Inspector's Addendum Report

ABP-319134A-24

Development	Construction of 36 dwelling units, new vehicular entrance, internal access road, car parking, connections to public water services networks, on-site pumping station, SuDS with a stormwater discharge, landscaped public open spaces, a graded slope, an amenity walkway, and all associated site works.
Location	Creighan, Cavan, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	23/60299
Applicant(s)	Latt Properties Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party vs Decision
Appellant(s)	1. Barry Phair 2. Liam Devine
Observer(s)	1. Mary Smith and Phyllis Brady

2. Una Phair
3. Hughie Cosgrave
4. Yvonne Sheridan and Joe Tully

Date of Site Inspection	9th August 2024
Inspector	Phillippa Joyce

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Technical Note: Ecology, R319134A-24_TN1 (appended separately)

Technical Note: Water, Noise, Vibration and Dust, R319134A-24_TN2 (appended separately)

1.0 Introduction

1.1. This is an addendum report to the original Inspector's report relating to ABP 319134-24 dated 29th October 2024. This addendum report is accompanied by technical notes prepared by the Inspectorate Ecologist and Environmental Scientist (appended separately).

1.2. On 14th November 2024, the Board sought further information (FI) from the applicant under section 132 of the Planning and Development Act 2000, as amended (2000 Act), requiring the following:

- Undertake an Appropriate Assessment in relation to the proposed development.
- Submit a Site-Specific Flood Risk Assessment.
- Submit an Ecological Impact Assessment.
- Submit an updated Construction and Environmental Management Plan, providing further details in relation to:
    - Amount of material being excavated on site,
    - The extent to which reprofiling will take place on site, and details as to where the reprofiling is to take place.
    - Whether excavated material will need to be transported off site during the course of works undertaken and how the material is to be disposed of.
    - Details of the proposed Silt Curtains and Interceptors to be employed referred to in Section 8.5 in the Table of Contents of the report.
    - Details of mitigation and protection measures to be employed to protect the stream during the construction of the amenity walkway.
    - Details of any surface water discharge from the site into the stream.
- The submission of a Housing Quality Assessment Report.

- Further details in respect of dedicated internal storage space, private open space and communal open space for each of the proposed duplex units.
- Details of the proposed bin storage and cycle parking associated with the duplex units.

1.3. The applicant was given until the 22nd January 2025 to respond to the FI request. Due to the nature of the issues involved and the period of time for the response including the Christmas holidays, the applicant requested that the length of time to respond to the FI request be extended or for the Board to reissue the FI request.

1.4. On 27th January 2025, the Board reissued the FI request (as cited above). The applicant was given until the 28th February 2025 to respond to the FI request. The applicant's response to the FI request was received by the Board on 20th February 2025.

1.5. The Board circulated the applicant's response to the FI request to the planning authority, appellants and observers. Under section 131 of the 2000 Act, the parties were invited to make submissions or observations and given until 11th August 2025 to do so.

1.6. The Commission received submissions from both appellants, and observations were received each of the observers. No response was received from the planning authority.

2.0 Response to the Board's Decision

2.1. The applicant's response to the FI request includes plans and particulars as follows:

- Architect's Cover Letter.
- Housing Quality Assessment (HQA).
- Details for the Duplex Units (storage, open space, bin storage, cycle parking), to be read in conjunction with updated drawings.
- Construction and Environmental Management Plan (CEMP).
- Engineer's Information (on excavated material to be read in conjunction with accompanying drawings).

- Flood Risk Assessment (FRA)
- Appropriate Assessment Screening Report (AASR).
- Natura Impact Statement (NIS).
- Ecological Impact Assessment (EcIA).

3.0 Further Submissions

3.1. Third Party Appellants and Observers

3.1.1. The two appellants and four observers have each made submissions and/ or observations to the Commission on the applicant's FI response.

3.1.2. The key issues raised relating to the applicant's FI response (i.e., new information on the case file, not previously raised in objections/ observations) can be summarised under the headed items as follows:

Biodiversity and Appropriate Assessment

- Ecological baseline (for EcIA, NIS, AASR) is invalid due to pre-emptive site clearance.
- States that site clearance and tree felling undertaken in February 2025 (after the EcIA and NIS completed in January 2025).
- Ecological reports (EcIA, NIS, AASR) are invalid due to sub-optimal survey timing (baseline data gathered during a single field survey conducted in January 2025).
- Author of EcIA acknowledges that this was undertaken outside the optimal time for habitats, bats, birds and botanical assessment.
- Ecological baseline is obsolete so appropriate assessment cannot be lawfully undertaken.
- NIS is deficient due to failure to assess the protected species, Lamprey.
- NIS conclusion is unreliable as based on mitigation measures from the CEMP, which is a generic, contradictory, and unenforceable document.

- Inadequate assessment and destruction of potential bat habitat (EcIA does not include a bat survey, potential bat habitat and roosts identified (hedgerow, trees)).
- EcIA refers to the appointment of an Ecological Clerk of Works (ECoW) to monitor the construction works, but who will peer review and inspect the work of the ECoW?
- Pollution risks identified to Green Lough, Lough Oughter SAC and SPA, precautionary principle of refusal of permission required.

Geotechnical Risk and Construction Methodology

- Application flawed due to the complete absence of a geotechnical investigation.
- Fundamental geotechnical design is unresolved.
- Unquantified risk (subsidence, rotational slip, or structural damage) and procedural failure by the planning authority (post-consent, pre-commencement agreement).
- Technical assessments and controls required, including a Geotechnical Investigation Report, Slope Stability Analysis, Ground Movement and Building Damage Assessment, and Temporary Works Design.
- Climate change is not adequately accounted for (risk of slope failure of the excavation (deep/ near vertical cut in a water-sensitive glacial till) due to soil saturation from increased and prolonged rainfall).
- Unacceptable and enduring risk to the properties and residents of Creighan Drive.
- Applicant not demonstrated that the proposal would not endanger public safety.
- There is no designed excavation support sequence, no movement/ settlement prediction at Creighan Drive, and no vibration assessment.
- Post-consent reliance is pervasive in plans and particulars.

- Feasibility and safety of the core earthworks/ retaining solution are not demonstrated at consent stage.
- Retaining wall erected along the proposed access road has the potential for land slippage and subsistence.
- Proposed cut and fill process poses a risk of ground instability and subsidence to nearby homes, and potential alteration of groundwater and surface water flows.

Residential Amenity

- Daylight/ sunlight and amenity for future residents are likely to be substandard due to orientation and proximity of 5-6m excavated slope face.
- A BRE (BR209) study has not been provided, overshadowing and poor garden sunlight are likely (25 degree subtend windows, 2 hours of daylight).
- Permanent and severe deficit of natural light, creating dark, damp, and unusable private amenity spaces, and poorly daylit interior rooms and a seriously compromised living environment.
- Contrary to CDP Objective 13.4.7 and Objective 13.4.9.
- Inherently flawed site (extreme topography), not just a flawed design (impossible to achieve a high-quality residential environment).
- Questions the internal storage for the duplex units, appears to relate only to wardrobe/ built in presses, which is considered to be an insufficient storage plan for such properties.
- Applicant not demonstrated that the development would deliver acceptable residential amenity.
- Opposes the proposed link (end of existing Creighan Drive to the newly proposed entrance avenue) as will increase foot and cycle traffic through a cul-de-sac, impact the privacy and safety of residents in Creighan Drive.

Construction Environmental Management Plan (CEMP)

- Environmental Controls Register (ECR) has overarching methodological flaws (no defined methodology, unsubstantiated risk reduction, conflating legal compliance with mitigation).
- Noise impact assessment is fundamentally flawed and methodologically deficient (inaccurate receptor distance, underestimation of true noise impact, focus on worker health, not residential amenity).
- Complete lack of a vibration assessment is a major and unacceptable omission due to high-risk activities and unassessed risk to property.
- Noise and Vibration Impact Assessment prepared by a competent acoustic consultant and to industry standards is required.
- Inadequate assessment of dust impacts and lack of robust mitigation (incorrect identification of sensitive receptors, vague, non-committal mitigation measures).
- CEMP/ ECR is generic and contradictory.
- ECR is unreliable and subjective.
- Retaining/ land-drain interface is under-designed, details rely on a generic perforated land drain.
- If permission being granted, stringent controls required to be imposed by way of condition (Site-Specific Dust Management Plan, Strict Dust Deposition Limits, Mandatory Dust Monitoring, Specific, Enforceable Mitigation Measures).
- Will Cavan County Council carry out inspections to monitor the dirt and dust control measures?
- Noise assessment is based on a misleading receptor distance of 350m, when the nearest homes are c.15m away, thereby invalidating its conclusions.
- Predicted plant noise levels up to 84 dB at 10 m exceed WHO guidelines for residential areas.
- Opposition to working hours at weekends and undefined exceptional circumstances.

Flood Risk Assessment

- FRA is flawed and cannot be relied upon due to inconsistent finished floor levels stated as between 66.100-70.35m OD (pg. 19), 78.40-79.10m OD (pgs. 8, 25), and 114.40-115.10m OD (pg. 8).
- FRA indicates the 1-in-1000-year fluvial flood level at the site is 67.37mOD (pg. 24), if the lowest FFL of 66.10m OD is correct, the proposed dwellings would, unacceptably, have floor levels situated below the predicted extreme flood level.
- Failure to address statutory concerns on pumping station maintenance raised by the IFI.

Water Quality

- Water quality and fisheries risks are under-assessed.
- The NIS and drainage narrative do not robustly assess these risks at the receiving water.
- Regulatory guidance flags higher protection at this location (adherence to IFI's "Planning for watercourses in the urban environment").
- No site-specific ground investigation or groundwater baseline is presented.
- The principle and feasibility of deep earthworks and water-sensitive design are unproven.
- Applicant not demonstrated that the development would not prejudice water quality.
- Potential for soil contamination of the river due to the proposed cut and fill process to avoid removing soil and earthing material offsite.

Further Information or Clarifications required if Permission is under Consideration

- 15 items listed as requiring further information/ clarification or compliance conditions for the proposed development to be considered acceptable.
- Their absence cannot be addressed by condition.

Table 1: Documents/ Reports described as necessary to allow an Assessment.

A	**Geotechnical Design and Temporary Works**
1	Submit a Geotechnical Design Dossier to Eurocode 7 (IS EN 1997-1/-2) with factual and interpretive GI, piezometer installation and 3-6 months groundwater monitoring, ULS/ SLS stability for temporary and permanent cases
2	Confirm type of retaining solution fixed, and submit full back-drain hydraulic design
3	Submit temporary works method statements and a Category 3 check
4	Submit adjacent-property protection with pre- and post-condition surveys, instrumentation and monitoring plan with TARP
B	**Daylight/ Sunlight and Amenity**
5	Submit BRE BR209 (3rd ed.) study with VSC/ NSL, APSH, amenity area test, 25-degree subtend
C	**Ecology and Appropriate Assessment**
6	Undertake and record a seasonally valid baseline, with appropriately timed bat roost/ activity surveys, breeding-bird surveys
7	Submit revised NIS/ AASR, which refer to lamprey (Annex II) and include IFI urban watercourse measures
D	**Construction Risk**
8	Replace the generic CEMP/ ECR and submit a site-specific Risk Assessment Method Statement (RAMS)
9	Submit a Noise and Vibration Impact Assessment (NVIA) to BS 5228-1, BS 7385-2/DIN 4150-3
10	Submit a Dust Management Plan with boundary P10 monitoring and deposition criterion, triggers, monitoring
E	**Water/ Drainage and Flood Risk**
11	Re-issue Flood Risk Assessment with FFLs reconciled and anchored to topographic survey, climate-change allowance, overland exceedance routes, align with drainage

12	Submit pumping station governance with ownership, storage, emergency overflow routing, failure response plan
13	Submit details of retaining/ back-drain interface including hydraulic sizing, discharge routes, maintenance responsibility
14	Submit document demonstrating compliance with IFI's 'Planning for watercourses in the urban environment', including set-backs/ buffer, sediment and pollution controls
F	**Resource and Waste**
15	Submit a Resource and Waste Management Plan in accordance with the EPA guidance 2021, including reconciled cut/ fill balance, classified excavated soils, destination facilities; duty-of-care documentation; excavation sequencing to minimise off-site movement

3.2. Planning Authority Response

3.2.1. No response was received from the planning authority on the further information submitted by the applicant in response to the section 132 request.

3.3. Technical Notes from the Inspectorate Ecologist and Environmental Scientist of An Coimisiún Pleanála

3.3.1. To assist the Commission in determining the appeal, an internal memorandum was prepared (dated 24th October 2025), and technical notes were requested from the Inspectorate Ecologist and Environmental Scientist. The technical notes have been received and are considered in this assessment.

3.3.2. I advise the Commission that copies of the technical reports accompany the case file and are available for inspection. For the Commission's ease of reference, the reports consider the following items:

<u>Inspectorate Ecologist</u>

- Background
- Ecological context of the site
- Adequacy of information to inform screening for AA and AA

- Adequacy of information provided in EcIA

Inspectorate Environmental Scientist

- Scope of Report to Inspector
- Documentation
- Water Framework Directive Impact Assessment – quality of the information submitted
- Installation of the headwall works
- Impacts from 'Cut and Fill' element of the proposal
- Flood Risk Assessment inconsistencies
- Adequacy of information in relation to noise and vibration impacts

4.0 Planning Assessment

4.1. Overview

4.1.1. This planning assessment relates to the Board's section 132 request, the applicant's response to the FI request, and the third-party responses to same.

4.1.2. Other planning matters raised by third parties (e.g., substandard future residential amenity, overshadowing of windows and rear garden areas, provision of pedestrian access link through the proposal to Creighan Drive, responsibility for pumping station, access road through open spaces in Creighton Drive, stability of access road) have been previously addressed in my original Inspector's report.

4.1.3. I identify the main issues to be considered in this addendum report to be as follows:

- Biodiversity
- Appropriate Assessment
- Construction Methodology
- Water Quality and Flood Risk
- Residential Accommodation Standards

I propose to address each issue in turn below.

4.1.4. Having regard to the further information received on the case file, I have carried out a screening determination (Stage 1) for appropriate assessment (AA) and Stage 2 AA, a pre-screening and a preliminary examination for environmental impact assessment (EIA), and a screening determination for water status impact assessment (WSIA). These are presented in sections 5.0, 6.0, and 7.0 below and are to be read in conjunction with Appendices 1-4 of this report.

4.2. Biodiversity

Background

4.2.1. In my original Inspector's report, I highlighted that the application was not accompanied by any supporting documents relating to biodiversity (items listed in subsection 7.7.14, pg. 44). In the absence of same, I concluded the applicant had failed to adequately demonstrate that the proposed development could be constructed and operated without having an adverse impact on biodiversity at and in the vicinity of the site.

4.2.2. Of relevance to biodiversity, in response to the section 132 request the applicant has submitted an Ecological Impact Assessment (EcIA). (Note: other related documents, such as the Appropriate Assessment Stage 1: Screening report (AASR), Natura Impact Statement (NIS), Flood Risk Assessment (FRA), and updated Construction Environmental Management Plan (CEMP), are discussed in the following subsections).

4.2.3. The Inspectorate Ecologist has reviewed the EcIA and prepared a technical note. The key findings from the technical note include the following:

- The most significant ecological feature at the site is Green Lough Stream, a tributary of Cavan River which is bound by a strip of riparian/ mixed woodland.
- One ecological survey, undertaken in January 2025, is sub optimal for determining breeding birds and bats, in particular.
- However, general habitat classifications can be made during this period as well as terrestrial mammals surveys (for badger and otter).

- Mammal trails are reported to have been observed but no other evidence of mammals was found.
- A bat suitability index of 25.33 (low to moderate suitability) is provided but not put into context.
- Trees with potential to act as roost sites are noted, but locations provided in ITM coordinates only, no map, not clear which trees, if any, are proposed for removal.
- Potential impacts on ecological features are not accurately identified.
- Reference is made to unquantified levels of habitat loss, ‘some’ scrub, woodland, treelines and hedgerows ‘might’ be removed.
- No reference to the freshwater ecology importance of Green Lough Stream in terms of fisheries value.
- Level of habitat clearance to be undertaken in the riparian zone is unclear.
- No ecological assessment of the surface water drainage connection and headwall into the stream is provided.
- Mitigation measures related to scrub, hedgerow, treeline and woodland habitat impacts are focused on timing of works to avoid impacts on breeding birds.
- Pre-construction surveys for bats, otter and badger are included in the mitigation measures.
- Requirement for pre-construction surveys calls into question the adequacy of the survey undertaken in January and implies that these surveys did not establish the level of mammal activity on the site.
- Use of pre-construction surveys is not best practice.
- Not appropriate to rely on post-consent surveys to determine mammal activity on the site or determine impacts on protected species.
- This approach is inadequate for bats and otter (listed as strictly protected species on Annex IV of the Habitats Directive) as it fails to provide the necessary baseline data for impact assessment, and risks failure of legal

compliance with the European Communities (Birds and Natural Habitats) Regulations 2011-2021.

- Unknown whether a derogation licence is required (e.g., for the removal or disturbance of a bat roost or otter holt), that derogation should accompany the planning application (as per guidance issued by the DoHLGH).
- Finds An Coimisiún Pleanála cannot rely on these post-consent measures and that there is a lack or reliable information regarding mammal activity on this site.
- Lack of detail regarding badgers on site or adjacent is of particular concern as setts can be damaged or destroyed directly though excavations, collapse due to ground works, and inappropriate soil storage.
- Not satisfied the ecological baseline at the appeal site has been accurately or adequately established.
- Reliance on pre-construction survey for establishing presence of badger, otter and bat activity is not an acceptable approach.

4.2.4. I have reviewed the applicant's EcIA, comments from appellants and observers, and the Inspectorate Ecologist's technical note. Additionally, I have reviewed the referred-to CIEEM guidance 'Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine' (version 1.3, updated 2024), and the DoHLGH guidance 'Applications for Regulation 54 Derogations for Annex IV species, Guidance for Applicants', 2025.

4.2.5. I acknowledge the shortcomings identified by the third-party appellants and observers. These include the timing of the survey which is described as outside the optimal time for bats, birds and botanical assessment, and the inadequate assessment and potential destruction of bat habitats.

4.2.6. While reference is made to vegetation clearance having been undertaken at the site after the date of the survey work, as the third-party submissions have not been circulated to the applicant, the applicant has not had an opportunity to provide a position on same. In any event, I consider there to be sufficient information on the case file to proceed with this assessment.

4.2.7. I note and concur with the findings of the Inspectorate Ecologist in relation to three deficiencies of/ in the EcIA. Firstly, that of the ecological baseline at the subject site (sub-optimal ecological survey for botanical, bird and bat assessments (number, month, season), lack of reliable information regarding mammal activity, including unsubstantiated data for bat populations, and the absence of information on freshwater ecology and fisheries value of Green Lough Stream (despite this being raised by the IFI and highlighted as an original appeal grounds). Secondly, that of the nature and extent of potential impacts on known-ecological features such as Green Lough Stream (extent of habitat clearance in the riparian zone is unclear, no assessment of the surface water drainage connection and headwall into the stream) and trees with bat roosting potential (unclear which trees, and if any are proposed to be removed). Thirdly, that of mitigation measures proposed to address potential impacts (general timing of works to avoid impacts on breeding birds, site specific measures include post-consent and pre-construction surveys for bats, otter and badger, inappropriate methodology to determine mammal activity and impact on protected species).

4.2.8. Notwithstanding that the authors of the EcIA acknowledge the timing of the survey is sub-optimal, the three deficiencies outlined above are material considerations and the gap in biodiversity data, particularly associated with protected species, is a notable omission.

4.2.9. The Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028 (CDP), includes Objective NH6 which states: *'It is a development objective of Cavan County Council to ensure the protection of species of flora and fauna afforded legal protection under Irish and European Legislation'.*

4.2.10. Having regard to the above, I find that the applicant has failed to adequately establish the ecological baseline at the subject site, to accurately identify the potential impact of the proposed development on known ecological features, and to appropriately mitigate against potential impacts. Accordingly, I find that the proposed development is contrary to Objective NH6 of the CDP and recommend permission be refused for this reason.

4.3. **Appropriate Assessment**

4.3.1. In my original Inspector's report, arising from the lack of information submitted with the application relating to appropriate assessment, I concluded that the applicant had failed to demonstrate that the proposed development would not have likely significant effects on the integrity of the European sites at Lough Oughter and that in such circumstances the Board would be precluded from granting permission for the proposed development. I found the proposed development to materially contravene CDP Objective NHDS2 and Objective NHDS4. Accordingly, I recommended permission be refused for the proposed development on the basis of these reasons.

4.3.2. Of relevance to appropriate assessment, in response to the section 132 request the applicant has submitted an AASR, NIS, and an updated CEMP.

4.3.3. The Inspectorate Ecologist has reviewed these documents. The key findings from the technical note include the following:

- Lough Oughter and Associated Loughs SAC and Lough Oughter SPA are hydrologically connected to the development site via Green Lough Stream.
- The likelihood of significant effects of the proposed development on these European sites could not be screened out (degradation of water quality during the construction phase (silt/ oil/ cement/ and hydraulic fluid, cut and fill soil movements) and operational phase (sediment, hydrocarbons and other pollutants)).
- Satisfied that the Screening Report has been prepared in line with good practice and standard guidance, and that the findings of the screening test are accurate.
- No lamprey species or other fish species are listed as a qualifying interest (QI) for Lough Oughter SAC and therefore there is no omission in this respect.
- Otter species are a QI in the Lough Oughter and Associated Loughs SAC.
- The NIS considers the potential impacts in more detail, identifying an indirect impact associated with a deterioration in water quality in Green Lough Stream cited as the primary risk (due to contamination from silt, hydrocarbon or aggregate run off).

- No direct impacts on otter within the SAC are predicted, any risk is linked to a decrease in fish biomass due to water pollution/ contamination, and disturbance of otter couching holts within the SAC can be excluded (due to the separation distance of over 6km to the SAC).
- Identifies and notes the mitigation measures, key among which is a silt fence extending the width of the site to protect Green Lough Stream (cross references to the information on same in the updated CEMP).
- Recommends planning conditions (were permission to be granted) relating to the location and installation of the silt fence, monitoring for construction phase water quality impacts, and the employment of personnel with ecological experience.
- Regard is given to the distance downstream to the European sites, and the mitigation measures proposed to prevent and reduce source impacts in combination with monitoring.
- Satisfied that adverse effects on Lough Oughter and Associated Loughs SAC and Lough Oughter SPA can be excluded in view of the conservation objectives of those sites.

4.3.4. Based on the information provided in response to the section 132 request, I have undertaken Stages 1 and 2 of AA for the proposed development. The conclusion of which is presented in section 5.0 of this report below and is to be read in conjunction with Appendix 1.

4.3.5. As outlined in Appendix 1, notwithstanding the shortcomings identified elsewhere in this report regarding the applicant's EcIA, CEMP and FRA, it is considered that the likelihood of significant effects (such that would result in the requirement for an AA) from the proposed development on any European site can be reasonably excluded.

4.3.6. On the basis of the information submitted in the section 132 response, the two reasons for refusal of permission cited in my original Inspector's report have been addressed and are no longer applicable.

4.4. Construction Methodology

4.4.1. In my original Inspector's report, I considered the applicant's outline CEMP in the contexts of existing residential amenity (construction phase impacts) and biodiversity.

4.4.2. I identified the limited site-specific environmental data provided, and several key omissions and/ or inconsistencies. These included information on the amount of material being excavated and necessary for site reprofiling, construction details for the proposed amenity walkway, information on the laying of the surface water drain and the construction of the outfall point (with a headwall) directly discharging to the stream, any detailed measures to protect the stream from construction phase pollution incidents, and information under a titled item 'Section 8.5 Silt Curtains and Interceptors'.

4.4.3. Of relevance to construction methodology, in response to the section 132 request the applicant has submitted an updated CEMP.

4.4.4. The Inspectorate Ecologist and Environmental Scientist have reviewed the CEMP as part of their respective reviews relating to ecology, water quality, noise, vibration and dust issues. The key findings from the technical notes include the following:

- Notes differences in information between the NIS and CEMP. Preference indicated for:
    - Location of the silt fence as per the CEMP.
    - Water quality sampling and monitoring proposals as per the NIS.
    - Employment of ecological personnel, combination of an environmental manager (as per CEMP) and an Ecological Clerk of Works (as per NIS).
- CEMP provides additional information than the NIS in respect of the surface water drainage connection and headwall into Green Lough Stream, including mitigation measures.
- CEMP includes details regarding the silt fence to be deployed during the construction phase to address a significant risk to water quality.

- Satisfied that discharges of silt from the site would not lead to significant impacts on water quality in Green Lough Stream if the silt fence is located, installed and maintained as per the CEMP.
- CEMP includes details relating to the construction and installation of the headwall into Green Lough Stream (process, timing).
- Satisfied that the installation of the headwall could be completed with no significant impacts on water quality in Green Lough Stream if the methodology proposed in the CEMP is implemented (short-term works, seasonal schedule, supervision/ input from Inland Fisheries Ireland).
- CEMP discusses noise and vibration but fails to provide an adequate assessment of the likely impacts arising from all construction elements of the proposed development.
- CEMP does not include an assessment of the ground conditions to be encountered, or the equipment required to install the proposed sheet piles for the retaining wall (>250m in length, >6m in depth, within 20m of adjacent dwellings).
- Installation of sheet piles has the potential to generate significant noise and vibration impacts depending on the installation method. The lack of assessment of the potential impacts arising from same is a significant oversight.
- Method of assessment used in the CEMP relating to noise emission levels for construction activities (Table 4.3, 'Total Cumulative Noise' value for all activities of 49dB at 350m from the noise sources) incorrectly assesses the impacts on dwellings which are located closer than 350m from proposed noise sources.
- CEMP's noise impact assessment (NIA) found to be inadequate and to not correctly identify the potential impacts of noise and vibration on nearby sensitive receptors from aspects of the construction phase of the development.

4.4.5. On review of the updated CEMP and the technical notes from the Inspectorate Ecologist and Environmental Scientist, I am satisfied that the applicant has generally addressed the omissions and/ or inconsistencies identified in the outline CEMP. The information sought in the section 132 FI request has generally been provided in the updated CEMP in relation to material excavation, construction process for certain elements of the proposed development, and water quality protection measures.

4.4.6. However, the Inspectorate Environmental Scientist has highlighted deficiencies in the updated CEMP relating to noise and vibration impacts (section 4.1 Noise and Vibration). These include the absence of investigations to establish ground conditions, the unknown process and machinery to be used for sheet piling installation, and the incorrect conclusion cited relating to noise emission levels for construction activities.

4.4.7. The Inspectorate Environmental Scientist had not reviewed the outline CEMP. In my original Inspector's report, I considered that the likely anticipated impacts on residential amenity (e.g. increases in noise, dust, traffic) would be primarily mitigated by measures included in the outline CEMP, and that any additional items could, as necessary, be required by condition in the event of a grant of permission (e.g., similar to those attached by the planning authority relating design requirements, construction standards, pollution prevention, protection and mitigation measures, reporting processes governing same, and a RWMP). Were the Commission minded to grant permission for the proposed development, I consider this remains the case. To do so, the Commission may consider it appropriate to issue a section 132 request regarding same.

4.4.8. However, the potential impacts relating to noise and vibration impacts were raised as an appeal ground, and the applicant has had opportunities to respond to and to provide adequate pre-consent information addressing same.

4.4.9. Based on the information on the case file and the findings of the Inspectorate Environmental Scientist, I consider that the noise and vibration related impacts associated with the proposed development on adjacent properties in Creighton Drive have not been adequately assessed due to the absence of investigations establishing the ground conditions, the unknown process and machinery to be used for sheet piling installation, and the incorrect conclusion cited relating to noise

emission levels for construction activities for sensitive receptors. Accordingly, I recommend permission be refused for this reason.

4.5. Water Quality and Flood Risk

4.5.1. In my original Inspector's report, I noted that parts of the site's western boundary adjacent to Green Lough Stream are in Flood Zones A and B. I identified that the regraded slope, amenity walkway, and Area 1 open space (classified as 'water compatible development') were located on lands within/ partially within those zones, and that the proposed dwellings (classified as 'highly vulnerable development') were appropriately sited outside of same. I highlighted the absence of a SSFRA, the inadequate information in the CEMP on water quality, and the implications for undertaking the AA.

4.5.2. Of relevance to water quality and flood risk, submitted in response to the section 132 request are the FRA and updated CEMP. The Inspectorate Environmental Scientist has reviewed these documents, the original case file and planning history case file plans and particulars.

4.5.3. The key findings of the technical note include the following:

- Loss of soil/ silt from exposed soil at the site to waters during rainfall events has been identified as a significant risk to water quality.
- Satisfied that construction phase silt fence infrastructure (location, specification and design details, CEMP pgs. 25-27) would not lead to significant impacts on water quality in Green Lough Stream (once installed and maintained as per the CEMP).
- Satisfied that construction phase surface water discharge infrastructure (construction of concrete base and installation precast headwall outlet) would cause no significant impacts on water quality in Green Lough Stream (following proposed methodology, schedule and duration of instream works, silt and cement loss prevention measures, notification and input from Inland Fisheries Ireland).
- Satisfied that operational phase wastewater treatment infrastructure (collection, storage, pumping, compliance with Uisce Eireann technical

standards) will not have any significant impact on water quality in Green Lough Stream.

- Satisfied that operational phase surface water drainage (collection, attenuation, interceptor, discharge) would cause no significant impacts on water quality in Green Lough Stream.
- Satisfied that the information available allows a WFD Impact Assessment to be undertaken.
- Excavation works are required to create a working level to construct the dwellings (c.3.5m below existing ground level, eastern boundary) and access road (c.7m, southeastern boundary).
- No geotechnical investigations, information on groundwater under the area to be excavated, or on the likely quantity of water to be collected behind the proposed retaining wall and discharged to surface waters is provided.
- The potential impacts, if any, on the stability of the ground to the east of the site adjacent to the rear gardens of the dwellings in Creighan Drive are unknown.
- There is a knowledge gap, which can only be addressed through site-specific investigations, to allow an assessment of the existing groundwater levels and impacts from draining these levels on the area upgradient of the proposed excavation.
- Insufficient level of information in the case documentation to allow an informed decision to be made on the potential impacts of draining groundwaters from the area to the east of the proposed development.
- The FRA contains contradictory information (several different finished floor levels for the dwellings, map of site) and is lacking in sufficient detail (location, development and calculation of/ for the flood storage compensation area) to allow an informed decision on the impacts of the proposed development on flood risk.

4.5.4. Based on the information on the case file and the findings of the Inspectorate Environmental Scientist, I consider that the hydrological and hydrogeological related

impacts associated with the proposed development on adjacent properties in Creighton Drive have not been adequately assessed due to the absence of geotechnical investigations and unknown groundwater conditions. Further, while the content of the FRA is noted (identification of development within the floodplain, flood compensation required, types of flood risks), the discrepancies and lack of conclusive design details are material issues. Accordingly, I recommend permission be refused for these reasons.

4.6. Residential Accommodation Standards

4.6.1. In my original report, in respect of future residential amenity, I identified that the application did not include a Housing Quality Assessment (HQA), the duplex units had not been provided with the required communal services and facilities (refuse storage, cycle parking, open space), and some duplex units may be substandard in design (minimum standards for internal storage and private open space not achieved).

4.6.2. As identified in my original report, the 10 duplex units are located at ground and first floor levels within the detached two storey block Type A1 (two units) and the mid-terrace two storey blocks Type E (four units at ground floor), and Type F (four units at first floor). These mid-terrace blocks are attached to Type D two storey houses.

4.6.3. Of relevance to residential accommodation standards, submitted in response to the section 132 request are a HQA, updated ground floor plans (indicating external communal facilities for the duplex units), and revised floor and elevation plans and particulars of the duplex units. The section 132 response also include revised floor plans and elevations of the different house units.

4.6.4. I have reviewed the HQA and note that the applicant continues to refer to the duplex units as houses (as opposed to apartments) and applies the housing standards in the ‘Quality Housing for Sustainable Communities’ 2007 to both the house units and the duplex units (e.g., target areas for internal accommodation including storage). For the duplex units, the applicable standards are instead those in the Apartment Guidelines, 2023. The Apartment Guidelines are relied upon for standards for the external communal facilities (refuse storage, cycle parking, open space). For the house units, I note that the applicable housing standards include those from the Compact Settlements Guidelines (e.g., quantum of private open space).

4.6.5. In respect of the duplex units, I have compared the HQA details with the requirements of the Apartment Guidelines (Appendix 1). I note that the 3 bedroom duplex units in block Type A1 are not provided with sufficient storage space (i.e., 5/ 5.5 sqm instead of the required 9 sqm). The ground floor unit does not achieve a minimum ceiling to floor height of 2.7m (2.5m provided) as specified in SPPR 5 of the guidelines (the proposal does not come within the scope of the discretions so referenced). Other accommodation requirements (floor areas, widths, private open space) appear to have been achieved. To the rear of block Type A1 is a newly proposed area of communal open space with refuse storage and cycle parking. I consider these to be acceptable in the main, and recommend that the cycle parking would require final agreement with the planning authority.

4.6.6. Blocks Type E and Type F (comprising eight 1 bedroom duplex units) are indicated as achieving all minimum accommodation standards. However, I note the Type E ground floor units do not achieve a minimum ceiling to floor height of 2.7m as per SPPR 5. To the rear of blocks Type E and Type F is a newly proposed area of communal open space with refuse storage and cycle parking. In providing these communal services and in facilitating access to same, I note the amendments made to the rear private open space of the Type D end of terrace-houses. These houses are two storey 2-bedroom units with a minimum requirement for 30sqm of private open space (as per SPPR 2 of the Compact Settlements Guidelines). In the revised details, these house units are provided with a private patio area of 7sqm.

4.6.7. While I acknowledge the flexibility in SPPR 2 of the Compact Settlements Guidelines with regard to a reduction in the quantum of private open space for houses in lieu of semi-private space, I have concerns regarding the scale of the reduction to these houses. The communal open space is indicated as 162sqm and would appear to satisfy the quantitative guidance for same outlined in SPPR 2. As such, while not a refusal reason in and of itself, I consider that the applicant would need to confirm compliance with the quantitative requirements and demonstrate the qualitative benefits of the proposed arrangements.

4.6.8. Having regard to the foregoing, while I note the details provided, and design revisions and amendments made in response to the section 132 request, the applicant has failed to ensure that all the proposed duplex units achieve the

minimum standards outlined in the Apartment Guidelines and, by association, that an acceptable level of amenity would be afforded to future residents.

4.6.9. Policy in CDP Section 13.4.14 requires new apartment schemes to be designed in accordance with the design criteria as set out in the 2018 Ministerial Guidelines – Sustainable Urban Housing - Design Standards for New Apartments- Guidelines for Planning Authorities or any subsequent update (i.e., the Apartment Guidelines 2023). Accordingly, permitting the proposed development would be contrary to CDP policy on the matter and I recommend permission be refused for this reason.

5.0 Appropriate Assessment

5.1. Stage 1 – Screening Determination for Appropriate Assessment

5.1.1. Having carried out an Appropriate Assessment screening (Stage 1) of the proposed development (included in Appendix 1 of this report), it has been determined that the proposed development may have likely significant effects on Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049) in view of the sites' conservation objectives and qualifying interests.

5.1.2. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SAC and SPA in light of their conservation objectives.

5.1.3. The possibility of likely significant effects on any other European sites has been excluded on the basis of the nature and scale of the proposed development, separation distances, and the absence of any meaningful pathways to other European sites.

5.2. Stage 2 – Appropriate Assessment

5.2.1. In carrying out an Appropriate Assessment (Stage 2) of the proposed development, I have assessed the implications of the proposed development on Lough Oughter and Associated Loughs SAC and Lough Oughter SPA in view of the sites' conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Commission to carry out of an Appropriate Assessment.

5.2.2. Following the Appropriate Assessment (Stage 2), it has been concluded that the proposed development, individually and/ or in-combination with other plans or projects, would not adversely affect the integrity of Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049) in view of the sites' conservation objectives and qualifying interests.

5.2.3. This conclusion is based on:

- An assessment of all aspects of the proposed development including proposed mitigation measures in relation to the conservation objectives of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.

6.0 Environmental Impact Assessment

6.1. The proposal is of a class of development identified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations) for the purposes of Environmental Impact Assessment (EIA). Accordingly, I have undertaken a pre-screening exercise and preliminary examination of the proposed development (see Appendix 2 and Appendix 3 respectively of this report below).

6.2. By taking into account the nature and scale of the proposed development, the location of the site on zoned and serviced lands within an existing built-up area and outside of any designated locations, the existing pattern of development in the vicinity, the information and reports submitted as part of the application and appeal, and the criteria set out in Schedule 7 of the 2001 Regulations, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development, and that the need for an EIA and the submission of an EIAR is not required.

7.0 Water Status Impact Assessment

7.1. Screening Determination for Water Impact Status Assessment

7.1.1. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive (WFD) which seek to protect and, where necessary, restore surface water and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration (see Appendix 4 of this report below).

7.1.2. I conclude that the proposed development will not result in a risk of deterioration on any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise any waterbody in reaching its WFD objectives and consequently can be excluded from further assessment.

7.1.3. This conclusion is based on the:

- Nature, scale and location of the proposed development.
- Objective information presented in the case file and from verified sources.
- Absence of/ proximity to closest surface watercourses.
- Lack of any meaningful hydrological connection to any waterbody.
- Use of best practice construction practices during construction phase.

8.0 Recommendation

Following from the above assessment, I recommend that permission be REFUSED for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. On the basis of the information submitted with the planning application and appeal, the Commission is not satisfied that the ecological baseline at the subject site has been adequately established, that the potential impacts of the proposed development on known ecological features have been accurately identified, or that appropriate mitigation measures have been incorporated

into or devised for the proposed development. This is with particular regard to bird, fish, and mammal species, a number of which are protected under Annex IV of the Habitats Directive (92/43/EEC). Accordingly, the proposed development does not accord with Objective NH6 of the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted with the planning application and appeal, the Commission is not satisfied that the noise, vibration, hydrological and hydrogeological impacts associated with the construction of the proposed development on adjacent properties have been adequately assessed. Accordingly, the Commission is not satisfied that the proposed development would not seriously injure the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information submitted with the planning application and appeal, and having regard to the location of the proposed development in an area which is at risk of flooding, the Commission is not satisfied that the proposed development would not give rise to a heightened risk of flooding either on the subject site itself, or on other lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

4. The proposed development fails to comply with the minimum floor to ceiling height requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2023" issued under section 28 of the Planning and Development Act 2000 as amended and, therefore, is contrary

to Section 13.4.14 of the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report, in an improper or inappropriate way.

_____

Phillippa Joyce

Senior Planning Inspector

27th January 2026

Appendix 1: Appropriate Assessment – Stages 1 and 2

Stage 1 Screening Determination
Description of the Project I have considered the proposed development (project) in light of the requirements of section 177U of the Planning and Development Act 2000, as amended. <u>Subject Site</u> The subject site is located at Creighan, in Cavan town, approximately 1.2km south of the town centre. The site is greenfield in nature, comprised of agricultural fields with hedgerow and treelined field boundaries. The site's western boundary is formed by a watercourse, Green Lough Stream. The site is part of a drumlin with notable changes in ground levels from the stream to higher lands along the eastern boundary (differences of up to c.17m). The site drains to the stream, which is lined with dense vegetation along the banks/ within the riparian zone. Green Lough Stream is a tributary of Cavan River, and the watercourses merge c.700m upstream of the site. Cavan River flows in a northerly direction to the lake complex of Lough Oughter, which contains two European site designations. <u>Project</u> The project comprises the construction of a residential scheme of 36 dwelling units, with a new vehicular entrance, internal access road and footpath, and car parking. In respect of water services, the project involves connections to existing public water networks (including water supply, wastewater drainage (via an onsite pumping station), and surface water drainage), and installation of SuDS features (attenuation tank) with a surface water connection discharging directly to Green Lough Stream (an outfall pipe headwall onto a point on the eastern bank). Of the site works, the project involves the removal of vegetation, extensive ground excavations and reprofiling (with the construction of retaining walls and a graded slope towards the stream), landscaped open spaces, and an amenity walkway along the course of the stream. <u>Submissions and Observations</u> A submission was received from the IFI which raises concerns in respect of construction and operation phase impacts of the project on Cavan River and its tributaries. Planning authority internal reports on the case file are from the Environment and Waste Management sections. No internal reports were received from the Municipal Engineer and Water Services sections. No submission was received from Uisce Eireann.

The planning authority undertook an AA of the project, screening out the need for AA. An AA screening decision from the previous planning application, PA Ref. 23/176 was relied upon.

Inspectorate Ecologist undertook an assessment of the applicant's AASR and NIS, finding that that adverse effects from the project on Lough Oughter and Associated Loughs SAC and Lough Oughter SPA can be excluded in view of the conservation objectives of those European sites.

Potential Impact Mechanisms from the Project

Site Surveys

In response to the section 132 FI request, the applicant has submitted an Appropriate Assessment Stage 1: Screening report (AASR), Natura Impact Statement (NIS), Ecological Impact Assessment (EcIA), Flood Risk Assessment (FRA), and updated Construction Environmental Management Plan (CEMP).

The AASR outlines a field survey was undertaken on 13th January 2025. While during a sub-optimal season for plant identification, habitat types were readily identifiable. Eight habitats were identified (majority of the site is agricultural grassland and scrub). No Annex I habitats, or rare, threatened or protected species of plants were identified at the site.

While the timing of the field survey was sub-optimal for recording breeding bird species, no bird species protected under EU directives were observed. While mammal trails were observed, no other mammal evidence was recorded. No evidence of otter (an Annex II protected species (for the purposes of appropriate assessment)) was recorded.

European Sites

In the AASR, four European sites are initially identified in the Zone of Influence, two of which are screened in for further consideration, Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.

The likely changes to the SAC and SPA are identified as a reduction in habitat area, disturbance to key species, habitats or species fragmentation, reduction in species density, changes in key conservation value indicators (e.g., water quality), and climate change.

Of these changes, the risk of a deterioration in water quality, with an associated adverse impact on the aquatic ecosystem, is identified as the most significant. During the construction phase, this is due to soil excavations and potential pollution events due to construction materials (i.e., concrete, cement, hydrocarbons, silt). During the operational phase, this is associated with increases in traffic generation, impermeable surfaces cover, surface water run-off rates, risk of pollutants entering watercourses, and urbanisation.

The AA screening concludes that: *'…impacts are likely as a result of the proposed works on the conservation objectives or overall integrity of the Natura 2000 sites*

due to the connectivity, scale and nature of the works. It is therefore recommended that Stage 2 Appropriate Assessment is required, and the project is screened in'.

In addition to the applicant's documentation, I have reviewed available sources of information (including https://gis.epa.ie/EPAMaps/, www.npws.ie NPWS Conservation Objectives and Site Synopsis reports for European sites, www.cavancoco.ie CDP and associated Environmental Reports, mapping sources, online planning register entries, NISs for other projects (see section 4.0 Planning History of my original Inspector's report)).

Green Lough Stream is a tributary of Cavan River, and the watercourses merge c.700m upstream of the site, which in turn flows in a northerly direction discharging into the lake complex of Lough Oughter. Therein, there are two European site designations, Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049).

I identify that Cavan River enters Coalpit Lough (Lough Oughter and Associated Loughs SAC) c.6.9km upstream of the confluence point (i.e., c.7.6km upstream of the site), and Derrygid Lough (Lough Oughter SPA) c.7.8km upstream of the confluence point (c.8.5km upstream of the site).

I agree with the findings in the applicant's AASR that there are indirect connections between the subject site and Lough Oughter and Associated Loughs SAC and Lough Oughter SPA. These are hydrological connections (surface water) and ecological connections (aquatic ecosystem food sources for Annex II protected otter population at Lough Oughter).

I conclude that these two European sites are within the zone of influence of the project, with the effects on same requiring assessment in this screening determination. I confirm to the Commission that I do not identify any other European sites as being within the zone of influence of the project. This is due to the qualifying interests (QIs) and conservation objectives of other European sites, the separation distances involved, and the absence of any meaningful pathways/ connections to same.

<u>Effect Mechanisms</u>

I have had regard to the subject site's features and location, the project's nature and scale, the COs and QIs of the European sites, the indirect hydrological and ecological connections, the applicant's AASR, NIS and CEMP, and the technical notes of the Inspectorate Ecologist and Environmental Scientist.

For the purposes of this appropriate assessment, otter is an Annex II protected species as it is a QI for Lough Oughter and Associated Loughs SAC. From the NPWS Conservation Objectives report for the SAC, I note that attributes for the species include the terrestrial territory (c.364.4ha along riverbanks/ lake shoreline/ around ponds), the freshwater habitat (c.1,731ha), and fish biomass available (diet dominated by fish, in particular salmonids, eels and sticklebacks in freshwater). The target for all attributes is no significant decline.

The COs are related to otter within the SAC, that being, the consideration for this AA screening is the otter in the SAC not potential otter at the subject site, which is considered under biodiversity in the context of otter being an Annex IV protected species. I note that the applicant's field survey confirmed no protected habitat and found no evidence of otter at the site (survey timing was optimal for same). For these reasons, notwithstanding the shortcomings identified elsewhere in this report regarding the applicant's EcIA, CEMP and FRA, it is considered that there is adequate information in the case file to allow an assessment of the likelihood of significant effects from the project on any European site.

As stated above, I estimate that the SAC is c.7.6km upstream of the subject site. Due to the absence on-site of protected habitat and species, the separation distances involved, and the indirect nature of the connections, I consider that the effect mechanisms of habitats loss and/ or species disturbance associated with the project can be reasonably excluded at this point. As such, I consider the following effect mechanisms require examination for implications for likely significant effects on the two identified European sites.

The effect mechanisms are as follows:

A) Surface water pollution during the construction phase.
B) Surface water pollution during the operation phase.

European Sites at Risk

Table 1: European Sites at risk from impacts of the proposed project

Effect mechanism	**Impact pathway/ Zone of influence**	**European Site(s)**	**Qualifying/ Conservation interest features at risk**
A) Surface water pollution during construction phase B) Surface water pollution during operation phase	Impact via a hydrological pathway Impact via a hydrological pathway	Lough Oughter and Associated Loughs SAC (site code: 000007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Bog woodland [91D0] Lutra lutra (Otter) [1355]
A) Surface water pollution			

during construction phase B) Surface water pollution during operation phase	Impact via a hydrological pathway Impact via a hydrological pathway	Lough Oughter SPA (site code: 004049)	Great Crested Grebe (Podiceps cristatus) [A005] Whooper Swan (Cygnus cygnus) [A038] Wigeon (Anas penelope) [A050] Wetland and Waterbirds [A999]

Identification of likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the Conservation Objectives 'alone'

European Site and qualifying feature Lough Oughter and Associated Loughs SAC (site code: 000007)	**Conservation objective**	**Could the conservation objectives be undermined (Y/ N)?**			
		Effect A	**Effect B**		
Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]	*To restore the favourable conservation condition of…*	Y	Y		
Bog woodland [91D0]	*To maintain the favourable conservation condition of…*	Y	Y		
Lutra lutra (Otter) [1355]	*To maintain the favourable conservation condition of…*	Y	Y		

European Site and qualifying feature Lough Oughter SPA (site code: 004049)	**Conservation objective**	**Could the conservation objectives be undermined (Y/ N)?**			
		Effect A	**Effect B**		
Great Crested Grebe (Podiceps cristatus) [A005]	*To maintain or restore the favourable conservation condition of…*	Y	Y		
Whooper Swan (Cygnus cygnus) [A038]	*To maintain or restore the favourable conservation condition of…*	Y	Y		
Wigeon (Anas penelope) [A050]	*To maintain or restore the favourable conservation condition of…*	Y	Y		
Wetland and Waterbirds [A999]	*To maintain or restore the favourable conservation condition of…*	Y	Y		

Effect Mechanism A (surface water pollution during the construction phase)

- Construction phase activities at/ in the vicinity of the surface watercourse, Green Lough Stream a tributary of Cavan River, include extensive site excavation works, removal of vegetation, ground reprofiling, development of a graded slope and landscaped open spaces, construction of an amenity walkway along the course of the stream, and installation of a surface water drain connecting the attenuation tank to an outfall point with a headwall on the eastern bank of the stream.

Effect Mechanism B (surface water pollution during the operation phase)

- Operation phase activities at/ in the vicinity of the surface watercourse, Green Lough Stream a tributary of Cavan River, include discharging attenuated stormwater directly to the stream, and operation of an on-site

pumping station to discharge collected wastewater to the public foul drainage network.

Appropriate Assessment: Stage 1 Conclusion – Screening Determination

In accordance with section 177U of the Planning and Development Act 2000 as amended, and on the basis of objective information, having carried out Appropriate Assessment screening (Stage 1) of the project, it has been determined that the project may have likely significant effects on Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049) in view of the sites' conservation objectives and qualifying interests. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SAC and SPA in light of their conservation objectives.

The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other European sites.

No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

Stage 2 Appropriate Assessment

Aspects of the Proposed Development

Construction Phase

The project involves preparatory site works of excavation (removal of top and subsoils), and reprofiling. Construction works also include laying of services infrastructure, pouring of concrete for foundations and other hard surfaces, and installing a surface water drain with a headwall directly to the eastern bank of Green Lough Stream.

During construction works, especially during periods of wet weather, there is potential for an increase in siltation and pollution of surface water run-off with hydrocarbons, cement and concrete. There is the potential for contaminated run-off to discharge to the Green Lough Stream which could have (a) significant effect(s) on the European site(s).

Operation Phase

Once operational, the project would be served by and connected to the public water networks which would be operated and maintained in accordance with the requirements of Uisce Eireann and the planning authority. The on-site surface water system incorporates attenuation and treatment stages prior to discharge to Green Lough Stream. Once operational, whilst the networks are enclosed piped systems, there remains potential, albeit limited, for pollution events to Green Lough Stream which could have (a) significant effect(s) on the European site(s).

The project would result in an increase in human activity (noise, light, dust) during the operation (i.e. occupation) of the development. However, having regard to the

likely levels of activity, the separation distances between the project and the European sites, and the built-up nature and uses of the intervening lands, no likely significant effects on the QIs/ SCIs of the European sites are reasonably anticipated.

Mitigation Measures

The description and consideration of the impacts of the proposed development are the subject of the NIS and CEMP. Section 3.2 of the NIS lists the potential impacts for the QIs of the SAC and SPA. All impacts – on habitats (i.e., the natural eutrophic lakes and wetlands), and species (i.e., the otter and birds) – are associated with potential adverse effects on water quality.

A range of mitigation measures identified to ameliorate the impacts and protect the European sites are also included in the NIS. These are relevant for the construction and operation phases of the project relating to surface water quality and prevention of pollution events.

The mitigation measures are outlined under the following headings (in summary, key measures identified). I refer the Commission to Sections 3.2.1-3.2.3 (pgs. 14-18) for technical details.

- Control of Pollutants During Construction:
  - river cordoned off,
  - preservation of vegetation along the riparian zones,
  - 5m deep vegetative buffer formed with no work or storage of material within same,
  - silt fences installed along the length of Green Lough Stream within the site,
  - silt fence designed and constructed to technical specifications with daily inspections.

- Control of Pollutants Post Construction:
  - only clean surface water discharged to Green Lough Stream via an attenuation system incorporating hydrocarbon and silt interceptors,
  - drainage system designed and constructed as per GDSDS with SuDS features,
  - riparian buffer zones retained and enhanced.

- Implementing Best Practice:
  - preparation of an Environmental Operating Plan (EOP),
  - ecological Clerk of Works employed to oversee the EOP,
  - daily inspections by ECoW when works occurring near watercourse.

Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'

Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)	
Plan/ Project	**Effect mechanism**
Listed in Sections 6.5.1- 6.5.2 of the AASR, Sections 3.1.3-3.1.4 of the NIS, and section 4.0 Planning History of my original Inspector's report.	A and B as per Table 1 above

I have had regard to the information included in the AASR, NIS and other information submitted in the section 132 FI response relevant to a consideration of in-combination impacts. I have also had regard to planning applications (proposed/ decided) in Cavan Town. I do not identify any significant in-combination effect from same.

In respect of relevant plans, I identify that SEA was undertaken by the planning authority in respect of the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028 (CDP). The CDP includes policies and objectives seeking environmental protection and pollution prevention and requiring projects to be constructed to/ operate within industry standards with connection to/ servicing by public water services infrastructure.

Table 4: Could the project undermine the Conservation Objectives in combination with other plans and projects?					
European Site and qualifying feature	**Conservation Objective**	**Could the conservation objectives be undermined (Y/ N)?**			
		Effect A	**Effect B**		
Lough Oughter and Associated Loughs SAC (site code: 000007) As per Table 1 above	As per Table 2 above	N	N		
Lough Oughter SPA (site code: 004049) As per Table 1 above	As per Table 2 above	N	N		

Appropriate Assessment: Stage 2 Conclusion

The project has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of objective information, I have assessed the implications of the project on Lough Oughter and Associated Loughs SAC and Lough Oughter SPA in view of the sites' conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Commission to carry out of an Appropriate Assessment.

Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/ or in-combination with other plans or projects would not adversely affect the integrity of Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049) in view of the sites' conservation objectives and qualifying interests.

This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.

Inspector: _____ **Date:** _____

Appendix 2: Environmental Impact Assessment – Pre-Screening

1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? ("Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
☒ Yes, it is a 'Project'. Proceed to Q2.	
☐ No, no further action required.	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3.	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/ exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
☐ Yes, the proposed development is of a Class and meets/ exceeds the threshold.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Proceed to Q4.	Class 10(b)(i) and/ or Class 10(b)(iv) Relevant thresholds arising from Class 10(b): - Class 10(b)(i): more than 500 dwelling units. - Class 10(b)(iv): urban development in an area greater than 10ha.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
☒ No	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Appendix 3: Environmental Impact Assessment – Preliminary Examination

The Commission has carried out a preliminary examination (Art. 109(2)(a), Planning and Development Regulations 2001, as amended) of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the 2001 Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/ disasters and to human health).	Project comprises a smallscale residential scheme with associated site works on a greenfield site within a built-up urban area. The project does not differ in terms of character or of scale from the surrounding area (i.e., established and new residential developments characterised by 2 storey structures). Project would cause physical changes to the appearance of the site during the construction and operation (occupation) works, and these would be within acceptable parameters for the receiving area. No significant use of natural resources is anticipated, and the project would connect into the public water supply and wastewater networks which have sufficient capacity to accommodate demands. The project would collect (via SuDS features), attenuate and discharge surface water to the local watercourse, Green Lough Stream. Construction phase activities would result in the use of potentially harmful materials, and cause noise and dust emissions. These would likely be typical of similar construction sites. Conventional waste produced from construction and operational activities would be managed. Notwithstanding the shortcomings identified in the CEMP, it is considered that the likelihood of significant effects (such that would result in the requirement for an EIA) from the construction process on the environment (noise, vibration, hydrological and hydrogeological impacts) can be reasonably excluded. Project would not cause likely significant effects on human health (such that would result in the requirement for an EIA) through water contamination, air pollution, the design of the scheme, or scale of residential activity.
Location of development	Project is located adjacent to Green Lough Stream which is a tributary of Cavan River, and there are indirect hydrological and ecological connections to the European

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/ capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	sites in Lough Oughter between c.7.6km-8.5km upstream of the site. Project is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The site is greenfield and there is no evidence of the presence of any protected habitats, plants, or fauna species. Notwithstanding the shortcomings identified in the EcIA and the FRA, it is considered that the likelihood of significant effects (such that would result in the requirement for an EIA) from the development on the environment (biodiversity, hydrological and hydrogeological impacts) can be reasonably excluded. There are no landscape designations pertaining to the site. There are no protected structures, architectural conservation areas, or archaeological monuments recorded at or adjacent to the site.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Notwithstanding the shortcomings identified in the EcIA, CEMP, and FRA, the project is of a nature, scale and (notably below the mandatory thresholds for EIA) such that significant cumulative and/ or transboundary effects on the environmental components are not considered likely or reasonably anticipated. Amelioration of environmental impacts have been incorporated into the project's design. Mitigation measures would include those required by conditions attached in the event of a grant of permission in relation to construction and operation phases.

Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
~~There is significant and realistic doubt regarding the likelihood of significant effects on the environment.~~	~~Schedule 7A Information required to enable a Screening Determination to be carried out.~~
~~There is a real likelihood of significant effects on the environment.~~	~~EIAR required.~~

Inspector: _____ **Date:** _____

DP/ ADP: _____ **Date:** _____

Appendix 4: Water Status Impact Assessment – Screening

The project is for a smallscale residential scheme with associated site works on a greenfield site within a built-up urban area. The project would connect into the public water supply and wastewater networks which have sufficient capacity to accommodate demands. The project would collect (via SuDS features), attenuate and discharge surface water to the local watercourse, Green Lough Stream. The surface water drainage design ensures a level of on-site attenuation and initial treatment prior to discharge.

The site's western boundary is formed by local watercourse, Green Lough Stream. The site is part of a drumlin which drains into the watercourse. Green Lough Stream is a tributary of Cavan River, and there are indirect hydrological connections to the European sites in Lough Oughter.

The stream is part of the Cavan_010 waterbody (EPA: IE_NW_36C020300), which has a Water Framework Directive (WFD) status of 'poor', an 'at risk' status of not achieving its WFD objective, and identified pressures from agriculture and urban runoff on the waterbody. The underlying groundwater body is Cavan (EPA: IE_NW_G_061), which has a WFD status of 'good', a 'not at risk' of not achieving its WFD objective, and no identified pressures on the waterbody.

Notwithstanding the shortcomings identified in the CEMP and the FRA, it is considered that the likelihood of significant effects (such that would result in the requirement for a Water Status Impact Assessment) from the development on water quality can be reasonably excluded.

I have assessed the project and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface water bodies and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

Having regard to the information on the case file, including the Inspectorate Environmental Scientist's technical note, I conclude that the project would not result in a risk of deterioration on any waterbody either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise a waterbody in reaching its WFD objectives. Consequently, the project cannot be screened out and excluded from further assessment.

Inspector: _____ **Date:** _____