response layout.

- 8.7.4. A Traffic Assessment prepared by Systra was submitted in conjunction with the application. Section 4 of this report relates to Traffic Impact Assessment. Baseline traffic surveys on the adjoining road network were undertaken on Friday the 7<sup>th</sup> and Saturday the 8<sup>th</sup> of October 2022 and traffic flow data was obtained for 8 no. junctions within the town. The identified peak hours are identified as 17:00 to 18:00 on Friday and 13:00 to 14:00 on Saturday. The Traffic Assessment outlines that the proposal will generate 170 arrivals and 167 departures during the Friday PM peak (17:00 to 18:00) and 299 arrivals and 276 departures during the Saturday peak (13:00 to 14:00). The TTA concludes that junctions will operate within satisfactory conditions during peak hour periods and low levels of congestion may occur. The TTA outlines that this is typical for town centre locations. On the basis of the information set out within the TTA I am satisfied that the proposal can be accommodated without detriment to the local road network.
- 8.7.5. A Road Safety Audit was submitted in response to CCC's request for further information. The applicant's FI response outlines that recommendations of the Audit will be incorporated into a final site layout plan to be submitted prior to implementation of the development on site. I refer to the requirements of Condition no. 22 of CCC's notification of decision to grant permission in this regard which relates to submission of a final site layout plan for written agreement of the PA which incorporates RSA findings prior to the commencement of development. I recommend the inclusion of this condition in the instance that the Board is minded to grant permission for the development. I furthermore recommend the completion of a Stage 3 RSA prior to the opening of development in accordance with Condition no. 32 of the Planning Authority's decision.
- 8.7.6. The proposed development includes 257 no car parking spaces and 120 cycle parking spaces. The proposed car parking includes 229 standard spaces, 19 parent and child spaces and 30 no. EV charging spaces. I note the concerns raised within the appeal in relation to the car dependent nature of the development. In this regard, I note that the Retail Planning Guidelines and Retail Design Manual identify the requirement for sufficient car park to serve convenience supermarkets to facilitate

bulk convenience shopping trips. I am satisfied that the proposed drive through café and filling station uses are ancillary to the superstore use on site.

- 8.7.7. In addition to the above I consider that the proposal accommodates significant improvements to the public realm and permeability for walking, generous cycle space provision, online delivery, click & collect and other identified measures which will encourage sustainable transport modes to the site. These can contribute to a reduced reliance on the private car and can instead encourage a shift to more sustainable transport modes. The proposal also incorporates an on-site bus stop which further enhances sustainable transport modes (as illustrated on Drawing no. SYS\_PD\_TC\_07).
- 8.7.8. The proposed development includes a sloped walkway pedestrian access route and plaza to the west of the application site linking the development with Cavan town centre. The Site Layout Plan illustrates the provision of pedestrian crossings and a footpath linking the existing car park with this route. The third-party appeal raises concern in relation the accessibility of this route. I note that significant improvements were made to the accessibility of this route in response to CCC's request for further information. I furthermore note that the applicant has confirmed that the route has been designed to comply with Building Regulations.
- 8.7.9. I also refer to the requirements of Condition no. 5 of CCC's notification of decision to grant permission for the development which outlines that this link shall remain open for public use 24 hours a day and 7 days a week. I recommend the inclusion of this condition in the instance that the Board is minded to grant permission for the development.

#### *Conclusion*

- 8.7.10. Having considered the information submitted in conjunction with the application, the sites location, zoning, and proposed pedestrian connections, I am satisfied the development as proposed will not lead to significant traffic congestion on the local or nearby national road network to an extent that would be inappropriate for a town like Cavan and do not consider that the proposal will endanger public safety or create a traffic hazard. I consider that the proposal incorporates significant improvements to the public realm and permeability for walking, generous cycle space provision, online

delivery, click & collect and other identified measures which will encourage sustainable transport modes to the site.

## **8.8. Impact on Water Quality of Killymooney Lough**

- 8.8.1. The third-party appeal raises concern in relation to the impact of the proposal on water quality of Killymooney Lough which is hydrologically linked to Natura 2000 sites and compliance with the Water Framework Directive. The appeal site is set back over 40m from Killymooney Lough. The nature of intervening development between the site and the Lough includes The Eastern Access Road, the access road to Gael Scoil Bhréifne and agricultural land and wetlands associated with the Lough.
- 8.8.2. I refer to Chapter 8 of the EIAR which relates to Hydrology and Hydrogeology. This identifies that existing waterbodies in the vicinity of the site are located within the Cavan \_ 010 river water body catchment. This waterbody is classified as Poor Ecological Status (Status 2010-2015) as illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/Water>). Such designated waterbodies must be improved to at least a Good Ecological Status in accordance with the requirements of the Water Framework Directive. Killymooney Lough is hydrologically linked to the Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA. While Killymooney Lough is hydrologically linked to Natura 2000 sites, it is not a designated European Natura 2000 Site.
- 8.8.3. The appeal outlines that that insufficient information has been provided within the application in relation to the water quality status of Killymooney Lough. The applicant's response to the third-party appeal outlines that site specific studies of Killymooney Lough were scoped out of the EIA process as the Lough is not protected by EU legislation, it is not utilised as a potable water source, no ecological status has been assigned to the Lough and the Lough not included within the EPA lake monitoring programme. On this basis the ecological sensitivity of the Lough is deemed as Low. The appeal response outlines that the mitigation measures are robust and seek to prevent the deterioration of local water quality.
- 8.8.4. Section 8.7 of the EIAR proposes mitigation measures to offset potential effects on hydrology and hydrogeology. The measures set out primarily relate to the preservation of existing drainage regime, the protection of groundwater receptors and protection of surface water receptors. These include the preparation and

implementation of a Construction Environmental Management Plan which will include detailed measures to address the main potential impacts on surface water and groundwater. At construction phase the identified measures include adherence to standard good practices with reference to the Northern Regional Fisheries Board and for protection of watercourses, establishment of bunded oil and chemical storage areas, provision of adequate surface water drainage systems on site with interceptor and attenuation networks, assessment of soils for contamination and incorporation of SUDs measures. At operational phase mitigation measures include SUDs measures, bunding of service yard, attenuation tanks, interceptors, ponds and permeable paving. The EIAR also recommends monitoring of surface water quality at construction and operational phases of the development. At operational phase monitoring is recommended until a stable hydrochemistry is observed.

- 8.8.5. I note that the specific measures to prevent run off/pollution from the site at construction and operational phase of the development are detailed within Chapter 8 of the EIAR, the NIS, and the Outline Construction Environmental Management Plan (CEMP). I consider that the measures set out within the application documentation which include monitoring of ground and surface water discharge from the site are comprehensive, have been designed on the basis of the site characteristics, and would negate against water pollution from the site. I consider that adherence to the measures outlined will ensure pollutants will not be discharged from the site and no further deterioration in the water quality will arise as a result of the proposal.
- 8.8.6. I furthermore note that the proposal has been assessed by the Environment Section in CCC and no objection to the principle of the development is raised on grounds of impact on water quality subject to conditions. These conditions have been incorporated within CCC's notification of decision to grant permission for the development. Subject to adherence of the identified mitigation measures which includes ongoing monitoring I am satisfied that the proposal would not result in the water pollution of Lough Killymooney. In this regard, I consider that the development will not jeopardise the attainment of a good water quality status in accordance with the Water Framework Directive.

## 8.9. Other Issues

### Climate Change

- 8.9.1. The appeal questions the alignment of the proposed development with Climate Action Objectives. The appeal refers to the nature of the development comprising a retail store with surface car parking, petrol filling station and drive through and questions the alignment of the development with national policy including the Northern and Western Regional Assembly RSES and the Climate Action Fund National Development Plan 2018-2027 within the framework of Project Ireland 2040.
- 8.9.2. The appeal refers to Section 5.5 of the CCDP which supports the development of a decarbonization zone within Cavan and outlines that the appeal site is located within this designated zone and questions the principle of a car dominated development in this regard. The appeal outlines that the proposal should be reviewed in the context of the Draft Climate Action Plan and Development Objective NPO54 of the Cavan County Development Plan which outlines that:
- NPO 54 Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.
- 8.9.3. At the outset I note the reference within the grounds of appeal to non-compliance with the CCC Draft Climate Action Plan. The applicant's appeal response outlines that this plan was not adopted or available at the time of lodgement of the application. In the interim period I note that the Climate Action Plan 2024-2029 was adopted by CCC in February 2024. I have had regard to the contents of same in the assessment of the appeal.
- 8.9.4. Chapter 5 of the Cavan County Development Plan relates to Climate Change. Development Objective DZ 01 seeks to - *Support a decarbonising zone incorporating Cavan Town and surrounding areas, subject to Departmental approval.* The appeal site is located within the Decarbonising Zone as identified in Figure 4.1 of the Cavan County Climate Action Plan. The Action Plan outlines that these zones are designed to reduce emissions, promote sustainability, enhance resilience, support biodiversity, meet national targets, engage communities and serve as models for other areas. Section 4.7 of the Plan sets out actions within the designated Decarbonising zone

which relates to ensuring building efficiency, promoting modal split, support active travel infrastructure, cycling and walking initiatives and EV vehicles. Other measures identified include supporting SUD's measures, local biodiversity and the circular economy.

- 8.9.5. I note that the appeal questions the principle of a car dominated development within an identified decarbonising zone (DZ) within Cavan. Having regard to the location of the site and its linkages to the traditional core of the town I consider that the proposal will facilitate increased access to retailing at a central location. The development includes large cycle space provision, improvements to the public realm and permeability for walking, EV vehicle parking, online delivery, click & collect and other identified measures. These can contribute to a reduced reliance on the private car and can instead encourage a shift to more sustainable transport modes. I note the concerns raised within the appeal in relation to the proposed petrol filling station and drive through café, however I consider these elements of the proposal are limited in scale and ancillary to the proposed superstore use. I furthermore note that the development comprises a significantly reduced parking provision to that previously permitted on site.
- 8.9.6. Table 5.1 of the CCDP sets out Climate Mitigation Measures and Table 5.2 sets out Climate Adaption Measures for development proposals which are summarised within Section 5 of the appeal. Similar measures are set out within Table 4.3 to 4.6 of the Cavan County Council Climate Action Plan.
- 8.9.7. The applicant's response to the 3<sup>rd</sup> party appeal outlines that specific focus has been placed on the energy efficiency of the development with the aim of reducing carbon footprint, material selection, waste management and water conservation. I refer to the Sustainability Statement submitted in support of the application in this regard. The document outlines that the development seeks to comply with the principles set out within National Climate Change Policy- Project Ireland 2040.
- 8.9.8. The target for the development is to achieve an "A rated" BER across all buildings. The report outlines that the proposed buildings have been designed to ensure energy efficiency and provide the owner/user with a degree of certainty over their energy and carbon footprint. Energy efficient lighting and M&E systems are proposed. A reduce, reuse and recycle philosophy will be adopted throughout the

design, construction and operational phases of the development. An Integrated Water Management and Conservation approach will be adopted.

- 8.9.9. The issue of climate change is also specifically addressed within Chapter 12 of the EIAR. This sets out a summary of emissions associated with the proposed development and refers to design mitigation measures.

#### *Conclusion*

- 8.9.10. On the basis of the information submitted in conjunction with the application and appeal, I am satisfied that the proposal is not contrary to national policy or development plan objectives as they relate to climate change or the objectives of the Cavan County Council Climate Action Plan 2024-2029.

#### Flood Risk

- 8.9.11. Part of the site is located with Flood Risk Zones A and B as illustrated within the zoning map. Development Objective CLU 01 of the CDP seeks to: *“Facilitate the appropriate management and sustainable use of Flood Zones A and B identified by the Strategic Flood Risk Assessment. The proposed site layout plan illustrates that the proposed petrol filling station and drive thru are located within the areas designated within Flood Zones A and B”*.

- 8.9.12. A Flood Risk Assessment prepared by ORS was submitted in support of the application. The report refers to previous flood risk assessments done in relation to the site and notes the following:

- PFRA indicates that part of the site is at risk of fluvial flooding from the Killymooney Lough and Killymooney Stream/ Aghnaskerry River.
- CFRAM mapping illustrates that a section to the south-east of the proposed site is located within Flood Zone A in accordance with the Flood Risk Management Guidelines.
- A Strategic Flood Risk Assessment was undertaken to inform the preparation of the Cavan County Development Plan, incorporating Local Area Plan for Cavan Town, 2022-2028. The zoning map illustrates that a small area of the east of the site is designated as Flood Zone A. The area surrounding the Flood Zone A area is designated as Flood Zone B.

- 8.9.13. The Site-Specific Flood Risk Assessment outlines that based on topographical surveys ground levels within the southeastern portion of the site are a minimum of 79.4mOD. This is broadly consistent with the details illustrated on the Existing Site Layout Plan (Drawing no. PL003) which shows minimum levels of 79.3m OD.
- 8.9.14. The FRA outlines that the CFRMS flood extent maps illustrate that illustrate that a node c.40m east of the site (3615M00103I) on the Killymooney Stream/Aghnaskerry River indicates 1% AEP flood water level to be 74.94mOD and a 0.1% AEP flood water level of 75.45m OD. An extract from CFRAMS mapping is attached as Appendix B of the FRA. On this basis there is a current minimum freeboard of 3.95m between current ground levels and the max modelled flood levels. The FRA outlines that the proposed petrol filling station and drive through will have floor levels of 81.45mOD.
- 8.9.15. The FRA outlines that the current topographical situation has been in place since the completion of the Eastern Access Route in 2013. The FRA outlines that the CFRAM mapping and subsequent SFRA map for this area in Cavan Town are based on old topographical survey information for the site. The FRA outlines that based on existing topographical survey levels the entirety of the site is located within Flood Zone C. On this basis, it is concluded that the development would not increase flood risk elsewhere as the current ground level is above projected 0.1% AEP flood water levels for the locality. Appropriate measures have been taken to minimise flood risk to the development or elsewhere through the provision of SUDs and sufficient freeboard of 6m to proposed development FFL.
- 8.9.16. I have reviewed the Site Survey Plan (Drawing no: PL-002) submitted in conjunction with the previous permission pertaining to the site PA Ref: 11991992, ABP Ref: PL48.240097. I note that site levels along the southeastern boundary of the site are detailed as ranging from 74mOD to 76mOD with levels on the Eastern Access Road denoted as ranging from 75mOD to 76mOD in the vicinity of the roundabout to the southeast of the site. On this basis, I am satisfied that there has been an increase in site levels.
- 8.9.17. Table 5.1 of the FRA sets out a Flooding and Development Management Justification Test for the Drive Through and Petrol Filling Station. The FRA outlines that the proposed retail use is classified as “less vulnerable” use within the Flood

Risk Management Guidelines. The mitigation measures incorporated within the design of the development include the siting of the buried fuel tanks is outside of the designated Flood Zone A and B areas. A Justification test is required in such for less vulnerable development in such areas. Although outside of the Flood Zone A and B areas Table 5.2 and Section 5.3 of the FRA relates to the proposed supermarket and car park.

8.9.18. Having regard to the information submitted in conjunction with the application including the Site-Specific Flood Risk Assessment and existing site levels, I am satisfied that applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area. I furthermore note that Cavan County Council have not raised objection to the proposal on grounds of flood risk.

Archaeological Monitoring:

8.9.19. I refer to the submission on file from the Department of Housing, Local Government and Heritage (22/02/2023). This refers to the archaeological assessment within the EIAR and details of archaeological pre-testing and subsequent excavation previously carried out on site and outlines that any new/additional ground works should be subject to archaeological monitoring. The report recommends a grant of permission subject to conditions relating to archaeological monitoring.

8.9.20. I note that Cavan County Council's notification of decision to grant permission for the development does not include a condition in relation to archaeological monitoring, nor is archaeological monitoring recommended within Chapter 15 of the EIAR on the basis of previous archaeological testing and excavation on site. However, I note that the appeal site boundary marginally differs from the development previously permitted on site under ABP Ref: PL48.240097 in the vicinity of St. Francis Estate to the southwest and within a zone of archaeological potential. In this regard I recommend the inclusion of a condition relating to archaeological monitoring in respect of any new/additional ground works should be subject to archaeological monitoring. I am satisfied that this can be addressed by means of condition.

Petrol Filling Station

8.9.21. On review of the application documentation, I am unclear in relation to the precise siting and specifications of the proposed fuel tanks and capacity of same. I refer to

the requirements of Condition no. 9 of CCC's notification of decision to grant permission for the development which relates to the incorporation of a Stage 1 Petrol Vapor Recovery as part of the proposed development. I am satisfied that this can be addressed by means of condition.

8.9.22. I also recommend the inclusion of a condition in relation to compliance with the requirements of the "Design, Construction, Modification, Maintenance and Decommissioning of Petrol Filling Stations" (Blue Book) published by the Association for Petroleum and Explosive Administration/Energy Institute.

#### 8.10. **First Party Appeal – Condition 4**

8.10.1. A first party appeal was submitted in respect of the Section 48 (2) Special Development Contribution attached under Condition 4 of CCC's notification of decision to grant permission for the development. The appeal does not question the principle of the inclusion of a Special Development Contribution in respect of the Cavan Town Eastern Access Route. The appeal relates to the quantum of the contribution of €1,500,000 and questions the methodology adopted for the calculation of same. Condition no. 4 of CCC's notification of decision to grant permission for the development outlines the following:

*The developer shall pay the sum of €1,500,000 (one million, five hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under Section 48 (2) of the Planning and Development Act 2000, as amended, in respect of public infrastructure and facilities benefitting the development namely the Cavan Town Eastern Access Route. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.*

*Reason: It is considered reasonable that the developer should contribute towards the exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.*

8.10.2. Under Section 48 of the Act, planning authorities have 2 mechanisms by which to require the payment of a contribution in respect of existing and/or proposed public infrastructure and facilities benefiting development:

(1) In accordance with a development contribution scheme made under Section 48, and/or,

(2) Where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

8.10.3. The Cavan County Council Development Contribution Scheme 2017-2020 is the operative development contribution scheme for the Planning Authority, and it makes provision for the payment of a contribution at a set rate per square metre of development. I note that Condition no. 2 of the Planning Authority's decision requires payment of a financial contribution in accordance with the development contribution scheme.

8.10.4. Regarding the facility to require a contribution towards specific exceptional costs, Section 48(2)(c) of the Act is clear that specific exceptional costs should arise in order to justify any request for a special contribution. Section 48(12) of the Act states that a condition requiring payment of a special contribution under Section 48(2)(c) 'shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates'. In this regard I note that Condition no. 4 identifies the specific works to which the special development contribution scheme relates namely the "Cavan Town Eastern Access Route".

8.10.5. Section 7.12 of the Development Management Guidelines also outlines that for such a condition to be attached by a planning authority, it is essential that the basis for the calculation of a contribution should be explained in the planning decision, including identifying the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.

8.10.6. A case is made within the first party appeal that the basis for the calculation of the development contribution is not clearly set out within the CCC's decision. In considering the grounds of appeal I have reviewed the internal reports which informed the PA's decision. I refer to the Road's Design Report dated the 6<sup>th</sup> of March 2023 which includes a recommendation for the attachment of a special

development contribution in respect of public infrastructure benefitting the development in as per planning condition no. 4 of the grant of the parent application 11991992. This recommendation is attached after the assessment of traffic generation and junction capacity assessment. The Road's Design Report is duplicated within the planner's report dated 12<sup>th</sup> of October 2023. I note that the Road's Report refers to Condition no. 4 of CCC's notification of decision to grant permission for the development which relates to a Development Contribution €1.5 million in respect of the Cavan Town Eastern Access Route. The Council's decision was subject to appeal to An Board Pleanála (ABP Ref: PL 48.240097) and the contribution was carried forward as Condition no. 14.

- 8.10.7. I note the case made within the grounds of appeal in relation to different methodologies for the calculation of the contribution (plot ratio, GFA, split between benefitting sites). Notwithstanding the detailed case made, I note that the appeal site directly benefits from access to the Eastern Access Road and I consider that the approach adopted by the planning authority is consistent with the planning history.
- 8.10.8. In my opinion Condition no. 4, as worded, meets the requirements of Section 48(12) and Section 7.12 of the Development Management Guidelines as it adequately specifies the works to be carried out i.e. infrastructure benefitting the development namely the Eastern Access Route. The Roads Report which informs the decision of DCC to grant permission for the development provides a basis for the calculation of the contribution, i.e. on the basis of traffic generation and cross refers to the contribution applied under Condition no. 4 of PA Ref: 11991992 which requires the payment of a contribution of €1.5million in respect of the Eastern Access Route. The PA's decision was subject to appeal, but no appeal was submitted in respect of Condition no. 4. The condition was attached as condition no. 14 of An Bord Pleanála's decision ABP Ref: PL48.240097.
- 8.10.9. Cavan County Council's response to the first party appeal sets out a detailed rationale for the proposed €1.5 million contribution together with a breakdown of the level of contribution. Having regard to the issues raised, to the planning history of the site, the detailed issues raised within the appeal and submissions I recommend the inclusion of Condition no. 4 in accordance with Cavan County Council's decision.

## 9.0 Appropriate Assessment (AA)

- 9.1. I have considered the proposed mixed retail development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. An AA Screening and Natura Impact Statement prepared by ORS was submitted in support of the application. An updated AA Screening and Natura Impact Statement (dated July 2023) was submitted in response to Cavan County Council's request for further information. I have considered the objective information presented in the applicant's updated AA Screening and Natura Impact Statement (dated July 2023) for the purposes of this screening determination.
- 9.2. Following an examination, analysis and evaluation of all available, relevant information and in view of best scientific knowledge, and applying the precautionary principle, it can be concluded that there is the possibility for significant effects on the following European sites during the construction and operational phases of the development:
- Lough Oughter and Associated Loughs SAC (Site Code 000007)
  - Lough Oughter Complex SPA (Site Code 004049).
- 9.3. A Stage Two Appropriate Assessment was required, and the applicant prepared/ submitted a Natura Impact Statement (NIS) in support of the development. Full details of my assessment are provided in Appendix 1 and 2 attached to this report.
- 9.4. I have had full consideration of the information, assessment and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lough Oughter and Associated Loughs SAC (Site Code 000007) and the Lough Oughter Complex SPA (Site Code 004049).

*Overall Conclusion – Screening Determination*

9.5. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of the Lough Oughter and Associated Loughs SAC (Site Code 000007) and the Lough Oughter Complex SPA (Site Code 004049).

9.6. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the in relation to the Conservation Objectives of Lough Oughter and Associated Loughs SAC (Site Code 000007) and Lough Oughter Complex SPA (Site Code 004049).
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the designates sites.

9.7. Full details of the Appropriate Assessment are provided in Appendix 2 attached to this report.

## 10.0 Environmental Impact Assessment (EIA)

### 10.1. Statutory Provisions

10.1.1. The proposed development comprises a mixed retail development on a 4.12ha site on lands to the east of Cavan town centre. Schedule 5 of the Planning and Development Regulations 2001 (as amended) (PDR's), sets out classes of development type for which a mandatory Environmental Impact Assessment Report (EIAR) is required. Part 2, Class 10 sets thresholds for certain Infrastructure Projects. Paragraph (b) (iv) details-

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

*(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)”*

10.1.2. The applicant submits the proposed development is on a site exceeding 2 hectares (i.e. 4.12ha hectares) includes for a mixed retail development within a town in which the predominant land use is retail or commercial and therefore an EIAR is required and has been submitted with the application.

## 10.2. EIA Structure

10.2.1. This section of the report comprises the environmental impact assessment of the proposed development in accordance with Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU). Section 171 of the Planning and Development Act, 2000 (as amended) defines EIA as:

- a. consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and
- b. includes an examination, analysis and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

10.2.2. Article 94 of the Planning and Development Regulations, 2001 and associated Schedule 6 set out requirements on the contents of an EIAR.

10.2.3. This EIA section of the report is therefore divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations. The second section provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- population and human health,
- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

10.2.4. The assessment provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

### 10.3. **Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001**

10.3.1. Compliance with the requirements of Article 94 and Schedule 6 of the Regulations is assessed below.

<b>Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)</b>
A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b).
A description of the proposed development is contained in Chapter 2 of the EIAR including details on the location, site, design and size of the development, arrangements for access and construction methodology, spoil and waste to be generated. In each technical chapter of the EIAR details are provided on use of natural resources and the production of emissions and/or waste (where relevant). It is noted that the proposal does not involve demolition works.
A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b).
An assessment of the likely significant direct, indirect, and cumulative effects of the development is carried out for each of the technical chapters of the EIAR (Chapter 5 – 17). I am satisfied that the assessment of significant effects is comprehensive and robust and enables decision making.
A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b).
These are included in each of the technical chapters of the EIAR and associated appendices. Mitigation measures are also set out within the Construction Environmental Management Plan. Mitigation measures comprise standard good practices and site-specific measures and are largely capable of offsetting significant adverse effects

identified in the EIAR. I am satisfied that the mitigation measures are sufficient to minimise the environmental effects.

A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b).

This is addressed in Chapter 4 of the EIAR entitled "Examination of Alternatives". The main alternatives would be in terms of location and design/ layout. The site is suitably zoned and the layout is determined by geography, topography and planning requirements. I am satisfied, therefore, that the applicant has studied reasonable alternatives in assessing the proposed development and has outlined the main reasons for opting for the current proposal before the Board and in doing so the applicant has taken into account the potential impacts on the environment.

**Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2).**

A description of the baseline environment and likely evolution in the absence of the development.

A detailed description of the baseline environment is included in each of the technical chapters of the EIAR. I am satisfied that this, is sufficient to enable the assessment of likely effects and to enable decision making.

A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved

The methodology employed in carrying out the EIA, including the forecasting methods is set out in each of the individual chapters assessing the environmental effects. The applicant has indicated in each of the technical chapters that no difficulties have been encountered (technical or otherwise) in compiling the information to carry out EIA. I am satisfied that forecasting methods are adequate.

A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.

This issue is specifically dealt with in Chapter 17 of the EIAR. Specific risks have been identified in respect of the proposed mixed retail development in relation to water supply distribution and contamination, air quality events and fire. These risks are reasonable and are assessed in my report.

Article 94 (c) A summary of the information in non-technical language.

A non-technical summary of the EIAR is provided by the applicant and satisfactorily describes the likely environmental effects of the development. I have read this document, and I am satisfied that the document is concise and comprehensive and is written in a language that is easily understood by a lay member of the public.

Article 94 (d) Sources used for the description and the assessments used in the report

The sources used to inform the description, and the assessment of the potential environmental impact are set out within each relevant EIAR chapter. I consider the sources relied upon are generally appropriate and sufficient.

Article 94 (e) A list of the experts who contributed to the preparation of the report

A list of the various experts who contributed to the report are set out in Table 1.5 EIAR Structure and Competent Experts. Where relevant the introductory section of each of the chapters also details of the individual's expertise, qualifications which demonstrates the competence of the person in preparation of the individual chapters within the EIAR. I am satisfied that the EIAR has been prepared by experts with competency in the technical subject areas.

10.3.2. I conclude that the EIAR complies with Article 94 of the Planning and Development Regulations, 2001, as amended.

#### Consultations

10.3.3. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority and prescribed bodies has been set out already in this report. This EIA has had regard to the application documentation, including the EIAR, the observations received, and the planning assessment completed above.

10.3.4. The application has been submitted in accordance with the requirements of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) in respect of public notices. Submissions have been received from statutory bodies and third parties and are considered in this report, in advance of decision making.

10.3.5. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development advance of decision making.

#### Compliance

10.3.6. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the developer is sufficient to comply with article 94 of the Planning and Development Regulations, 2001.

#### **10.4. Assessment of Likely Significant Effects**

This section of the report sets out an assessment of the likely environmental effects of the proposed development under the following headings, as set out Section 171A of the Planning and Development Act 2000, as amended:

- Population and human health.
- Biodiversity, with particular attention to the species and habitats protected under the Habitats and Birds Directives (Directive 92/43/EEC and Directive 2009/147/EC respectively).
- Land, soil, water, air and climate.

- Material assets, cultural heritage and the landscape.
- The interaction between these factors.
- Vulnerability to risk of accidents and/or disasters

The EIAR does address the above factors but not in the order as set out above. In accordance with section 171A of the Act, which defines EIA, this assessment includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interaction of these. Each topic section is therefore structured around the following headings:

- Issues raised.
- Examination, Analysis and Evaluation.
- The Assessment: Direct and indirect effects.
- Conclusion.

#### 10.4.1. **Population and Human Health**

##### Issues Raised

- 10.4.1.1. Issues raised within the appeal in respect of population and human health relate to impacts on residential amenity, loss of visual amenity and impact on the future extension of St. Clare's National School.

##### Examination, analysis and evaluation

- *Context*

- 10.4.1.2. Chapter 5 of the EIAR deals with Population and Human Health. It sets out the Methodology used which involved the compilation, examination and analysis of relevant baseline population and socio-economic data. Other environmental issues with the potential to impact on population and human health including but not limited to water contamination, air pollution, noise, traffic impact, accidents and disasters are addressed separately in the relevant chapters of the EIAR and the relevant sections of this report. Population and Human Health is also addressed within

Chapter 5 of the EIAR Addendum Report submitted in response to CCC’s request for further information.

- *Baseline*

10.4.1.3. The site is located to the east of Cavan Town Centre on an elevated embankment defined by the town centre to the west. The site is bounded to the north by St Clare’s National School; to the west by the surface car park serving the existing Tesco (and separated from same by a steep embankment); to the southwest by single storey residential units at St. Francis Estate. Cock Hill Road, which forms part of the Eastern Access Road to Cavan town centre, forms the southern and eastern boundaries of the site. Killymooney Lough is located to the east at the opposite side of Cock Hill Road.

- *Potential Effects*

10.4.1.4. Section 5.6 describes the likely direct and indirect impacts that the proposal may have during construction and operation. It focuses on land use, demographics, socio-economic and employment, social infrastructure and human health. Likely significant effects of the development, as identified in the EIAR, are summarised in Table PHH 1 below.

<b>Table PHH 1: Population and Human Health</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No changes to land use or for any potential impacts on human health. The subject lands would remain undeveloped.
Construction Phase	Short term construction stage negative landscape/townscape impacts are identified. Marginal increase in population in the wider area. Construction workers would contribute positively to the local economy. Increased use of local facilities during construction phase associated with increase in population. The construction phase poses potential risk to the human health in terms of air quality and climate and noise and vibration.
Operational Phase	The mixed retail development would significantly enhance the profile of Cavan town, generate employment and attract people to the town centre.

	<p>Employment opportunities during the operational phase of the development.</p> <p>Strengthening of local amenities/facilities as a result of increased population.</p> <p>Potential noise impact associated with increased traffic generated to the site.</p>
Cumulative Effect	<p>Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. These developments are outlined in Table 18.2 of the EIAR and Table 5.3 of the EIAR Addendum Report dated July 2023 which includes additional reference to developments permitted at St. Clare's School to the north of the site. Potential cumulative impacts mainly relate to temporary increase in noise, dust and construction related traffic on the surrounding road network. During the operational phase cumulative impacts are not considered likely.</p>

- *Mitigation Measures*

10.4.1.5. Mitigation measures are outlined in Section 5.7 of the EIAR. The main measure to reduce proposed construction phase impacts relate to the implementation of the measures set out within the Construction Environmental Management Plan submitted in support of the application. Monitoring in relation to Health and Safety requirements will be undertaken during the construction phase. The impacts during the operation stage are considered to be positive and no mitigation measures are proposed.

- *Residual Impacts*

10.4.1.6. Once mitigation measures are implemented the population and human health residual impacts from the proposed development range from a medium negative effect at construction phase to a positive effect at operational phase.

Assessment

10.4.1.7. I have examined, analysed and evaluated Chapter 5 of the EIAR and all of the associated documentation and submissions on file in respect of population and human health. I have inspected the application site, the surrounding area. I have also had regard to the policy outlined in the Cavan County Development Plan.

10.4.1.8. I am satisfied that the applicant has presented a good understanding of the baseline environment, and that the key impacts in respect of likely effects on population and human health, have been identified.

10.4.1.9. Further, I am satisfied that the key direct and indirect effects will be the short-term effects on people living, working, and travelling on the public road network in the area of the site during construction, for example by way of noise, dust and additional traffic. Some direct and indirect positive effects will also arise, with local economic effects. During operation, there is potential for operational noise associated with increased traffic generated to the site. There will be long term positive effects for the community associated with the diversification of the retail offer of the town and employment opportunities.

10.4.1.10. Mitigation measures typically comprise standard good construction and/or operational practices, which if implemented comprehensively will offset predicted significant effects.

10.4.1.11. I note the concerns raised within the third-party appeal in terms of the impact of the proposal on St. Clare's National School to the north of the site and St. Francies Estate located to the southeast. As detailed in Section 7 of this report I consider that the proposal has been designed to negate against impact on surrounding residential and educational uses. I refer to the EIAR Addendum report which specifically assesses the impact of the proposal on the extended St. Clare's National School to the north of the site.

### Conclusion

10.4.1.12. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to population and human health would be minimal and can be managed and mitigated by the measures which form part of the proposed scheme, specified mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

10.4.2. **Biodiversity with particular attention to Species and Habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

Issues Raised

10.4.2.1. The third-party appeal raises concern in relation to the potential environmental impact of the proposal on Killymooney Lough located to the east of the site. The report refers to lack of up-to date information in relation to the biodiversity of the Lough which is hydrologically connected to Natura 2000 sites.

Examination, analysis and evaluation

- *Context*

10.4.2.2. Chapter 9 of the EIAR relates to biodiversity. Biodiversity is also addressed within Chapter 9 of the EIAR Addendum Report submitted in response to CCC's request for further information. Associated appendices include Appendix 9.1 Site Photographs and Appendix 9.2 Plant Species List. The EIAR Addendum Report outlines that the proposed changes to the layout of the proposed development relating to landscaping, relocation of features and internal/external road features in response to CCC'S request for further information do not result in additional predicted effects of the development on biodiversity.

10.4.2.3. The assessment of effects on biodiversity has regard to legal requirements and European, national and industry best practice guidelines. The assessment methodology includes desk study and field survey. The EIAR outlines that given the limited habitats on site there were no seasonal constraints associated with field work for assessment. No limitations are therefore identified in the EIAR in the scope, scale, or context of the assessment.

10.4.2.4. Section 9.3.5 sets out the Impact Assessment Methodology. Key ecological receptors are defined and comprise any ecological receptor determined to be of National or International, Regional, County, District or Local importance, following criteria set out in the NRA 2009 guidelines (Guidelines for the assessment of Ecological Impacts of National Road Schemes). Criteria for determining significance of effects is set out in section 9.3.5. This includes a definition of a significant effect as

*‘an effect that either supports or undermines biodiversity conservation objectives for ‘important ecological features’ or for biodiversity in general’.*

10.4.2.5. An Appropriate Assessment Screening Report and a Natura Impact Assessment was submitted as a standalone document. Potential for impacts to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC have been assessed a part of the submitted Appropriate Assessment Screening Report (AASR) and the Natura Impact Assessment (NIS). To avoid any repetition the potential impact on the designated sites is addressed in Section 8 above and Appendices 1 and 2.

- *Baseline*

10.4.2.6. Section 9.4 of the EIAR refers to the receiving environment. This describes the appeal site as a 3.86ha site located to the east of Cavan town centre. No part of the site is located within any area that is designated for nature conservation purposes. The site is not located within or adjacent to any Natura 2000 designated site as illustrated in Figure 9.4 or within the vicinity of any designated NHA, pNHA as illustrated in Figure 9.5. The proposed development site lies in an urban area on the lands which were historically in agricultural use. The EIAR outlines that the construction of the Eastern Access Route (Cock Hill Road) lead to the conversion of the land from agriculture to built/excavated land. The dominant habitats on the application site are identified as spoil and bare ground (Habitat Code ED2), small patches of dry meadows and grassy verges (GS2) and treelines (WL2). The distribution of habitats on site is illustrated on Figure 9.6 and a list of plant species on the site is set out in Appendix 9.2.

10.4.2.7. Section 9.4.6 of the report outlines that the overall biodiversity of the application site is generally low. The dominant habitat on site is spoil and bare ground which has no biodiversity value. Dry meadows and grassy verges are identified as being well represented in the area and of low biodiversity value. The treelines along the western boundary of the site are identified as the most important ecological feature on site however it is noted that this is isolated in the urban environment and does not provide connectivity to other treelines.

10.4.2.8. The report considers the appeal site in terms of its connectivity to Killymooney Lough, located c.40m to the east of the site. There are no watercourses on site so there is no connectivity between the appeal site and the lake and there are no riparian or wetland habitats within the appeal site.

10.4.2.9. The site is detailed as being of limited value for mammals and birds. There is no evidence of badger on site and no riparian habitats suitable for use by otter. The treeline along the western site boundary is detailed as being of limited value for bats and no birds of conservation status were identified on site during the site survey. There are no habitats on site suitable for amphibians or reptiles. Aerial invertebrates may use the grassy verges on site during the spring/summer months.

- *Potential Effects*

10.4.2.10. Likely significant effects of the development, as detailed within the EIAR, are summarised in Table B1 below. Potential effects have regard to the detailed species/habitat surveys carried out. I note that the assessments carried out did not identify any significant limitations.

<b>Table B1: Summary of Potential Effects – Biodiversity</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	Not addressed in section. The site would remain in its current condition.
Construction Phase	<p>Loss or fragmentation of the treeline along the western boundary.</p> <p>Loss of treeline may have slight negative impact on local biodiversity.</p> <p>Local populations of birds and mammals may be temporarily disturbed by increase in noise, traffic and human activity.</p> <p>Water quality impacts on Killmooney Lough associated with surface and ground water run-off from the site.</p> <p>Pollution associated with spillage of contaminants and ingress to surface and ground waters.</p> <p>Impacts on water quality of Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA.</p>
Operational Phase	<p>Disturbance to wildlife.</p> <p>Contaminated run off of surface waters to Killymooney Lough and impact on water quality of Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA.</p>

	<p>Foul water leakages to Killymooney Lough resulting in eutrophication of Lough and associated waterbodies including SAC/SPA.</p> <p>Flood event.</p> <p>Fire and Resultant Firewater associated with proposed fuelling station. Firewater poses a risk to surface and groundwaters.</p>
Cumulative Effect	<p>Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. These developments are outlined in Table 9.5 of the EIAR and Table 9.1 of the EIAR Addendum Report dated July 2023 which includes reference to the planning history associated with St. Clare's School to the north of the site. Due to the small scale of these developments, cumulative impacts are deemed to be negative, not significant and temporary.</p>

- *Mitigation Measures*

10.4.2.11. A comprehensive and extensive range of mitigation and monitoring measures are set out in Section 9.7 of the EIAR. At construction phase of the development such measures include production of a Construction and Environmental Management Plan, measures to eliminate site surface water run-off, measures to minimise risk of spillage of harmful substances, treatment of surface water run off on site and protection measures for existing trees on site. Any trees requiring removal are felled outside of bird nesting season. Mitigation measures at operational phase include landscaping and lighting design, surface water management design including on-site attenuation, interceptors, discharge at greenfield runoff rates and SUDs measures and measures to protect groundwater including surface water interceptor and attenuation works to eliminate percolation of contaminants and the service yard will be bunded. Monitoring of surface water quality is proposed during construction phase of the development and at operational phase until stable hydrochemistry is observed.

- *Residual Impacts*

10.4.2.12. Once mitigation measures are implemented residual impacts on local ecological receptors are deemed as neutral. It is stated that the proposed landscaping will result in the creation of new habitats on site which will have a positive impact on local ecology. Residual impacts from the proposed development range from a

medium negative effect at construction phase to a positive effect at operational phase.

### Assessment

- 10.4.2.13. I have examined, analysed, and evaluated Chapter 9 of the EIAR, all of the associated documentation and submissions on file in respect of effects on biodiversity. I am satisfied that the applicant has demonstrated a good understanding of the baseline environment and the likely environmental effects of the development.
- 10.4.2.14. The site currently comprises spoil and bare ground (Habitat Code ED2), small patches of dry meadows and grassy verges (GS2) and treelines (WL2) and has a low biodiversity value. I note the anomaly in reference to the site area within Chapter 9 of the EIAR (i.e. described 3.86ha as opposed to 4.126ha) and the discrepancy between the application boundary identified within the application drawings and Figure 9.6 of the EIAR Habitat Classification. I note that the boundary identified in Figure 9.6 does not extend to include the treeline to the west of the site or part of the existing Main Street car park. Notwithstanding this, I am satisfied that the assessment accurately describes and assesses the impact of the proposal on the existing western boundary of the site. I furthermore consider that the existing car park has limited biodiversity value and note that works proposed within this area are limited.
- 10.4.2.15. The third-party appeal refers to the lack of a biodiversity assessment of Killymooney Lough to the east of the appeal site and infers information deficiencies within the application in this regard. In considering the grounds of appeal, I note that the site is separated by the Lough by the existing Eastern Access Road and school access road. The site characteristics and habitats differ significantly from the Lough. I am satisfied that EIAR sufficiently considers the impact of the proposal on Killymooney Lough and associated watercourses and do not consider that there are information deficiencies within the application in this regard.
- 10.4.2.16. The main significant effect associated with the development relates to potential water quality impacts and associated potential impact on designated Natura 2000 sites. Potential impacts on Hydrology and Hydrogeology are addressed in Chapter 8 of the

EIAR and further in Section 9.4.4 of this assessment. Potential impact on designated Natura 2000 sites is addressed in Section 8 above and Appendices 1 and 2 of this report.

10.4.2.17. Other impacts derive from the loss of a number of existing trees on site along the western boundary to facilitate the pedestrian access to the site from Main Street. This is addressed within the Tree Survey and Arboricultural Impact Assessment and associated drawings submitted in support of the application (including Masterplan Drawing (1512\_PL\_P\_01) Tree Survey Detail Plan (1512-PI\_TS\_P\_01.1). I refer to Table 4.1 of the Tree Survey and Arboricultural Impact Assessment Report which identifies the category and structural and physiological condition of the trees proposed for removal as summarised below:

- 1 no. category B2 (Moderate Quality and Value) Tree in Poor Condition (T1).
- 7 no. Category C2 (Low Quality and Value) Trees, which range in physiological condition from Good (T9, T10), Fair (T3, T6, T7) to Poor (T2, T8).
- 1 no. Category U tree (trees which should be removed) which is dead (T4).

10.4.2.18. Having regard to the condition of existing trees and the proposed landscaping masterplan for the site, which includes significant replacement planting, I consider that biodiversity impacts associated with the loss of trees would be limited.

10.4.2.19. Having regard to the application of standard best practice mitigation measures, as set out in the EIAR, the site-specific measures referred to above, I am satisfied that significant effects on biodiversity will not arise. With regard to cumulative effects, I am satisfied that there will be no potential for significant cumulative effects on biodiversity, given the absence of significant effects likely to arise from the proposed development, and the potential for positive effects and the absence of substantial permitted or proposed development in the area of the site.

### Conclusion

10.4.2.20. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding biodiversity and European Sites (See section 8 and Appendices 1 and 2)

would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity, including species and habitats protected under the Habitats Directive and the Birds Directive.

#### 10.4.3. Land, Soils and Geology

##### Issues Raised:

10.4.3.1. No issues are raised within the third-party appeal in respect of land, soil and geology.

##### Examination, analysis and evaluation

- *Context*

10.4.3.2. Chapter 7 of the EIAR assesses the likely effects of the proposed development on land, soil and geology. Land, Soils and Geology is also addressed within Chapter 7 of the EIAR Addendum Report submitted in response to CCC's request for further information. The EIAR Addendum Report outlines that the proposed changes to the layout of the proposed development relating to landscaping, relocation of features and internal//external road features in response to CCC'S request for further information do not result in additional predicted effects of the development on land, soils and geology. Chapter 7 cross refers to the appendices attached to Chapter 8 of the EIAR including Appendix 8.2 Topographical Survey and Appendix 8.5 Site Investigations.

10.4.3.3. The assessment methodology includes desk study and site investigations (cable percussion borehole installation, trial pitting, plate load tests, groundwater monitoring, gas monitoring, Geotechnical Laboratory Testing and Environmental Laboratory testing investigation boreholes, soil sampling and logging of subsoil exposures). No limitations are identified in the EIAR in the scope, scale, or context of the assessment.

- *Baseline*

10.4.3.4. The topographical survey of the site indicates a site level variance of 71.41 OD to 93.07m OD. The lowest elevation on the site is located to the west where the site connects with the junction of Cock Hill Road and Main Street. The highest elevation is located to the southwest adjoining the existing St. Francis residential development.

10.4.3.5. The EIAR outlines that the site is located within the Lakeland area in central and west Cavan characterised by its lakes, drumlins and Bruse Hill to the east. EPA mapping identifies that the vast majority of the site is classified by poorly drained mineral soils classified as Till derived chiefly from Lower Palaeozoic rocks consisting of sandstones and shales. A strip of land to the east of the site comprises basin or blanked cut peat, to the south of the site is mineral poorly drained Till derived from Namurian rocks. The EIAR outlines that these soils occur in abundance in the area. The underlying bedrock comprises Ordovician Metasediments to the east and Dinantian sedimentary rocks to the west. The soils has a high to extreme vulnerability rating. Groundwater was encountered in 3 no. boreholes (BH 8 – 6.22m bgl, BH 9 6.91m bgl and BH 3 1.24m bgl ( likely to be overburden)).

10.4.3.6. The EIAR outlines that a significant quantum of fill material was placed on the eastern and southern portion of the site during the upgrade of the adjacent roadway. Underlying the made ground the site comprises glacially derived soils referred to as glacial till. This till comprises heavily over-consolidated grey brown and dark grey, sandy gravelly CLAY with low and medium cobble content. The EIAR Addendum Report dated July 2023 in response to CCC's request for further information outlines that no fill material would need to be imported to site to facilitate the development.

- *Potential Effects*

10.4.3.7. Likely significant effects of the development, as detailed within the EIAR, are summarised in Table LSG 1 below.

<b>Table LSG 1: Summary of Potential Effects – Land, Soils and Geology</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No additional impact on local soil, geology or geological heritage. The current rate of surface water percolation and run-off would continue to operate in its natural state.
Construction Phase	<p>Topsoil Removal – migration of silt, clay and other sediment off site through wind and water borne modes of transportation. Sediment ingress to local watercourses leading to potential degradation of water quality. Removal and stockpile of topsoil would result in a negative, slight and temporary impact on soil.</p> <p>Site Levelling/ Subsoil Removal: excavation of subsoil layer will result in an increased risk to groundwater vulnerability. Extraction and reduction in subsoil will have a negative, slight and temporary impact.</p> <p>Contaminated Land: Hydrocarbon leaks and spills would have a negative, moderate and short term effect on local soils.</p> <p>Construction of Built Structures: this will result in the conversion of permeable soils to hard standing surfaces and would have a negative, moderate and temporary effect.</p> <p>Slope Stability; The slope to the south west of the site will be dressed with excavated subsoil and planted with vegetation to ensure stability and safeguard against erosion. This will have a negative moderate and temporary effect.</p> <p>Impacts on Local Designated Sites: Deemed not significant.</p>
Operational Phase	Slope Stability: slope of significant gradient linking to the west of the site and Cavan town centre. Effects are identified as negative, slight and long term.
Cumulative Effect	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. These developments are outlined in Table 7.14 of the EIAR and updated to include reference to the permitted developments at St. Clare’s National School within Table 7.1 of the EIAR Addendum Report submitted in response to CCC’s request for further information. Due to the small scale of these developments, cumulative impacts are deemed to be negative, not significant and temporary.

- *Mitigation*

10.4.3.8. The EIAR proposes mitigation measures to offset potential effects on land, soil and geology for all phases of the development. These include the preparation and implementation of a Construction Environmental Management Plan and adherence to standard good practices during construction, for example, in respect of soil

handling, soil stockpiling, soil storage, site drainage systems to limit runoff impacts etc. The EIAR Addendum Report dated July 2023 outlines that construction waste will be disposed of in accordance with the guidance set out within the Construction Waste Management Plan. During operation SUDs measures are incorporated to limit and treat run off. The pedestrian link to the west along the site slop will be constructed in accordance with Part M of the building regulations.

- *Residual Effects*

10.4.3.9. With the implementation of proposed mitigation measures, no significant residual effects on land, land use, soils or geology are predicted. The EIAR identifies that the overall impact of the construction phase will be neutral to negative, imperceptible to slight and temporary. Impact associated with the operational phase is assumed to be neutral to positive, slight to moderate and long term.

#### Assessment & Conclusion

10.4.3.10. I have examined, analysed, and evaluated Chapter 7 of the EIAR and the associated appendices. I am satisfied that the applicant provided sufficient survey data to enable assessment of likely effects on the environment. Having regard to the detailed assessment carried out and subject to the detailed and full implementation of proposed mitigation measures, I am satisfied that subject development will not give rise to significant direct, indirect, or cumulative effects on land, soils, or geology of the site.

#### 10.4.4. **Hydrology and Hydrogeology**

##### Issues Raised:

10.4.4.1. The third-party appeal raises concern in relation to the impact of the proposal on water quality of Killymooney Lough which is hydrologically linked to Natura 2000 sites and compliance with the Water Framework Directive. The appeal outlines that that insufficient information has been provided within the application in relation to the water quality status of the existing lake.

### Examination, analysis and evaluation

- *Context*

10.4.4.2. Chapter 8 of the EIAR assesses the likely effects of the proposed development on the hydrology and hydrogeology of the site, collectively known as the water environment. I also refer to Chapter 8 of the EIAR Addendum Report which was submitted in response to Cavan County Council's request for further information. Associated Appendices are Qbar Calculation, Cut and Fill Information, Cavan CFRAM Map, Ground Investigation Report, Groundwater and Gas Monitoring Records, Appendix 5 Geotechnical Laboratory Test Records, Environmental Laboratory Test Records, Chemical Laboratory Test Records, Exploratory Hole Location Plans. The assessment also cross refers to the Site Specific Flood Risk Assessment prepared by ORS submitted in support of the application.

10.4.4.3. The assessment methodology includes desk study and site investigations (cable percussion borehole installation, trial pit excavations, plate load tests, groundwater monitoring, gas monitoring, Geotechnical Laboratory Testing and Environmental Laboratory testing). No limitations are identified in the EIAR in the scope, scale, or context of the assessment.

- *Baseline*

10.4.4.4. The development site is identified as being located on a poor and locally important aquifer of low to extreme vulnerability with soils which are poorly draining. Regional and local hydrology (Figures 8.2 and 8.3) comprise the following:

- The proposed development site is located within the Erne Catchment, hydrometric area 36. The principal river in the catchment is the Erne. The principle hydrological feature closest to the site is Lough Oughter c. 3.8 km northwest. The site is located in sub catchment 36-4 known as Cavan\_SC\_010 sub catchment which is drained by Cavan River.
- The nearest hydrological feature to the site is Killymooney Lough which is fed by the Aghnaskerry River. The topography of the site is undulating to the east and primarily drains into the Killymooney Lough. To the west the site drains to the Cavan River via the towns surface water drainage network.

- The site is adjoined by Cock Hill Road to the east and south which is served by an existing drainage network connected to a detention basin located to the east of Killymooney roundabout. The pond discharges via culvert to Killymooney Stream/ Aghnaskerry River.
- Type 3 “relatively impermeable soils in boulder and sedimentary clays” was selected as a the most representative class of soils at the site.
- The CFRAM mapping for Cavan town illustrates that the southeast and east of the site is located in Flood Zone A and Flood Zone B. The EIAR refers to the outdated nature of the topographical survey and states that the survey data was updated since the construction of the Eastern Access Road. The majority of the site is located in Flood Zone C and the proposed uses are classified as less vulnerable development. The EIAR cross refers to the Flood Risk Assessment submitted in support of the application.
- The closest monitoring station to the site is the Green Lough station (RS36G010040) located downstream of the site. This monitoring station had a historic “Low” status. The most recent assessment in 2019 indicated a “Reduced to Low” status. The Cavan River\_010 has a WFD status of poor.
- The site is situated above 2 no. groundwater bodies namely: (1) Cavan Groundwater Body – Poorly productive bedrock (2) Killashandra Groundwater Body – Poorly productive bedrock.
- Figure 8.9 of the EIAR illustrates groundwater vulnerability of the site. The site has a mixture of Moderate to High Vulnerability in the centre and west of the site with an area to the east classified as “Extreme”. A small area to the south of the site is classified as Low Vulnerability.
- From desktop and field investigations the site is identified as being located on a poor and locally important aquifer of low to extreme vulnerability. A vulnerability rating of R1 and R3 is assigned to the site.

- *Potential Effects*

10.4.4.5. Likely significant effects of the development, as detailed within the EIAR, are summarised in Table HH 1 below.

<b>Table HH 1: Summary of Potential Effects – Land, Soils and Geology</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No additional impact on local water systems. The current rate of run off would remain in its current state, no change in land use, fluvial flooding impacts would continue and groundwater status would remain unchanged.
Construction Phase	<p>Increased run-off and sediment loading from site leading to water quality degradation. This would result in a negative, slight to moderate temporary effect on water quality of Killymooney Stream/Aghnaskerry River to the east of the site.</p> <p>Accidental Spillages of Harmful Substances resulting in negative, moderate to significant, temporary effect on the water quality of Killymooney Stream/Aghnaskerry River and downstream receptors.</p> <p>Increased Groundwater Vulnerability. An excavation depth of 2.5bgl at the rear of the proposed supermarket to facilitate the loading bay may increase the vulnerability in the area from high to extreme. Removal of soil/subsoil during construction phase would have a negative, significant, long-term effect on groundwater vulnerability.</p> <p>Excavation of bedrock aquifer is possible but not expected given the limited nature of excavation associated with the development. Potential impacts on hydrogeology would be negative, significant and long term.</p> <p>Site investigations did not detect the presence of contaminated soils. In the instance that contaminated soils are encountered impacts would lack significance.</p> <p>Increased flood risk associated with the conversion of permeable soils to hard standing. The encroachment of urban development onto existing floodplains can lead to a reduction in flood storage capacity with a resultant increase in flood risk upstream and downstream. Impacts associated with increased flood risk are identified as negative, significant and long term.</p>
Operational Phase	<p>Contaminated run off from site comprising potential polluting substances including hydrocarbon, heavy metals and sodium chloride. This would result in negative, moderate to significant, temporary effects on water quality of Killymooney Stream/Aghnaskerry River to the east of the site.</p> <p>Infiltration of foul water to the site drainage system impacting on surface water and groundwater receptors and potential eutrophication of Killymooney Stream/ Aghnaskerry River. The predicted effects of foul water leakage are identified as being negative, moderate to significant and short term.</p>

	<p>Increased flood risk associated with the development. Impacts are identified as being negative, imperceptible and short term.</p> <p>Increased surface water run-off and potential pollution of watercourses associated with conversion of permeable soils to hard standing. Impacts are detailed as being negative, slight to significant and long-term to permanent.</p>
Cumulative Effect	<p>Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 8.20 of the EIAR and extended to include reference to the development at St. Clare's School to the north of the site within Table 8.1 of the EIAR Addendum Report dated July 2023 and submitted in response to CCC's request for further information. Due to the small scale of these developments, cumulative impacts are deemed to be negative, not significant and temporary.</p>

- *Mitigation*

10.4.4.6. Section 8.7 of the EIAR proposes mitigation measures to offset potential effects on hydrology and hydrogeology. The measures set out primarily relate to the preservation of existing subterranean drainage regime, the protection of groundwater receptors and protection of surface water receptors. These include the preparation and implementation of a Construction Environmental Management Plan which will include detailed measures to address the main potential impacts on surface water and groundwater.

10.4.4.7. At construction phase the identified measures include adherence to standard good practices with reference to the Northern Regional Fisheries Board and for protection of watercourses, establishment of bunded oil and chemical storage areas, provision of adequate surface water drainage systems on site with interceptor and attenuation networks, assessment of soils for contamination and incorporation of SUDs measures. At operational phase mitigation measures include SUDs measures, bunding of service yard, attenuation tanks, interceptors, ponds and permeable paving. The EIAR also recommends monitoring of surface water quality at construction and operational phases of the development. At operational phase monitoring is recommended until a stable hydrochemistry is observed.

- *Residual Effects*

10.4.4.8. With the implementation of proposed mitigation measures, no significant residual effects on hydrology or hydrogeology are predicted. The EIAR identifies that the overall impact of the construction phase will be negative, imperceptible to slight and temporary. Impacts associated with the operational phase are assumed to be negative, slight and short term to long term.

#### Assessment

10.4.4.9. I have examined, analysed, and evaluated Chapter 8 of the EIAR and the associated appendices and the Site-Specific Flood Risk Assessment. I am satisfied that the applicant provided sufficient survey data to enable assessment of likely effects on the environment.

10.4.4.10. I refer to the concerns raised within the third-party appeal in relation information deficiencies within the application regarding the baseline water quality of Killymooney Lough and potential water quality impacts. The applicant's response to the third-party appeal which outlines that site specific studies of Killymooney Lough were scoped out of the EIA process as the Lough is not protected by EU legislation, it is not utilised as a potable water source, no ecological status has been assigned to the Lough and the Lough not included within the EPA lake monitoring programme. On this basis the ecological sensitivity of the Lough is deemed as Low. The appeal response outlines that the mitigation measures are robust and seek to prevent the deterioration of local water quality.

10.4.4.11. I note that the specific measures to prevent run off/pollution from the site at construction and operational phase of the development are detailed within Chapter 8 of the EIAR, the NIS (Section 5 Mitigation Measures), and the Outline Construction Environmental Management Plan (CEMP). I consider that the measures set out within the application documentation which include monitoring of ground and surface water discharge from the site are comprehensive, have been designed on the basis of the site characteristics, and would negate against water pollution from the site. I consider that adherence to the measures outlined will ensure pollutants will not be

discharged from the site and no further deterioration in the water quality will arise as a result of the proposal.

10.4.4.12. Further, having regard to the detailed assessment carried out, the location of the development, absence of substantial concurrent development in the area of the site and the proposed mitigation measures, which are standard good practice measures and which are proven to be effective at preventing adverse effects on water flows and water quality, I am satisfied that no significant, adverse direct, indirect, or cumulative effects on the water environment, water quality or Water Framework Directive objectives will arise as a consequence of the development.

#### Conclusion

10.4.4.13. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding water would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Water.

#### 10.4.5. **Air Quality**

##### Issues Raised:

10.4.5.1. No issues are raised within the third-party appeal in respect of air quality.

##### Examination, Analysis and Evaluation

- *Context*

10.4.5.2. Chapter 12 of the EIAR deals with Air Quality and Climate and provides an assessment of the air quality and climate within the vicinity of the site and surrounding environs. Air Quality and Climate is also addressed within Chapter 12 of the EIAR Addendum Report prepared in response to CCC's request for further information.

10.4.5.3. The methodology for the assessment of dust emissions has regard to Institute of Air Quality Management (UK) guidelines.

- *Baseline*

10.4.5.4. The proposed development site lies in Zone D, rural Ireland, one of four air quality zones identified in Ireland by the EPA. The EIAR identifies that NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are regarded as the 3 most significant air pollutants released by vehicular emissions. No exceedances in PM<sub>10</sub> and PM<sub>2.5</sub> were recorded within the Cavan Town monitoring station. No exceedances in NO<sub>2</sub> was observed in the closest monitoring stations at Carrick on Shannon and Kilkitt.

10.4.5.5. The EIAR identifies that there are approximately 22 residential, amenity, health and leisure receptor clusters within 350m of the site boundary including a school to the north within 30-35m of the site and existing residential properties at St. Francis Estate c.5m to the south of the site. The EIAR identifies that the prevailing wind direction is from the southwest.

- *Potential Effects*

10.4.5.6. Likely significant effects of the proposed development on air quality, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table AQ1 below.

<b>Table AQ1: Summary of Potential Effects – Air Quality</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	Air quality will remain as per baseline levels.
Construction Phase	Construction dust emissions associated with activities including excavations, infilling materials, stock piling and movement of vehicles. Air quality effects are deemed as temporary, negligible and short-term. Construction traffic emissions which can affect air quality.
Operational Phase	Air quality standards are not expected to be breached at operational phase due to compliance with ambient air quality legislation limits.
Cumulative Effect	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 12.16 (labelled as 7.14) of the EIAR and Table 12.1 of the EIAR Addendum Report which includes reference

	to the development permitted at St. Clare's National School to the north of the site. Due to the small scale of these developments, cumulative impacts are deemed to be negative, slight and temporary.
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- *Mitigation*

10.4.5.7. Section 12.7 of the EIAR proposes mitigation measures to offset potential effects on air quality and climate. The relevant construction phase air quality measures include the production of a Site Dust Management Plan and adoption of good site management procedures including dust control procedures and those set out within the Construction Environmental Management Plan. The EIAR sets out dust control measures for site roads and haulage route to minimise dust emissions including an onsite wheel wash facility and transportation in covered loads. At operational stage the EIAR outlines that the development will comply with ambient air quality legislation limits.

- *Residual Effects*

10.4.5.8. With the implementation of proposed mitigation measures, no significant residual effects on air quality are predicted. The EIAR identifies that the overall impact of the construction phase will be negative, imperceptible to slight and temporary. Impact associated with the operational phase is assumed to be neutral to negative, Imperceptible to slight and temporary to short term.

Assessment

10.4.5.9. I have examined, analysed, and evaluated Chapter 12 of the EIAR and the associated CEMP. I am satisfied that the applicant has provided sufficient data to enable assessment of likely effects on air quality. Likely direct and indirect effects will arise from the increase in traffic, plant and equipment during construction, construction works (e.g. excavation and movement of rock/soils) and comprise an increase in associated vehicular emissions and dust on the public road/in the vicinity of the site.

10.4.5.10. The EIAR identifies a small number of (< 10) of sensitive receptors (residential receptors) within 50m of the site. The applicant proposes standard good construction

practices to minimise adverse effects on air quality. With the application of these measures, I am satisfied that whilst short term adverse effects may arise during construction, particularly in the immediate area of the development site, these can be controlled to an acceptable level, and which would be typical of construction sites. There is little potential therefore for indirect health effects.

10.4.5.11. I consider that there are information deficiencies within the assessment in relation to potential operational phase air quality impacts in particular in relation to the proposed petrol filling station use. In this regard I refer to Condition no. 9 of CCC's notification of decision to grant permission for the development which outlines that applicant shall include a Stage 1 Petrol Vapor Recovery as part of the proposed development. Stage 2 Petrol Vapour Recovery must be included if the actual/intended petrol throughput is greater than 500m<sup>3</sup> /year. Vapour recovery relates to the process of collecting the vapours of gasoline and other fuels, so that they do not escape into the atmosphere. I note that the Environment Section in CCC raised no objection to the proposal on Air Quality grounds and I am satisfied that compliance with this condition would negate against potential operational phase Air Quality impacts. I recommend the inclusion of this condition in the instance that the Board is minded to grant permission for the development.

#### *Conclusion*

10.4.5.12. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding air quality would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Air Quality.

#### 10.4.6. **Noise and Vibration**

##### Issues Raised

10.4.6.1. No specific concerns in relation to noise and vibration are raised within the grounds of appeal.

### Examination, Analysis and Evaluation

- *Context*

10.4.6.2. Chapter 11 of the EIAR deals with noise and vibration. Noise and Vibration is also addressed within Chapter 11 of the EIAR Addendum Report submitted in response to CCC's request for further information. Associated Appendices are NISE Predictions for Developments and Sampling Sheets for Noise.

10.4.6.3. Chapter 11 assesses the likely effects of the development (all phases) on the nearest noise sensitive locations (NSLs). For noise arising from construction works, construction traffic and vibration, BS and TII standards are referred to (section 11.3.2). For operational noise the EIAR refers to a number of sources including BS, DMRB, "EPA Guidelines on the Information to be contained in Environmental Impact Assessment Reports (EIAR)" May 2022 and WHO Guidelines. The EIAR refers to BS standards for vibration associated with the Construction (BS 5228) and Operational (BS 6472) phases of the development. The EIAR identifies no limitations in respect of the noise and vibration impact assessment, and I am satisfied that no significant limitations are evident.

- *Baseline*

10.4.6.4. A background noise assessment was carried out at three noise sensitive locations using a Sound Level Meter and Real Time Frequency Analyser. Noise Monitoring Locations are identified in Figure 11.1 of the EIAR and described as follows:

- NML 1: At site entrance along eastern boundary of the site.
- NML 2: At the western boundary of the site immediately adjacent to residential dwellings.
- NML 3: In the Lakeland residential estate to the south of the site.

10.4.6.5. The survey was undertaken on the 15<sup>th</sup> of November 2022 and the 16<sup>th</sup> of November 2022. Weather conditions during the survey are identified as dry with day-time temperatures in the range of 8 to 10 degrees and night-time temperatures in the

range of 4 to 6 degrees. The EIAR details wind direction and speed during the survey period.

10.4.6.6. Results of the noise monitoring data for daytime (07:00 to 19:00), evening (19:00 to 23:00) and nighttime periods (23:00 to 07:00) are indicated in Tables 11.6 to 11.8.

- *Potential Effects*

10.4.6.7. Likely significant effects of the proposed development on noise and vibration, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table N1 below.

<b>Table N1: Summary of Potential Effects – Noise</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No additional impact on the local ambient noise and vibration conditions. No impact on noise/vibration to surrounding receptors.
Construction Phase	<p><u>Noise Impacts</u></p> <p>Noise impact during the construction phase of the development associated with on-site activities including site clearance, excavation works, provision of infrastructure and construction of development. Table 11.9 of the EIAR provide a summary of noise levels associated with typical construction plant items at 10m.</p> <p>The EIAR outlines that the closest works area is located 30m from the nearest noise sensitive receptor. Table 11.10 summarises typical noise predictions at various distances (30m, 50m and 100m). No significant noise impact is envisaged.</p> <p><u>Vibration</u></p> <p>Given the distance from site boundaries to nearest noise sensitive locations and the proposed methods of construction no significant vibration impacts are envisaged.</p>
Operational Phase	<p><u>Noise Impacts</u></p> <p><i>Noise from building services plant,</i></p> <p>The EIAR identifies that proposed building services including plant, such as extract fans, condensers, air handling units and pumps are designed to adhere to the following criteria at noise sensitive locations:</p> <ul style="list-style-type: none"> <li>- Daytime/Evening: 50 dB <math>L_{aeq\ 1hr}</math> , Night 40 dB <math>L_{aeq\ 15mins}</math></li> </ul> <p>Noise associated with Store deliveries: The EIAR includes an assessment of noise associated with deliveries at nearest noise sensitive locations (Table 11.12). While the text under this table outlines that additional noise mitigation measures are required with regard to the operation of the proposed Service Yard/Delivery Area, this does not</p>

	<p>correspond with the information set out within the table which details compliance with relevant standards at NSL's.</p> <p>Increased noise due to additional traffic on public roads.</p> <p>Increased noise level is less than 2.5 dB on all assessed roads. This increase is identified as "negligible" and "not significant".</p> <p><i>Noise Associated with Car Park</i></p> <p>Table 11.15 presents the results of the noise calculations from car park use to the nearby receptors. The EIAR outlines that additional noise mitigation measures are not required.</p> <p><u>Vibration</u></p> <p>The EIAR outlines that no significant sources of vibration are expected to arise from the operational phase of the development.</p>
Cumulative Effect	<p>Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 11.18 of the EIAR and updated to include reference to development permitted St. Clare's National School to the north of the site within Table 11.4 of the EIAR Addendum Report. Due to the small scale of these developments, cumulative impacts are deemed to be not significant and temporary.</p>

- *Mitigation*

10.4.6.8. Section 11.7 of the EIAR relates to noise mitigation measures. Construction phase mitigation measures include the following:

- Adherence to best practise control measures for noise and vibration BS5228+A1:2014 "Code of practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2".
- Use of hoarding a minimum of 2.4m high.
- Limitation of hours of construction with provision for some derogation to the agreed.
- Monitoring.
- Site maintenance of access road to mitigate vibration from lorries.
- Selection of plant with low noise and vibration generation.
- Erection of barriers.

- Locate noisy plant away from NSL and use of vibration isolated support structures. Establish communications between contractor local authority and residents.
- Appoint site representative responsible for noise and vibration matters.

10.4.6.9. Mitigation measures for the impacts during the operation stage are generally summarised as follows-

- Plant designed and specified so that noise emissions do not exceed detailed criteria at the external faced of existing and/ or proposed new NSLs.
- Possible installation of attenuators to supply/extract fans, acoustic barriers and acoustic louvres.
- The EIAR outlines that noise mitigation measures associated with deliveries, additional traffic on road network and car parking are not deemed necessary.
- *Residual Effects*

10.4.6.10. The EIAR identifies that the following residual impacts are expected:

- Construction stage- appointed contractor required to comply with the Safety, Health and Welfare at Work Regulations and appropriate noise mitigation measures. Short term nature of works means the potential impact to off-site receptors not significant.
- Operational stage- noise emissions controlled to comply with recommended WHO Guidelines.

10.4.6.11. The overall impact of the construction phase is identified as negative, moderate and short term. Impact associated with the operational phase of the development is assumed to be negative, not significant and long-term.

#### Assessment

10.4.6.12. I have examined, analysed, and evaluated Chapter 11 of the EIAR, the associated documentation and submissions on file in respect of noise and vibration. I am satisfied that, having regard to the background noise environment, location of the

proposed development relative to noise sensitive locations, predicted noise levels from construction plant/equipment and construction traffic, subject to the proposed standard best practice mitigation measures and binding noise limits and hours of construction, no direct, indirect, or cumulative significant adverse effects are likely on NSLs during construction works. In terms of plant equipment, the EIAR details that noise mitigation measures will be implemented to ensure compliance with relevant standards. Operational phase noise emissions will comply with relevant WHO Guidelines. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Noise & Vibration.

#### 10.4.7. **Climate**

##### Issues Raised in Appeal

10.4.7.1. The appeal raises concern in relation to compliance of the development with objectives NPO54 of the Cavan County Development Plan. Section 5.2.8 of the CCDP relates to the objectives of the National Planning Framework including NPO54 as cited within the grounds of appeal as follows.

- NPO 54 Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.

10.4.7.2. The appeal furthermore refers to the nature of the development (comprising a retail store with surface car parking, petrol filling station and drive through) and questions the alignment of the development with national policy including the Northern and Western Regional Assembly RSES and the Climate Action Fund National Development Plan 2018-2027 within the framework of Project Ireland 2040. The appeal refers to Section 5.5 of the CCDP which supports the development of a decarbonization zone within Cavan and the location of the appeal site within this zone as identified within the Draft Climate Action Plan. The appeal questions the principle of a car dominated development in this regard.

### Examination, Analysis and Evaluation

- *Context*

10.4.7.3. Chapter 12 of the EIAR also considers the effects of the development on Climate. It highlights two distinct areas of Climate Change Mitigation (CCM) and Climate Change Adaptation (CCA). CCM focuses greenhouse gas (GHG) emissions from construction and final operations. CCA focuses on potential impacts to the construction and operation phases of the development from future changes to climatic conditions.

10.4.7.4. The methodology used details reference to LA 114 Climate Design Manual for Roads and Bridge (DMRB) published by Highways England. This document sets out the requirements for assessing and reporting the effects of climate on highways (climate change resilience and adaptation), and the effect on climate of greenhouse gas from construction, operation and maintenance projects.

- *Baseline*

10.4.7.5. The nearest meteorological station to the appeal site is in Clones (measurements ceased here in 2007). Table 12.3 sets out baseline climatic conditions at the Clones monitoring station from 1981-2007. The wettest months in the region are identified between October to January.

- *Potential Effects*

10.4.7.6. Likely significant effects of the proposed development on climate, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table C1 below.

<b>Table C1: Summary of Potential Effects –Climate</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	Climate will remain as per baseline levels.
Construction Phase	Construction dust emissions associated with activities including excavations, infilling materials, stock piling and movement of vehicles. Air quality effects are deemed as temporary, negligible and short-term. Construction traffic emissions which can affect air quality.

Operational Phase	<p>The development will produce GHG emissions during operational phase of the development due to necessity to heat, cool and power the buildings and operational activities such as water consumption, wastewater treatment and the transport and treatment of waste.</p> <p>The development will increase CO<sub>2</sub> emissions by 0.0000022% of Ireland's EU 2030 emissions target.</p> <p>The planned developments traffic emissions will increase CO<sub>2</sub> emissions by &lt;0.001% of Ireland's 2020 and 2030 emissions objectives for CO<sub>2</sub>.</p>
Cumulative Effect	<p>Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 12.16 (labelled as 7.14) of the EIAR and Table 12.1 of the EIAR Addendum Report which includes reference to the development permitted at St. Clare's National School to the north of the site. Due to the small scale of these developments, cumulative impacts are deemed to be negative, slight and temporary.</p>

- *Mitigation*

10.4.7.7. In terms of Climate proposed mitigation measures to support emissions reduction include restriction of on-site delivery vehicles from leaving engines idle and reducing ware of materials on site. Best practice techniques are recommended at operational phase to minimise the effect of the development on air quality.

- *Residual Effects*

10.4.7.8. With the implementation of proposed mitigation measures, no significant residual effects on climate are predicted. The EIAR identifies that the overall impact of the construction phase will be negative, imperceptible to slight and temporary. Impact associated with the operational phase is assumed to be neutral to negative, Imperceptible to slight and temporary to short term.

Assessment & Conclusion

10.4.7.9. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Climate are not significant and would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the

proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Climate.

10.4.7.10. I note the concerns raised within the appeal in relation to compliance with Policy Objective NP054 of the National Planning Framework and the provisions of the Cavan County Development Plan. I refer to the Sustainability Report submitted in support of the application which outlines that the proposed buildings have been designed to ensure energy efficiency and provide the owner/user with a degree of certainty over their energy and carbon footprint. The target for the development is to achieve an “A rated” BER across all buildings. Energy efficient lighting and M&E systems are proposed. A reduce, reuse and recycle philosophy will be adopted throughout the development. I am satisfied that the incorporation of such measures will negate against impacts on Climate.

#### 10.4.8. **Microclimate**

##### Issues Raised

10.4.8.1. No specific issues relating to microclimate are raised in the grounds of appeal. The appeal raises a general concern in relation to the proximity of the proposed superstore to St. Francis residential estate located to the southwest of the appeal site.

##### Examination, Analysis and Evaluation

- *Context*

10.4.8.2. Chapter 13 of the EIAR deals with Microclimate with focus on Daylight, Sunlight & Overshadowing and Wind. The methodology used includes reference to guidance documents including BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ 2011 & 2022. Shadow Plots are shown in Appendix 13.1 of the EIAR.

10.4.8.3. For Wind reference is made to relevant guidance. It considers a determination of the baseline wind classification of the site using openly available data from the nearest

Met Eireann weather station (Ballyhaise Automatic Weather Station) appropriate in this context.

- *Baseline*

10.4.8.4. Section 13.4.2 relates to Daylight, Sunlight and Overshadowing and refers to the existing pattern of development within the vicinity of the site including backlands associated with Main Street to the west, St Clare's National School to the north, existing residential development to the southwest and Cock Hill Road to the east and south. The assessment refers to the permitted extension to St. Clare's National School and these works have been considered as part of the study. Figure 13.1 of the EIAR illustrates the zone of influence of the proposed development and potential receptors. These are identified as follows within Section 13.6.2:

- A. St Clares School to the north – 37m north of the structure
- B. St. Clare's School – 59m north of the proposed structure
- C. St Clares School – 49 m northwest of the structure
- D. Residential Unit (no. 13 St Francis Estate)– 37m southwest of the structure
- E. Residential Unit (no. 14 St. Francis Estate)- 45m southwest of the structure

10.4.8.5. The EIAR outlines that data collected from the Ballyhaise Weather Station was used to develop a wind profile for the proposed site location. Wind speeds in the area are identified in Figure 13.4. Average wind speeds expected to occur on site were measures at 3/4m/s representing a "gentle breeze".

- *Potential Effects*

10.4.8.6. Likely significant effects of the proposed development on Microclimate, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table MC1 below.

<b>Table MC1: Summary of Potential Effects – Microclimate</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No additional impact on microclimate. No impact on daylight/sunlight/overshadowing to surrounding receptors and local wind patterns will remain unaffected.
Construction Phase	<p>Likely effects would vary throughout the various stages of construction.</p> <p>Effects will increase as the development is built with an increased level of obstruction.</p> <p>Impacts from tall cranes likely but generally imperceptible due to temporary nature.</p> <p>The development is a single storey structure with a height of c. 7.8m. An increase in prevailing winds is not envisaged.</p> <p>Existing wind speeds present “occasional outdoor seating conditions” for workers.</p>
Operational Phase	<p>A negligible impact on Daylight is envisaged at the identified at the 5 identified potential receptors.</p> <p>The proposed development is located north of existing residential properties at St. Francis. The development will have no impact on sunlight at these properties.</p> <p>The amenity spaces to the rear of St. Clare’s will not receive a reduction below the current sunlight levels on the 21<sup>st</sup> of March as illustrated on Figure (13.7).</p> <p>The shadow study (attached as Appendix 13.1) illustrated no additional shading on any adjacent buildings.</p> <p>It is unlikely the building height, design, spacing and layouts will contribute to accelerated wind speeds.</p> <p>Pedestrian comfort due to wind speeds is identified as being acceptable.</p>
Cumulative Effect	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 13.14 of the EIAR and updated to include reference to development permitted St. Clare’s National School to the north of the site within Table 13.1 of the EIAR Addendum Report. The EIAR identified that there are no developments within the vicinity which would result in cumulative effects on daylight, sunlight, overshadowing or local wind conditions.

- *Mitigation*

10.4.8.7. Section 13.7 of the EIAR relates to Mitigation Measures. Mitigation measures for the impacts during the construction stage are detailed and can generally be summarised as-

- Scaffolding, hoarding and cranes will only be used for as long as necessary.
- All relevant health and safety measures and controls during periods of elevated wind will be followed and implemented including scaffolding, craneage and MEWP's (Mobile elevating work platforms) as well as securing all loose and lightweight materials and working at a height.

10.4.8.8. No mitigation measures are identified for the operational phase of the development. The massing and design of the development is deemed optimal to negate against impact.

- *Residual Impacts*

10.4.8.9. With the implementation of proposed mitigation measures, no significant residual effects are predicted on microclimate. The EIAR identifies that the overall impact of the construction phase of the development will be neutral to negative, imperceptible to slight and temporary. The overall impact of the operational phase is deemed to be neutral to negative, slight and short to long term.

#### Assessment & Conclusion

10.4.8.10. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Microclimate would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Microclimate.

10.4.8.11. I note the concerns raised within the appeal in relation to the impact of the proposed superstore on existing residential properties at St. Francis Estate to the southwest of the site. I am satisfied that Chapter 13 of the EIAR sufficiently considers potential microclimate impacts of the proposal on nearby residential properties including those within St. Francis Estate. On the basis of the information set out within the assessment and having regard to the siting of the proposed development relative to these properties I am satisfied that no microclimate impacts arise.

#### **Material assets, cultural heritage and the landscape**

#### 10.4.9. Archaeology, Architectural and Cultural Heritage

##### Issues Raised:

- 10.4.9.1. The third-party appeal raises concern in relation to the visual impact of the proposal on the character and setting of St. Clare's Convent (Protected Structure). The appeal outlines that this is not addressed within the EIAR and there are information deficiencies within the application in this regard. The appeal outlines that the proposed development which is located on an elevated terrain will impact on the streetscape and roofline of the area containing the protected structure. The appeal outlines that the development is not in compliance with NPO60 of the Cavan County Development Plan which seeks to: *"Conserve and enhance the rich qualities of natural and cultural heritage of Ireland in a manner appropriate to their significance"*.
- 10.4.9.2. The submission on the application from the Department of Housing, Local Government and Heritage (22/02/2023) recommends a grant of permission subject to a condition relating to archaeological monitoring.

##### Examination, Analysis and Evaluation

- *Context*

- 10.4.9.3. Chapter 15 of the EIAR considers the effects of the development on Cultural Heritage including Archaeological and Architectural. Relevant Appendices to Chapter 15 include the following:
- Appendix 15.1: Archaeological Sites within 250m of the Proposed Development Area
  - Appendix 15.2: Architectural Sites within 250m of the Proposed Development Area
  - Appendix 15.3: Legislation Protecting Archaeological Resource
  - Appendix 15.4: Legislation Framework Protecting Architectural Resource
  - Appendix 15.5: Impact Assessment and Cultural Heritage Resource
  - Appendix 15.6: Mitigation Measure and the Cultural Heritage Resource

10.4.9.4. The methodology used included a paper survey of all archaeological, historical and cartographic sources as detailed in section 15.3.1. A field inspection of the site was also carried out.

- *Baseline*

10.4.9.5. Section 15.4 relates to the receiving environment and outlines that the western section of the site is located within the zone of archaeological potential for Cavan town, which is a Recorded Monument (RMP CV020-055). These features are illustrated in Figure 15.2 of the EIAR. Section 15.4.2 refers to previous archaeological testing carried out in 2010 on the site and within the surrounding area as part of the Cavan Town Eastern Access Road project. The EIAR outlines that there are no individual sub-constraints associated with this zone located within the proposed development area. The closest individual site which is identified as a ring ditch (CV020-87) is located c.110m south of the site.

10.4.9.6. Table 15.1 includes a list of all Protected Structures and NIAH Structures in the study area. Section 15.4.1 of the report outlines that the closest Protected Structures to the development include BH1 “St. Clare’s Chapel” Main Street located c.130m to the north-northwest and a retail unit located c.140m west.

10.4.9.7. Section 15.4.10 relates to the field inspection on site. This identifies that the entirety of the application site is characterised by raised compacted hardcore surface, laid down during test-trenching and excavations which took place in 2010/11 as part of works associated with the Cavan Eastern Access Road. No sites or features of archaeological interest were identified during the field inspection.

- *Potential Effects*

10.4.9.8. Likely significant effects of the proposed development on Archaeology, Architectural and Cultural Heritage, as predicted in Section 15.6 of the EIAR, in advance of any mitigation measures, are summarised in Table AACH1 below.

<b>Table AACH1: Summary of Potential Effects – Archaeology, Architectural and Cultural Heritage</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No impact or negative effects on archaeological, architectural and cultural heritage.
Construction Phase	Archaeological testing and excavation have already taken place within the footprint of the development site. No direct or indirect negative effects are predicted upon the archaeological resource as a result of the construction phase of the development.  No potential negative effects are envisaged on architectural or cultural heritage.
Operational Phase	No negative impacts expected on archaeology, architectural or cultural heritage at the operational phase of the development. The EIAR cross refers to the LVIA and photomontages submitted in support of the application. These identify limited intervisibility between the development and closest Protected Structures within Cavan Town.
Cumulative Effect	No cumulative effects are identified on the basis that no impacts are envisaged with the proposal.

- *Mitigation*

10.4.9.9. No mitigation measures are deemed necessary in the EIAR for the construction or operational stage of the development.

- *Residual*

10.4.9.10. Section 15.9 of the EIAR outlines that as there are no effects predicted upon the archaeological, architectural or cultural heritage resource there will be no residual effects.

#### Assessment

10.4.9.11. I note the concerns raised within the appeal in relation to information deficiencies within Chapter 15 of the EIAR in relation to the lack of reference and assessment of St. Clare’s Church within the assessment. This Church is identified as follows within the Record of Protected Structures attached as Appendix 19 of the Cavan County Development Plan: “Attached eight-bay double-height Gothic Revival Roman

*Catholic chapel, built 1881, with single-bay gabled entrance porch to north elevation, three-bay two-storey over basement vestry offices attached at east gable and recent glazed porch to south elevation*". On review of Chapter 15 of the EIAR, I am satisfied that the structure is identified within Table 15.1 as BH 1 (RPS no. CV0822), (NIAH Ref: 40000266). Section 15.4.1 of the report identifies the church as one of the closest Protected Structures to the appeal site. In this regard, I am satisfied that there are no omissions within the assessment in respect of the Protected Structure. I note the concerns raised within the grounds of appeal in relation to the visual impact of the proposal on the character and setting of this structure. Chapter 15 of the EIAR outlines that there is limited intervisibility between the appeal site and existing Protected Structures within the vicinity and cross refers to the Landscape and Visual Impact section of the EIAR. I consider this point further within the assessment of Chapter 14 of the EIAR "Landscape and Visual Impact".

10.4.9.12. I refer to the submission on file from the Department of Housing, Local Government and Heritage (22/02/2023). This refers to the archaeological assessment within the EIAR and details of archaeological pre-testing and subsequent excavation previously carried out on site. The report recommends that any new/additional ground works should be subject to archaeological monitoring. The report recommends a grant of permission subject to conditions relating to archaeological monitoring.

10.4.9.13. I note that Cavan County Council's notification of decision to grant permission for the development does not include a condition in relation to archaeological monitoring, nor is archaeological monitoring recommended within Chapter 15 of the EIAR on the basis of previous archaeological testing and excavation on site. However, I note that the appeal site boundary marginally differs from the development previously permitted on site under ABP Ref: PL48.240097 in the vicinity of St. Francis Estate to the south west and within a zone of archaeological potential. In this regard I recommend the inclusion of a condition relating to archaeological monitoring in respect of any new/additional ground works. I am satisfied that this can be addressed by means of condition.

### Conclusion

10.4.9.14. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Archaeology, Architectural and Cultural Heritage would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Archaeology, Architectural and Cultural Heritage.

### 10.4.10. **Landscape and Visual Impact**

#### Issues Raised

10.4.10.1. The appeal raises concern in relation to the design and visual impact of the development. The appeal outlines that the visual representations of the proposed store are monotonous, lack representations from various vantage points (including Killymooney Lough, Abbeylands area and St Clare's Convent (a Protected Structure) resulting in uncertainty about the visual impact of the development.

#### Examination, Analysis and Evaluation

- *Context*

10.4.10.2. Chapter 14 of the EIAR describes the landscape context of the proposed development and assesses the likely landscape and visual impacts of the proposed development on the receiving environment. Landscape and Visual Impact is also addressed within Chapter 10 of the EIAR Addendum Report submitted in response to CCC's response to further information.

10.4.10.3. The methodology is based on the recommendations set out in 'Guidelines for Landscape and Visual Impact Assessment' (2013) published by the Landscape Institute and the Institute of Environmental Management and Assessment. A more specific methodology is then set out in section 14.3.1.1 of the EIAR.

- *Baseline*

10.4.10.4. The appeal site lies on the eastern side of a ridge Cock Hill which divides the main core of Cavan town from the less developed peri-urban setting to the east of the site. St. Clare's National School is located to the north and Killymooney Lough is located to the north-east. Existing residential estates at St. Francis and Lakeview are located to the south.

10.4.10.5. The EIAR outlines that the site is adjoined by existing urban development to the north, south and west. The landscape to the east which comprises a mix of agricultural farmland and incorporates the Killymooney Lough wetland area is more sensitive to development. However, in this regard the EIAR notes that the Cock Hill Road serves as a physical divide between the urban area of the town and its eastern rural hinterland. The townscape sensitivity of the site is classified as low.

10.4.10.6. There are no specific objectives relating to the site in respect of designated landscapes or scenic view designations. 11 no. viewshed reference point photomontages compared to existing are illustrated within Figure 14.4 of the EIAR and identified in Table 14.4 of the EIAR. Photomontages are attached as Appendix 14 of the EIAR. Table 14.5 includes an assessment of the selected viewpoints. The magnitude of visual change ranges from "Medium" to "Negligible" depending on proximity and degree of intervening screening.

10.4.10.7. The LVIA set out within the EIAR Addendum report refers to the changes made to the design of the development in response to Item 1 (a-d) of Cavan County Council's request for further information. The revisions relate to façade and boundary treatments to the western, eastern and northern elevation. These are identified as improvements to the design of the development and improvements to the proposed ramped access from the town centre. The LVIA outlines that the changes represent positive improvements to the development from a LVIA perspective but do not alter the original LVIA assessment to a material degree.

- *Potential Effects*

10.4.10.8. Likely significant effects of the proposed development on Landscape and Visual Impact, as predicted in Section 14.6 of the EIAR, in advance of any mitigation measures, are summarised in Table LVI 1 below.

<b>Table LVI 1: Summary of Potential Effects – Landscape and Visual Impact</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	This scenario is not addressed within Chapter 14. The site would remain in its currently position under this scenario.
Construction Phase	<p>Movement of heavy construction vehicles and tower cranes on site</p> <p>Storage of excavated and construction materials on site</p> <p>Gradual construction of buildings</p> <p>Security hoarding and site lighting</p> <p>Construction phase landscape/townscape impacts are deemed to be Medium and of negative quality</p>
Operational Phase	<p>Replace existing disused brownfield site</p> <p>The proposed buildings are typical form of development in an urban area</p> <p>Provision of high quality pedestrain linkages with the town core</p> <p>The scale and intensity of development will be increased but in an expected manner in accordance with the zoning objective pertaining to the site</p> <p>Impacts are deemed to be medium and of a positive quality</p>
Cumulative Effect	Section 14.12 relates to cumulative impacts which would increase e the intensity of the built environment in the landscape context. The proposed development is deemed to not result in any notable cumulative landscape and visual impact.

- *Mitigation*

10.4.10.9. Mitigation measures for the impacts during the construction stage and operational phase and relate to landscaping works and urban design measures incorporated in the development. I also refer to the measures set out within the CEMP in relation to the installation and maintenance of hoarding around the site during the construction phase of the development.

- *Residual*

10.4.10.10. The EIAR details the residual impacts will be an enhanced landscape with visual effects. Construction related activities on site will result in a short term, slight to negative effects. The operational phase of the development is identified to have a slight positive effect.

## Assessment

- 10.4.10.11. I have examined, analysed, and evaluated Chapter 14 of the EIAR, all of the associated appendices and submissions on file. I have also inspected the site and the surrounding area. I am satisfied that the applicant understanding of the baseline environment, by way of desk survey and field research, is comprehensive and that the key impacts in respect of likely landscape and visual effects have been identified. Further, I am satisfied that the conclusions of the report are appropriate, with the key direct and indirect effects arising from the proposed mixed retail development, and the potential for landscape and visual effects.
- 10.4.10.12. With regard to visual effects, I am satisfied that the most significant visual effects of the development occur within the immediate vicinity of the site namely along Cock Hill Road and from existing residential development to the south of the site (Views VP4, VP8 Cock Hill Road, VP9 & VP10 – Lakeview Area). Views from VP9 and VP10 are identified within the LVIA as being Moderate-slight/neutral-negative and long term and Slight/Negative and long-term respectively.
- 10.4.10.13. I note the concerns raised within the third-party appeal in relation to the visual impact of the proposal from Killymooney Lough, Abbeylands Masterplan area, Cavan town centre and St. Clare's Church (a Protected Structure) and lack of specific views in this regard. However, as detailed within Section 7 of this report I am satisfied with the scope and content of the LVIA and I am satisfied that the development will not have a negative visual impact from the identified areas.
- 10.4.10.14. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Landscape would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Landscape.

#### 10.4.11. **Material Assets - Traffic and Transportation**

##### Issues Raised

10.4.11.1. The appeal raises a number of traffic and transport related concerns in relation to the proposal. The appeal outlines that the proposal is inaccessible from the town core, car dependent and would exacerbate existing congestion levels in the town. The proposed drive through café and filling station intensifies such concerns. The appeal furthermore questions the accessibility of the proposed western walkway and ultimate reliance of the development on vehicular access.

##### Examination, Analysis and Evaluation

- *Context*

10.4.11.2. Chapter 6 of the EIAR deals with Traffic & Transportation. The methodology used includes reference to relevant guidance and standards as set out in section 6.3.2 of the EIAR. A Transport Assessment with Traffic Impact Assessment has also been submitted and considered under section 7 (Assessment) of this report.

- *Baseline*

10.4.11.3. The site is located in the eastern edge of Cavan town centre. The existing pattern of development within the vicinity of the site is mixed use in nature, including St. Clare's National School to the north, existing residential development to the southwest and Cavan town centre to the west. The site is adjoined by the Cavan Town Eastern Access Route (Cock Hill) to the south and east. The EIAR outlines that the road network surrounding the site was delivered as part of the Cavan Town Eastern Access Route. Existing public footpaths and public lighting are provided along the majority of the site boundary. The road network surrounding the site operates within a speed limit of 50km/ph. The subject site is served by an existing access on the L 2543 which includes a dedicated right turning ghost island.

10.4.11.4. The site is currently served by footpaths along Cock Hill Road. There is no connection between the site and the existing car park at Main Street to the west. The nearest bus stop is located in Main Street c.220m from the site. Table 6.1 includes a summary of local buses serving Cavan town centre including the C2 and C3.

- *Potential Impacts*

10.4.11.5. Likely significant effects of the proposed development on Traffic and Transportation, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table TT1 below.

<b>Table TT1: Summary of Potential Effects – Traffic and Transportation</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	The site will remain in its current condition of vacant and generating no traffic. In the absence of the development proceeding it is likely that other proposals would be brought forward for the town core zoned site.
Construction Phase	The construction phase of the development is estimated as being from 12-18 months. Construction, staff and other related trip generation to the site with earthworks stage estimated at three weeks considered most onerous for HGV movement. Approx 31 HGV movements per day are anticipated over three week period. This represents an increase 1.1% on existing daily trips on Cock Hill Road (identified as 5,488)
Operational Phase	Increased traffic to the site leading to congestion on the surrounding road network. The Traffic Assessment outlines that the proposal will generate 170 arrivals and 167 departures during the Friday PM peak (17:00 to 18:00) and 299 arrivals and 276 departures during the Saturday peak (13:00 to 14:00). The effect is identified as being slight to moderate, likely and long term.
Cumulative Effect	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. The cumulative effects associated with existing, planned and proposed development are identified as being positive to imperceptible and long term.

- *Mitigation*

10.4.11.6. Mitigation measures for the impacts during the construction stage are detailed and can generally be summarised as-

- An Outline Construction Environmental Management Plan (CEMP) has been submitted with a number of mitigation measures detailed. A Construction Environmental Management Plan incorporating a Traffic Management Plan will be included with proposals relating to traffic to be agreed with the Council prior to commencement of development to include specific traffic management provisions.

- Provision of parking on site to prevent overspill on the surrounding road network. Consultation with CCCC, agreement of HGV routes and provision of facilities on site including wheel wash and appropriate signage, monitoring of road conditions and road cleaning and sweeping. Restrictions on delivery times.

10.4.11.7. In terms of the operational phase of the development the EIAR outlines that measures have been incorporated in the design of the development to negate against impact on the local road network. Such measures include: public realm and connectivity to Cavan town centre via a shared walkway facilities, provision of walking and cycling infrastructure, grocery home deliveries, development and implementation of a Travel Plan.

- *Residual Effects*

10.4.11.8. With the implementation of proposed mitigation measures, no significant residual effects on traffic and transport are predicted. The EIAR identifies that the overall impact of the construction phase will be negative, imperceptible to slight and temporary. Impact associated with the operational phase is assumed to be neutral to negative, imperceptible to slight and temporary to short term.

#### Assessment

10.4.11.9. I have examined, analysed and evaluated Chapter 6 of the EIAR, the associated technical appendices, The Traffic Assessment, Road Safety Audit and submissions on file in respect of traffic effects. I am satisfied that the applicant understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on traffic and transport, as a consequence of the development have been identified.

10.4.11.10. Further, I consider that the key direct and indirect effects of the development will be short term effects on the local, regional, and national road network during the construction phase of the development. I am satisfied that the applicant has demonstrated that the construction phase of the development will result in modest

impacts on the traffic flows on the public road network, due to context ( i.e. existing traffic flows) and temporary nature of effects.

10.4.11.11. While the operational phase of the development will result in increased traffic on the local road network, I am satisfied that the proposed traffic can be accommodated and that design mitigation measures have been incorporated in the development. I note the concerns raised within the appeal in relation to the proposed pedestrian access to the site from the town centre and the accessibility of same. Having considered the information submitted in conjunction with the application, the sites location, zoning, and proposed pedestrian connections, I am satisfied the development as proposed will not lead to significant traffic congestion on the local or nearby national road network to an extent that would be inappropriate for a town like Cavan and do not consider that the proposal will endanger public safety or create a traffic hazard. I consider that the proposal incorporates significant improvements to the public realm and permeability for walking (via a pedestrian link which complies with Building Regulation requirements), generous cycle space provision, online delivery, click & collect and other identified measures which will encourage sustainable transport modes to the site.

10.4.11.12. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Traffic & Transportation would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Traffic & Transportation having particular regard to the sites zoning, location to the east of the town centre and proposed pedestrian linkages with the town core.

#### 10.4.12. **Material Assets - Waste Management**

##### Issues Raised:

10.4.12.1. No issues relating to waste management are raised within the grounds of appeal.

Examination, Analysis and Evaluation

- *Context*

10.4.12.2. Chapter 10 of the EIAR deals with Waste Management. Waste Management is also addressed within Chapter 10 of the EIAR Addendum Report submitted in response to CCC's response to further information. The methodology generally includes a desk top study of policy and legislation around waste management in Ireland, describing the typical waste material generated during construction and demolition. The EIAR refers to the site-specific Construction Environmental Waste Management Plan (CDWMP) and a separate Operational Waste Management Plan (OWMP) submitted in support of the application.

- *Baseline*

10.4.12.3. The EIAR outlines that the closest waste management facility to the development is run by Oxigen Environmental c. 1.75km east of the site. Other facilities within the area include Cavan Waste Disposal Ltd., c. 2km to the southeast and McElvaney's Waste and Recycling Centre 3.7km to the northeast of the site. The EIAR outlines that the development will generate waste materials during both the construction and operational phase of the development.

- *Potential Effects*

10.4.12.4. Likely significant effects of the proposed development on waste, as predicted in the EIAR, in advance of any mitigation measures, are summarised in Table W1 below.

<b>Table W1: Summary of Potential Effects – Waste</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No construction or operational waste generated or no increased demand on local waste infrastructure.
Construction Phase	A range of non-hazardous and hazardous waste materials will be generated. Temporary storage on site pending collection. Correct classification and segregation of waste necessary ensuring safe storage and collection of contaminated materials so as not to impact on and off site.

Operational Phase	The nature of the proposal ensures waste generation is unavoidable. Dedicated waste storage areas. Potential for incorrect waste storage or unlicensed waste contractors.
Cumulative Effect	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site at construction and operational phase of the development. These developments are outlined in Table 10.4 of the EIAR and updated to include reference to development permitted St. Clare's National School to the north of the site within Table 10.1 of the EIAR Addendum Report. Due to the small scale of these developments, cumulative impacts are deemed to be negative, not significant and temporary.

- *Mitigation*

10.4.12.5. Section 10.7 of the EIAR relates to noise mitigation measures. Construction phase mitigation measures include adherence to the measures set out within the Construction Environmental Management Plan (CEMP). A number of specific mitigation measures are detailed within the plan. During the Operational Phase of development mitigation measures include adherence to the measures set out within the Operational Waste Management Plan (OWMP).

- *Residual Effects*

10.4.12.6. With the implementation of proposed mitigation measures, no significant residual waste effects are predicted. The EIAR identifies that the overall impact of the both the construction and operation phases of development will be neutral to negative, slight and short to long term.

*Assessment & Conclusion*

10.4.12.7. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Waste Management would generally be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Waste Management.

### 10.4.13. **Material Assets (Other)- Site Services**

#### Issues Raised

10.4.13.1. The appeal raises general concern in relation to potential interactions between water quality and biodiversity.

#### Examination, Analysis and Evaluation

- *Context*

10.4.13.2. Chapter 16 of the EIAR considers the effects of the development on Material Assets- Site Services. The EIAR identifies material assets as comprising the following: Ownership and Access, Urban Settlements, Foul and Surface Water Disposal, Potable Water Supply, Transport Infrastructure, Natural Gas Supply, Electrical Supply, Telecommunications and Municipal Waste. The methodology used included an online investigation of services.

- *Baseline*

10.4.13.3. Existing Foul and Surface Water and Potable Water networks in the vicinity of the site are identified in Figures 16.1 and 16.2. Electricity, gas and telecommunication services are indicated at the perimeter of the site as detailed in Figures 16.3-16.5 of the EIAR.

- *Potential Effects*

10.4.13.4. Likely significant effects of the proposed development on Material Assets, as predicted within the EIAR, in advance of any mitigation measures, are summarised in Table MA1 below.

<b>Table MA1: Summary of Potential Effects – Material Assets</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	No increased demand or loading on material assets of human or natural origin.
Construction Phase	Land disturbance. Increase in traffic volumes. Increase dust and noise levels.

	<p>Possibility of damage to existing drainage and sewage networks. Overall demand is not deemed significant.</p> <p>Potential contamination of potable water supply.</p> <p>Impacts on roads associated with construction traffic.</p> <p>No impacts on gas supply as there is none provided within the area.</p> <p>Potential for damage to electricity supply and telecommunications network.</p> <p>Construction related waste will be generated on site.</p>
Operational Phase	<p>Increased demand on foul and surface water network and decrease in the capacity of the network.</p> <p>Increase demand on water supply to serve the development.</p> <p>Increase traffic on local road network.</p> <p>No impact on gas supply.</p> <p>Increase demand on electricity, telecommunications and waste infrastructure.</p>
Cumulative Effect	No significant cumulative effects are envisaged.

- *Mitigation*

10.4.13.5. Mitigation measures are standard and include adherence to best practice guidance to limit impact on material assets and adherence to measures set out within a Construction Environmental Management Plan, control of entrance to the site, details of location/depths of foul and surface water systems prior to commencement of development, consultation with service providers. At operational phase of the development identified measures include an Environmental Operating Plan (EOP).

- *Residual Effects*

10.4.13.6. With the implementation of proposed mitigation measures, no significant residual effects are predicted on material assets. The EIAR identifies that the overall impact of the construction phase of the development will be negative, imperceptible to slight and temporary. The overall impact of the operational phase is deemed to be negative, slight and short to long term.

#### Assessment & Conclusion

10.4.13.7. Having regard to the foregoing, I am satisfied that impacts predicted to arise regarding Material Assets would be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Material Assets.

10.4.14. **Interactions and Cumulative Effects**

Issues Raised

10.4.14.1. No issues have been raised in the course of the planning application in respect of significant environmental effects arising from interactions of impacts.

Examination, Analysis and Evaluation

- *Context*

10.4.14.2. Chapter 18 of the EIAR deals with Interactions and Potential Cumulative Impacts of all the environmental factors discussed in the preceding chapters.

- *Baseline*

10.4.14.3. The assessment cross refers to the individual chapters of the EIAR which describe the baseline environment.

- *Potential Effects*

10.4.14.4. Likely significant effects of the development, as identified in the EIAR, are summarised in Table I1 below.

<b>Table I1: Summary of Potential Effects – Interactions</b>	
<b>Project Phase</b>	<b>Potential Direct, Indirect and Cumulative Effects</b>
Do Nothing	None

<p>Construction and Operational Phases</p>	<ul style="list-style-type: none"> <li>• Population and Human Health – Interactions with air and climate, noise and vibration, traffic and transportation, landscape and visual impact and waste management are identified. Subject to mitigation no significant adverse impacts effects are considered likely.</li> <li>• Biodiversity – Interactions with Hydrology, Land, Soil – Geology and Hydrogeology are identified. Subject to mitigation (as per section 8.8 above) no significant adverse impacts effects are considered likely.</li> <li>• Material assets- Interactions with Traffic &amp; Transportation, Hydrology and Waste Management are identified. Subject to mitigation no significant adverse impacts effects are likely</li> <li>• Traffic and Transportation- Interactions with Noise &amp; Vibration, Air and Climate are all considered relevant. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Micro- Climate (Wind): - Interactions with Lands and Soil, Geology and Hydrogeology. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Landscape and Visual Impact: Interactions with Population and Human Health and Archaeology, Architectural and Cultural Heritage. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Lands and Soil Interactions with Biodiversity, Geology, Hydrogeology and Hydrology. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Hydrology Interactions with Land and Soils, Biodiversity, Geology and Hydrogeology. Subject to mitigation no significant adverse impacts effects are likely.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Waste Management Interactions with Population and Human Health and Air Quality and Climate. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Air Quality and Climate Interactions with Waste Management, Lands and Soils, Geology and Hydrogeology. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Noise and Vibration: Interactions with Traffic and Transportation. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Archaeology, Architectural and Cultural Heritage Interactions with Landscape and Visual Impact. Subject to mitigation no significant adverse impacts effects are likely.</li> <li>• Risk Management Interactions with Population and Human Health, Air Quality and Climate, Land and Soils, Geology and Hydrogeology, Material Assets and Traffic and Transportation. Subject to mitigation no significant adverse impacts effects are likely.</li> </ul>
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- *Mitigation*

10.4.14.5. The EIAR cross refers to the mitigation measures set out for each environmental parameter within the relevant EIAR chapter.

- *Residual Effects*

10.4.14.6. Residual effects are addressed within each relevant chapter.

Assessment

10.4.14.7. I have examined, analysed and evaluated Chapter 18 of the EIAR, and the associated chapters of the EIAR. I am satisfied that the applicant has identified the

key interactions arising for the subject development. Having regard to the foregoing, I am satisfied that impacts relating to interactions, cumulative and combined effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, combined or cumulative interactions.

#### 10.4.15. **Risk Management**

##### Issues Raised

10.4.15.1. No issues are raised in respect of major accidents or disasters.

##### Examination, Analysis and Evaluation

- *Context*

10.4.15.2. Chapter 17 of the EIAR deals with the risk of direct and indirect significant effects on the environment derived from the vulnerability of the proposed development to risks of major accidents and/or disasters as well as the potential for the proposed development to cause major accidents and/or natural disasters in relation to the environmental parameters considered in the EIAR.

10.4.15.3. It sets out the methodology used which includes reference to a number of relevant guidance documents. In particular it refers to “A National Risk Assessment for Ireland 2020” and includes reference to the following Tables:

- Table 17.1 Consolidation List of Key Risks
- Table 17.2 Classification of National Likelihood Criteria

10.4.15.4. No limitations are identified.

- *Baseline*

10.4.15.5. The baseline environment is described in Section 17.4 of the EIAR. Table 17.3 (labelled 17.5) of the EIAR includes a list of Major Accidents and Disasters Reviewed having regard to the characteristics of the development. These include the following:

- Pandemic, food chain contamination, water supply and distribution contamination, air quality events and fire.
- *Potential Effects*

10.4.15.6. Likely significant effects, as predicted within the EIAR, in advance of any mitigation measures, are summarised in Table RM1 below.

<b>Table RM1: Summary of Potential Effects – Risk Management</b>	
<b>Project Phase</b>	<b>Potential Effects</b>
Do Nothing	Risks in a “do nothing scenario” are very low due to undeveloped nature of the site and lack of potential receptors.
Construction Phase	Potential hazards as detailed in the Construction Environmental Management Plan including: pollution, noise and vibration, hazardous and contaminated materials, traffic and contaminated/disturbance from dust and dirt.  Flood Risk.  Traffic accidents, mechanical failure, explosions, fire and building/scaffold collapse.
Operational Phase	Fire, adverse weather events, flooding and building collapse.  Potential flood risk categories.  Increased risk of traffic accidents.  Anchor retail unit and associated facilities are considered as normal fire risk.
Cumulative Effect	No potential for significant effects

- *Mitigation*

10.4.15.7. Section 17.7 relates to mitigation measures and outlines that construction of the proposed development in accordance with the CEMP will reduce risks of major accidents and disasters during construction phase. Measures are targeted at key areas of risk e.g. contamination during construction, fire/explosion and include the mitigation measures set out in respect of the different environmental topics, included in the CEMP and arrangements for monitoring of risk during all phases of the development.

- *Residual Effects*

10.4.15.8. With the implementation of mitigation measures residual effects associated with the construction and operation of the development, are not considered to be significant. The vulnerability of the proposed development from major accidents and/or disasters is considered to be insignificant.

#### Assessment & Conclusion

10.4.15.9. I have examined, analysed and evaluated Chapter 17 of the EIAR. I am satisfied that the applicant has presented a very reasonable assessment of the likely risk of direct and indirect significant effects on the environment derived from the vulnerability of the proposed development to risks of major accidents and/or disasters as well as the potential for the proposed development to cause major accidents and/or natural disasters. Having considered the contents of chapter 17 of the EIAR and having regard to the location and zoning of the site, the nature of the site and surrounding uses, and the nature and scale of the proposed development, I am satisfied that effects deriving from major accidents and/or disasters are not likely. With the implementation of the proposed mitigation measures, I am satisfied that there is no potential for significant direct, indirect or cumulative environmental effects as a result of vulnerability to the risk of accident and/or natural disaster.

#### 10.4.16. **Mitigation and Monitoring Measures**

10.4.16.1. All of the proposed mitigation and monitoring measures for each environmental factor at construction and operational stages are outlined individually in each Chapter of the EIAR and generally summarised in each section of this assessment.

#### 10.5. **Reasoned Conclusion**

10.5.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and Addendum EIAR and supplementary information provided by the developer, and the submissions from the planning authority and the Appellant in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment including mitigation measures, are as follows-

Construction stage effects on

- Population and Human Health' and 'Air' and 'Climate' as a result of dust, noise, traffic, and waste emissions. These effects would be mitigated through a Construction Environmental Management Plan and the application of other best practice construction management measures, which would not result in any unacceptable residual effects.
- 'Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC' and 'Water' as a result of adverse pollutants from contaminated sources, leaks and spills, silt and sediment etc. These effects would be mitigated through the measures set out in the submitted NIS, the Construction Environmental Management Plan, and the application of other best practice construction management measures, which would not result in any unacceptable residual effects.

10.5.2. Operational stage effects on the local landscape including the visual impact upon the character of the area. These effects would be mitigated through design measures, proposed landscaping and appropriate conditions, which would not result in any unacceptable residual effects.

10.5.3. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment that cannot be appropriately mitigated

## 11.0 Recommendation

I recommended that permission is granted for the following reasons and considerations and subject to conditions as set out below.

## 12.0 Reasons and Considerations

Having regard to the provisions of the Cavan County Development Plan, incorporating Local Area Plan for Cavan Town 2022-2028 and the Retail Planning Guidelines for Planning Authorities April, 2012, the zoning of the majority of the site for town core purposes within the Cavan LAP and the location of the site within the retail core of Cavan as identified within the Cavan County Retail Strategy, the scale and design of the proposed development and the pattern of development in the area

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of accessibility, traffic safety and convenience, would not have unacceptable impacts upon water quality, climate change objectives, or the environment including designated European Sites. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 16<sup>th</sup> day of January 2023 and by the further plans and particulars received on the 3<sup>rd</sup> and 18<sup>th</sup> of August 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the applicant shall submit the following details for written agreement of the planning authority:
  - (a) Full boundary treatment details and details of proposed retaining walls.
  - (b) A revised site layout plan which addresses the issues raised within the Stage 1/ 2 Road Safety Audit submitted in support of the application.
  - (c) A revised ground floor plan for the proposed superstore which clearly delineates the area to be devoted to convenience and comparison floorspace. The total convenience goods net retail sales area (as defined in Annex 1 of the Retail Planning Guidelines for Planning Authorities

issued by the Department of the Environment, Heritage and Local Government in January 2005) of the supermarket shall not exceed 3,000 square metres.

(d) Final details of proposed bus stop.

Reason: In the interest of visual amenity, traffic safety and to comply with the Retail Guidelines

3. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which was received by the planning authority on the 3<sup>rd</sup> of August 2023, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity.

4. (a) All landscaping, pedestrian links, civic spaces and boundary treatment shall be fully completed prior to the operation of the development.  
(b) The plaza area and pedestrian connectivity between the site and the existing town centre shall be provided in accordance with the layout received by the Planning Authority on the 3<sup>rd</sup> of August 2023.  
(c) The pedestrian route (stairs/ramps) on the western side of the site connecting the upper portion of the site with the lower portion of the site and the existing town centre to the west of the site shall remain open for public use 24 hours a day 7 days a week.

Reason: In order to provide appropriate pedestrian linkage between the proposed development and the existing Town Centre.

5. All mitigation measures set out in the Natura Impact Statement, the Environmental Impact Assessment Report, Construction Environmental Management Plan, Site-Specific Flood Risk Assessment and the Arboricultural Impact Assessment and associated documentation submitted

with the application and by way of the submitted Further Information shall be implemented in full, except as may otherwise be required in order to comply with the conditions attached to this permission.

Reason: In the interest of clarity, the protection of European Sites, the protection of the environment and in the interest of public safety during the construction and operational phases of the development

6. Details of the materials, colours and textures of all the external finishes including surface materials to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

7. (a) Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. (b) No additional, signs, symbols, advertisement or advertising structure other than those shown on the drawings shown with the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site without the prior agreement of the planning authority. (c) The windows to the proposed units shall not be obscured by adhesive material or otherwise, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

8. Prior to the commencement of the development the developer shall submit details of the siting and specifications of the proposed petrol filling station underground fuel tanks for written agreement of the planning authority. The applicant shall include Stage 1 Petrol Vapour recovery as part of the proposed

development. Stage 2 Petrol Vapour recovery must be included if the actual/intended petrol throughput is greater than 500m<sup>3</sup>/year.

Reason: In the interests of public health and proper planning.

9. The proposed petrol filling station shall comply with the requirements of the “Design, Construction, Modification, Maintenance and Decommissioning of Petrol Filling Stations” (Blue Book)- Published by the Association for Petroleum and Explosives Administration/ Energy Institute.

Reason: In the interest of public safety.

10. The Board acknowledges the extent of archaeological pre-testing and subsequent excavation previously carried out on site. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site in respect of any new/additional groundworks on site over and above those previously undertaken. In this regard, the developer shall: a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

11. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband

infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

12. On completion of construction and prior to opening of the development, the, a Stage 3 Road Safety Audit (RSA) of the development and its junctions with the public road shall be carried out by an independent qualified engineer in accordance with TII Publication GE-STY-01024 and submitted to the Planning Authority for written agreement. Recommendations of the Audit shall be fully implemented at the cost of the developer prior to first occupation or use of the development for trading.

Reason: In the interest of traffic safety and proper planning.

13. A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the commencement of operations of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

Reason: In the interests of amenity and public safety.

15. Prior to the commencement of operations of the development, a finalised Mobility Management Plan and Travel Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff and customers. The mobility strategy shall be prepared and implemented in perpetuity by the operators of the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

16. Drainage arrangements including the attenuation and disposal of surface water, and the provision of Sustainable Urban Drainage Systems, shall comply with the requirements of the Planning Authority for such works and services.

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

17. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health

18. All plant, including extract ventilation systems, shall be sited in a manner so as not to cause nuisance at sensitive locations due to emissions. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interests of visual and residential amenity.

19. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, external areas, open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority before the commercial units are made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of proper planning and orderly development.

20. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

21. The construction of the development shall be managed in accordance with an updated Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted EIAR and NIS for the application, in addition to the following:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;
- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- g) Measures to obviate queuing of construction traffic on the adjoining road network;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j) Details of appropriate mitigation and monitoring measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety

22. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority. Reason: In order to safeguard the amenities of property in the vicinity.

23. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works and shall comply with all relevant aspects of DMURS.

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

24. The opening hours for all commercial units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations in each respective unit.

Reason: In the interests of residential amenity

25. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

27. The developer shall pay the sum of €1,500,000 (one million five hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended in respect of public infrastructure and facilities benefitting the development namely the Cavan Town Eastern Access Route. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the

matter shall be referred to the Board to determine. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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.

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Stephanie Farrington  
Senior Planning Inspector

7<sup>th</sup> of October 2024

## **Appendix 1: Screening for Appropriate Assessment**

### **13.1. *Stage 1: Screening Determination***

I have considered the proposed mixed retail development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. An AA Screening and Natura Impact Statement prepared by ORS was submitted in support of the application. An updated AA Screening and Natura Impact Statement prepared by ORS (dated July 2023) was submitted in response to Cavan County Council's request for further information. For the purposes of clarity, I have considered the objective information presented in the applicant's updated AA Screening and Natura Impact Statement dated July 2023 for the purposes of this screening determination.

### **13.2. *Description of the proposed development***

The appeal site is located in the townlands of Townparks and Tullymongan Lower to the east of Main Street, at Cock Hill, Cavan. The site primarily comprises a hardstanding area which was previously excavated and infilled. The applicant's AA Screening report outlines that the dominant habitats on site include bare ground, small patches of dry meadows and grassy verges and treelines. The nearest hydrological feature to the site is Killymooney Lough which is located to the east of the site at the opposite side of Cock Hill Road.

I have provided a detailed description of the proposed development under Section 2 of my report. In summary, it would comprise the construction of a mixed retail development comprising a supermarket, drive through café unit and petrol filling station, access, parking connection to services and all associated site development works. The proposal includes connection to the existing drainage network along Cock Hill Road. The application documentation outlines that the road was designed to drain and cater for the development of the appeal site. The network drains to a detention basin situated to the east of Killymooney Roundabout, which discharges via culvert to Killymooney Stream/Aghnaskerry River to the south of Killymooney Lough.

The Cavan LAP zoning map illustrates that part of the site is located within Flood Zones A and B. I refer to the Site Specific Flood Risk Assessment submitted in support of the application which outlines that the identification of lands within flood risk zones A and B is based on outdated topographical information for the site.

### 13.3. Submissions

Cavan County Council’s AA Concluding Statement outlines that subject to adherence to the mitigation measures that the development will not result in adverse impacts on the Natura 2000 sites identified.

The third-party appeal raises concerns in relation to impacts of the proposal on the ecological and water quality of Killymooney Lough which is hydrologically connected to Natura 2000 sites. The appeal outlines that the development is not in compliance with NPO60 of the Cavan County Development Plan which seeks to: *“Conserve and enhance the rich qualities of natural and cultural heritage of Ireland in a manner appropriate to their significance”*.

### 13.4. European Sites

The following designated sites are considered to be within the zone of influence of the appeal site:

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

The Conservation Objective’s and QI’s for these sites are outlined in the Table below.

<b>Lough Oughter and Associated Loughs SAC (000007)</b>	
Distance: 3.4km northwest, 8.5km downstream via Killymooney Lough	
<i>Qualifying Interests/Species of Conservation Interest</i>	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation.  Bog woodland.  Lutra lutra (Otter)
<i>Conservation Objective</i>	To restore the favourable conservation condition of Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation in Lough Oughter and Associated Loughs SAC;  To maintain the favourable conservation condition of Bog woodland* in Lough Oughter and Associated Loughs SAC;

	To maintain the favourable conservation condition of Otter ( <i>Lutra lutra</i> ) in Lough Oughter and Associated Loughs SAC;
<b><i>Lough Oughter Complex SPA (004049)</i></b>	
Distance: 3.7km northwest, 10.5km downstream via Killymooney Lough Stream and the Cavan River	
<i>Qualifying Interests/Species of Conservation Interest</i>	Great Crested Grebe ( <i>Podiceps cristatus</i> ). Whooper Swan ( <i>Cygnus cygnus</i> ). Wigeon ( <i>Anas penelope</i> ). Wetland and Waterbirds.
<i>Conservation Objective</i>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest for this SPA: Great Crested Grebe, Whooper Swan, Wigeon.  To maintain or restore the favourable conservation condition of the wetland habitat at Lough Oughter Complex SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

### 13.5. *Potential effect mechanisms from the project*

The proposed development would not result in any direct effects such as habitat loss on any European Site.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed development. The site is hydrologically connected to the Lough Oughter and Associated Loughs SAC and the Lough Oughter Complex SPA via the Killymooney Lough and Stream, the Green Lough Stream and the Cavan River.

The applicant's Screening Report outlines that in the absence of mitigation, an accidental pollution event of sufficient magnitude during construction or operation could potentially affect surface water quality in local watercourses to an extent that undermines the conservation objectives of certain qualifying interests of European sites associated with Lough Oughter. The applicant's report outlines that a reduction

in water quality locally has the potential to affect the aquatic habitats and natural conditions that are required to maintain or achieve the specific attributes and targets of the qualifying interests associated with the Natura 2000 sites.

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following:

- Deterioration in Water Quality in the SPA/ SAC arising from pollution to surface or groundwater during site preparation and construction
- Deterioration in Water Quality in the SPA/ SAC arising from pollution to surface or groundwater associated with contaminated run off from site during operational phase
- Leakage of foul water to surface and groundwater receptors during operational phase
- Cumulative impacts with other proposed/existing developments

Having regard to the above, it is my opinion that further assessment is required for the Lough Oughter and Associated Loughs SAC (Site Code 000007) and the Lough Oughter Complex SPA (Site Code 004049).

### 13.6. *Screening Determination*

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having regard to the proximity of the subject site to European sites and the nature of the development and its potential effects, it is concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Nos. 000007 and 004049, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

## **Appendix 2: Stage 2 – Appropriate Assessment**

### **13.7. Stage 2 – The Natura Impact Assessment**

In the light of my screening determination, appropriate assessment is required. The applicant has submitted an AA Screening Natura Impact Statement (NIS) (July 2023), which was prepared in line with current best practice guidelines. This NIS concludes that,

*It is considered that with the implementation of the mitigation measures, that the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Lough Oughter and Associated Loughs SAC and the Lough Oughter Complex SPA.*

I am satisfied that it was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed. I note that Section 5.2.2 of the applicant's NIS outlines that Site Specific Conservation Objectives for the Lough Oughter SPA have not been prepared. In this regard I note that Site Specific Conservation Objectives for the Lough Oughter Complex SPA dated 12<sup>th</sup> of October 2022 are available for viewing on the NPWS website. I have had regard to these in my assessment.

Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the designated sites alone, or in combination with other plans and projects.

### **13.8. Appropriate Assessment of implications of the proposed development**

The following is an assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field as outlined in the NIS. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

### 13.9. European Sites

A description of the sites and their Conservation and Qualifying Interests (QI's) / Special Conservation Interests (SCI's), including any relevant attributes and targets for these sites, are set out in the Section 5.2 of the NIS and are also available on the NPWS website ([www.npws.ie](http://www.npws.ie)). Tables A2.1 and A2.2 below provides a summary of the SAC and SPA.

<b>Table A2. 1: AA Summary Table for Lough Oughter and Associated Loughs SAC (000007)</b>	
<p>Conservation Interest - To maintain or restore the favourable conservation status of habitats and species of community (M/R)</p> <p>Detailed Conservation Objectives available: <a href="https://www.npws.ie">https://www.npws.ie</a></p> <p>Distance: 3.4km northwest, 8.5km downstream via Killymooney Lough</p>	
<i>Qualifying Interests/Species of Conservation Interest</i>	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation.
<i>Conservation Objective</i>	To restore the favourable conservation condition of Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation in Lough Oughter and Associated Loughs SAC;
<i>Potential Adverse Effects</i>	<p>The Site Synopsis for the SAC, outlines that the main threat to the quality of the site are water polluting activities. Increased eutrophication (enrichment with minerals and nutrients) and pollution of lake waters could arise from the proposed development enriched/polluted surface water runoff during construction and operation.</p> <p>Water Quality Impacts: run-off from the works at construction and operational phase causing local deteriorations in surface water/ ground water quality which subsequently result in significant effects on this habitat.</p>
<i>Mitigation Measures</i>	<p>See Section 6 of the NIS which relates to mitigation measures at Construction and Operational phases of the development.</p> <p><i>Construction Phase</i></p>

	<p>Construction and Environmental Management Plan will be implemented.</p> <p>Measures to eliminate contamination of site surface water run-off during construction phase.</p> <p>Best practice management to prevent any potential surface water or groundwater impacts via a release of hydrocarbon / chemical contaminants or of cementitious materials.</p> <p><i>Operational Phase</i></p> <p>Drainage systems will be designed to attenuate surface water to negate against run off.</p> <p>Measures to ensure protection of groundwater such as interceptor and attenuation networks to eliminate percolation of contaminants.</p> <p>Service yard to the rear of the supermarket will be bunded.</p>
<i>Qualifying Interests/Species of Conservation Interest</i>	Bog woodland.
<i>Conservation Objective</i>	To maintain the favourable conservation condition of Bog woodland* in Lough Oughter and Associated Loughs SAC.
<i>Potential Adverse Effects</i>	<p>Map 4 of the Conservation Objectives report on the site illustrates the spatial distribution of this habitat. Bog woodland habitat is remote from the application site (8.6 km) and water quality is not identified as a likely attribute for the maintenance of the habitat.</p> <p>Therefore, the proposed development would not have an adverse effect on the integrity of this habitat.</p>
<i>Mitigation Measures</i>	No protective measures required.
<i>Qualifying Interests/Species of Conservation Interest</i>	Lutra lutra (Otter)

<p><i>Conservation Objective</i></p>	<p>To maintain the favourable conservation condition of Otter (<i>Lutra lutra</i>) in Lough Oughter and Associated Loughs SAC;</p>
<p><i>Potential Adverse Effects</i></p>	<p>The otter occurs throughout the Lough Oughter system. The presence of this species is positively correlated with good water quality and deterioration of same will lead to impacts upon this species. A reduction in water quality could impact on the diet of this species and lead to other stressors.</p> <p>Chapter 9 of the EIAR submitted in support of the application outlines that there are no freshwater or riparian habitats on site, therefore the site is not suitable for use by otter. Evidence of the otter around Killymooney Lough is noted.</p> <p>Potential indirect impacts include:</p> <p>Water Quality: Activities associated with construction phase may result in the release of silt / sediment laden water run-off.</p> <p>Impact on aquatic prey</p> <p>Disturbance during the construction works</p>
<p><i>Mitigation Measures</i></p>	<p>See Section 6 of the NIS which relates to mitigation measures at Construction and Operational phases of the development.</p> <p><i>Construction Phase</i></p> <p>Construction and Environmental Management Plan will be implemented.</p> <p>Measures to eliminate contamination of site surface water run-off during construction phase.</p> <p>Best practice management to prevent any potential surface water or groundwater impacts via a release of hydrocarbon / chemical contaminants or of cementitious materials.</p> <p><i>Operational Phase</i></p> <p>Drainage systems will be designed to attenuate surface water to negate against run off.</p> <p>Measures to ensure protection of groundwater such as interceptor and attenuation networks to eliminate percolation of contaminants.</p> <p>Service yard to the rear of the supermarket will be bunded.</p>

<p><i>Overall Conclusion – Integrity Test</i></p>	<p>Based on the information provided, I am satisfied that adverse effects can be excluded for this SAC site and that no effects of any significance would occur to SCI species utilising habitats within the development site. No uncertainty remains.</p> <p>Significant disturbance has been excluded.</p> <p>Adverse effects from contamination can be effectively prevented by mitigation measures.</p> <p>The proposed development would not delay or prevent the attainment of the Conservation objectives of any of this SAC.</p>
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**Table A2.2: AA Summary Table for Lough Oughter Complex SPA (004049)**

<p>Conservation Interest - To maintain or restore the favourable conservation status of habitats and species of community interest.</p>	
<p>Detailed Conservation Objectives available: <a href="https://www.npws.ie">https://www.npws.ie</a></p>	
<p>Distance: 3.7km northwest, 10.5km downstream via Killymooney Lough</p>	
<p><i>Qualifying Interests/Species of Conservation Interest</i></p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>). Whooper Swan (<i>Cygnus cygnus</i>). Wigeon (<i>Anas penelope</i>).</p>
<p><i>Conservation Objective</i></p>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest for this SPA: Great Crested Grebe, Whooper Swan, Wigeon.</p>
<p><i>Potential Adverse Effects</i></p>	<p>No direct impacts. There will be no loss or fragmentation of habitat within the SPA. Chapter 9 of the EIAR submitted in support of the application outlines that the site is of extremely limited value for birds.</p> <p>The main threats to the SPA, listed in the Natura Data Form are from hunting, fertilisation, leisure fishing, animal breeding, nautical sports and forestry. Impacts from the development on species of conservation interest could arise by way of deterioration in water</p>

	quality. Deterioration in water quality could indirectly impact on these bird species and habitats and food chains they depend on.
<i>Mitigation Measures</i>	See Section 6 of the NIS which relates to mitigation measures to negate against water quality impacts at construction and operational phase.
<i>Qualifying Interests/Species of Conservation Interest</i>	Wetland and Waterbirds.
<i>Conservation Objective</i>	To maintain or restore the favourable conservation condition of the wetland habitat at Lough Oughter Complex SPA as a resource for the regularly occurring migratory waterbirds that utilise it.
<i>Potential Adverse Effects</i>	No direct impacts. There will be no loss or fragmentation of habitat within the SPA.  Deterioration in water quality could indirectly impact on this habitat / bird species and habitats and food chains they depend on.
<i>Mitigation Measures</i>	See Section 6 of the NIS which relates to mitigation measures to negate against water quality impacts at construction and operational phase.
<i>Overall Conclusion – Integrity Test</i>	Based on the information provided, I am satisfied that adverse effects can be excluded for this SPA site and that no effects of any significance would occur to SCI species utilising habitats within the development site. No uncertainty remains.  Significant disturbance has been excluded.  Adverse effects from contamination can be effectively prevented by mitigation measures.  The proposed development would not delay or prevent the attainment of the Conservation objectives of any of this SPA.

### 13.10. Mitigation

Section 6 of the NIS sets out mitigation measures for the proposed development.

The include the following:

- General Mitigation
- Construction Phase Mitigation
- Operational Phase Mitigation

It is noted that the mitigation measures are standard practices for construction sites and would be required for a development on any site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. However, in the event that the pollution control and surface water treatment measures were not implemented or failed it is my opinion that there is potential for likely significant effects on the qualifying interests of Natura 2000 sites from surface water run-off or groundwater contamination and therefore, these standard practices are considered to be mitigation measures in the context of Appropriate Assessment.

### 13.11. *In Combination Effects*

Section 5.3.4 of the applicant's NIS lists a number of applications in the vicinity which have been taken into consideration in the assessment of cumulative assessment. I am satisfied that the potential for cumulative impact does not arise due to the small scale and nature of development proposed/permitted within the area.

The NIS furthermore outlines that Cavan County Council will screen future applications for AA on a case-by-case basis. Therefore, it is not considered that there will be any significant adverse in combination effects with the proposed works and any other development that has been screened for AA.

In this regard the applicant's NIS outlines that with the implementation of effective mitigation to avoid/negate any potential adverse impacts, there will be no potential for cumulative impacts arising in combination with any proposed plans or projects which would affect the conservation objectives of the designated sites.

### 13.12. *Appropriate Assessment Conclusion*

The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act 2000 (as

amended). Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Oughter and Associated Loughs SAC (Site Code 000007) and Lough Oughter Complex SPA (Site Code 004049). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites Nos. 000007 and 004049 or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the in relation to the Conservation Objectives of Lough Oughter and Associated Loughs SAC (Site Code 000007) and Lough Oughter Complex SPA (Site Code 004049).
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the designates sites.

It is also noted that the planning authority concluded that the proposed development, subject to mitigation measures outlined in the NIS, would not adversely affect, either directly or indirectly, the integrity of any European Site, either alone or in combination with other plans or projects.