



An
Bord
Pleanála

Inspector's Report

ABP-319750-24

Development	Permission for a large scale residential development consisting of a total of 145 no. residential units with a childcare facility, and all ancillary site development/ construction works.
Location	Drumlark Townland, Cavan, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	24/60067
Applicant(s)	Drumlark Investments Limited
Type of Application	Large-scale Residential Development
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party vs Decision
Appellant(s)	Ciaran Fitzpatrick and Others
Observer(s)	None
Date of Site Inspection	9 th August 2024
Inspector	Phillippa Joyce

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Opinion	7
4.0 Planning Authority Decision	7
5.0 Planning History.....	10
6.0 Policy Context.....	11
7.0 The Appeal	19
8.0 Planning Assessment	28
9.0 Appropriate Assessment.....	62
10.0 Environmental Impact Assessment.....	63
11.0 Recommendation	65
12.0 Recommended Draft Order	65
 Appendix 1 – AA: Stage 1 and Stage 2.....	 84
Appendix 2 – EIA Pre-Screening Form.....	91
Appendix 3 – EIA Screening Determination Form.....	92

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Drumlark in Cavan, approximately 3km north of the town centre. The site is greenfield in nature, comprised of full or parts of three agricultural fields. The topography of the site is notable, with ground levels rising steeply in westerly and northerly directions from the lowest levels along the eastern site boundary, defined by a local watercourse, Poles Stream (at times referred to as Poles River in the appeal documentation).
- 1.2. The site is further bound to the east by the public road L-1532, opposite which are suburban residential estates, The Willows, The Gallops, and Drumgola Woods which are also sited on a rising hill. To the northeast of the site are a grouping of detached vernacular dwellings accessed via a laneway from the L-1532. To the south and west are agricultural fields and woodlands.
- 1.3. The site is in-the-main rectangular in configuration and indicated as measuring 5.01ha. The site is part of a wider landholding under the control of the applicant (blue line boundary) which includes lands adjacent to the north and south. The site also includes sections of public road/ footpaths on the L-1532.
- 1.4. The historical context of the site is notable as there is an archaeological monument, Ringfort - Rath CV020-037, located adjacent to the northwestern corner of the site (at the highest ground level of the rising hill), and a trackway which traverses through the site, extending from the public road Keadue Lane, to the south of the site. The laneway, which allows for pedestrian/ agricultural access, is identified as dating from the 18th-19th centuries.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 145 dwelling units and a purpose-built childcare facility. The dwelling units include 91 houses (detached, semi-detached, terraces, with 2-4 bedrooms, 1-2 storeys in height), and 54 duplex apartments (Blocks A-G, with 1-2 bedrooms, 2-3 storeys in height).
- 2.2. Access to the proposal is via a new vehicular entrance and a new shared footpath/ cycleway from the public road L-1532. The development proposes the partial realignment of the eastern site boundary (including rerouting c.100m of Poles

Stream by 1-2m in a westerly direction), the provision of a footpath along the realigned road frontage, and the installation of two culverts and headwalls to facilitate crossing Poles Stream.

- 2.3. The proposal includes internal access roads, car parking spaces (in-curtilage, on-street, with electric vehicle charge points), cycle parking spaces (bicycle stores), bin storage facilities, footpaths, public lighting, and plant. Public and communal open spaces, hard and soft landscaping, boundary treatments, retaining walls and regrading of site levels are also included for. As are all infrastructural works associated with water supply and wastewater drainage (with connections to public systems), surface water drainage (SuDS features, attenuation storage, and discharge to Poles Stream), and electrical services.
- 2.4. The following tables present a summary of the principal characteristics, features, and floor areas of the proposed scheme. These are extrapolated from the application form, and relevant plans and particulars. Where there are discrepancies between documents, I have relied on the specific plan/ supporting report.

Table 1: Key Statistics

Site Area	c.5.01ha (gross area) c.4.44ha (net developable area)
Floor Areas (gross)	Residential: c.13,116sqm Childcare: c.322sqm
Residential component	145 residential units 91 houses, 54 duplex apartments
Net Density	c.33dph
Building Height	Houses: 1-2 storeys Duplex Apartments: 2-3 storeys
Aspect	Dual Aspect: 100% (applicable to duplex apartments)
Open Space	Public: c.7,956sqm (Areas 1-4) (c.18% of net site area) Communal: c.530sqm

	Private: gardens and balconies/ terraces of various sqm
Part V provision	Total: 15 units (c.10%)
Car Parking	Total: 254 spaces 248 spaces for residential use 6 spaces for childcare facility use
Cycle Parking	Total: 125 spaces 120 residential use 5 spaces for childcare facility use

2.5. The proposed residential mix is presented in the tables below as follows:

Table 2(a): Summary of Residential Unit Mix

Houses and Duplex Apartments			
Unit Type	Houses	Duplex Apartments	Overall Total
Total	91	54	145
% of Total	62.8%	37.2%	100%

Table 2(b): Overview of provision of Houses

Houses						
Unit Type	2 bed		3 bed		4 bed	Total
Total	25		55		11	91
% of Total	27.5%		60.4%		12.1%	100%
Unit Type B/ P	2 bed/ 3P	2 bed/ 4P	3 bed/ 4P	3 bed/ 5P	4 bed/ 6P	
Total	17	8	47	8	11	91
% of Total	18.7%	8.8%	51.6%	8.8%	12.1%	100%

Table 2(c): Overview of provision of Duplex Apartments

Duplex Apartments				
Unit Type	1 bed	2 bed		Total
Total	15	39		54
% of Total	27.8%	72.2%		100%
Unit Type B/ P	1 bed/ 2P	2 bed/ 3P	2 bed/ 4P	
Total	15	39	0	54
% of Total	27.8%	72.2%	0%	100%

Table 2(d): Overview of Unit Types (totals and %) and Bedspaces

Houses and Duplex Apartments								
Unit Type B/ P	1 bed/ 2P	2 bed/ 3P	2 bed/ 3P	2 bed/ 4P	3 bed/ 4P	3 bed/ 5P	4 bed/ 6P	Total
Houses			17	8	47	8	11	91
Duplex Apts	15	39						54
Unit Type Total	15	39	17	8	47	8	11	145
% of Overall Total	10.35%	26.90%	11.73%	5.51%	32.41%	5.51%	7.59%	100%
Total Bedspaces	30	117	51	32	188	40	66	524

- 2.6. The application includes a range of architectural, engineering, and landscaping drawings, and is accompanied by a range of reports and supporting documentation (full list in the applicant's Cover Letter, pgs. 2-3).

3.0 Planning Authority Opinion

- 3.1. A section 247 pre-application LRD meeting under section 32C of the Planning and Development Act 2000, as amended (2000 Act) took place on 23rd August 2023 between the applicant and the planning authority regarding the proposed development.
- 3.2. The planning authority issued its LRD Opinion on 20th September 2023. The Opinion indicates that the documentation submitted, under section 32B of the 2000 Act as part of the pre-application meeting, would constitute a reasonable basis for an application for permission for the proposed LRD.
- 3.3. The applicant was notified that, in addition to the requirements of section 32D of the 2000 Act, the following information should be addressed/ submitted with any application for permission (28 items under the following headings):
1. Planning Considerations – Layout and Design
 2. Roads Infrastructure/ Traffic Impacts
 3. Internal Roads Layout
 4. Drainage
 5. Active Travel
 6. Road Safety
 7. Environment
 8. Infilling of Lands
- 3.4. The application includes a Statement of Response from the applicant on the LRD Opinion which includes specific responses to the points of information requested by the planning authority. For the Board's information, the details of the planning authority's LRD Opinion, and section 247 pre planning consultations, are also referred to/ included in the planner's report (indicated as in Appendix 1).

4.0 Planning Authority Decision

4.1. Summary of Decision

4.1.1. The planning authority granted permission for the proposed development on 23rd April 2024, subject to 47 conditions. This appeal is a third party appeal against the planning authority's decision to grant permission.

4.1.2. The attached conditions are standard in nature (construction, operation, technical, procedural, and financial). Conditions of note or specific to the appeal include the following:

Condition 1(b): permission authorises 142 residential units.

Condition 4: requirement for a section 48(2) special development contribution of €70,000 'towards expenditure that ...is proposed to be incurred by the planning authority in respect of public infrastructure and active travel facilities benefiting the development (i.e. the proposed zebra crossing and offline bus stop on the L-1532 public road)'.

Condition 5(i) and (ii)

i) requirement for the omission of Houses 110, 122, and 123 and the released areas assimilated into the adjacent public open space.

ii) requirement for a revised house type for House 111 (detached, two storey) designed to provide passive surveillance of the open space areas.

Condition 6: requirements relating to visibility splays at the proposed entrance (as per DMURS for a design speed of 60kph) with any works required to facilitate visibility splays which affect the public road to be agreed with the planning authority.

Condition 7: prior to occupation approval required from the planning authority for the design/ development of the main access at the L-1532, including the boundary footpath along the L-1532, having regard to the planning authority's Active Travel proposals for the road.

Condition 22: requirement for adherence to the Inland Fisheries Ireland guidelines, including the 'Planning for Watercourses in the Urban Environments' and 'Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters'.

Condition 35: requirement for the mitigation measures in the Natura Impact Statement to be implemented.

Condition 36 – archaeologist to be retained to undertake archaeological monitoring of all topsoil stripping with direction in the event of material being found.

4.2. Planning Authority Reports

4.2.1. Planning Report

The planner's report includes an assessment of the proposed development in respect of the following considerations:

- Principle of Development
- Zoning and Site Boundaries
- Density
- Phasing
- Design, Layout and Residential Unit Mix
- Landscaping and Open Space
- Services
- Traffic and Transport
- Part V
- Ecological Assessment
- Flood Risk
- Environment and Waste Management
- Heritage
- Environmental Impact Assessment
- Appropriate Assessment

The planning authority found the proposal to be acceptable under all headings (except for open space to be provided which is considered to be insufficient and is addressed through the omission of three houses), concluding that the proposed

development complies with the local statutory context, and is of an appropriate scale and nature that would not adversely affect the residential amenities the area.

4.2.2. Other Technical Reports

Environment Section: no objection subject to condition.

Waste Management: no objection subject to condition.

Road Design: no objection subject to condition.

Municipal District Engineer: no report received.

Water Services: no report received.

4.3. Prescribed Bodies

4.3.1. Submissions received from prescribed bodies as follows:

Uisce Eireann: confirms water supply and wastewater connections are feasible without upgrade of local infrastructure. Further information recommended in respect of the applicant securing statements of design acceptance from UE.

DAU, Department of Housing, Local Government, and Heritage: comments on the archaeological assessment (notes geophysical survey undertaken). No objection subject to condition, including a requirement for test trenching under license.

4.4. Third Party Observations

4.4.1. The planning authority indicates that one objection was received from third party observers during the assessment of the application, and summarises the objection by identifying six areas of key concern.

4.4.2. I have reviewed the submission on file, and confirm the issues raised in the third party observation continue to form the basis of the appeal (opposition to the proposed entrance location, loss of views, concerns regarding capacity in services, increased flood risk, increased traffic volumes and congestion, and poor design of the proposal), which are outlined in detail in Section 7.0 below.

5.0 Planning History

Appeal Site

There is no relevant planning history at the site.

South of the Site (Cavan Town)

ABP 319306-24 (decision pending at the time of assessment)

Cavan County Council applied on 11th March 2024 to the Board for the development of Cavan Town Sports Campus in the townlands of Kilnavara, Lurganboy (Loughtee Upper By), Creighan and Rosscolgan in Cavan Town.

The application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS).

ABP 316387-23, PA Ref. 22/344

Permission granted to Lidl Ireland on the 16th April 2024 for the demolition of existing discount foodstore and construction of new discount foodstore supermarket at Ballinagh Road, Cavan Town.

The application is accompanied by a NIS.

6.0 Policy Context

6.1. National Planning Context

- 6.1.1. The national policy context guiding future growth in Cavan town is determined by the National Planning Framework (NPF), Housing for All, and several section 28 Ministerial Guidelines.
- 6.1.2. These require the compact growth of existing settlements through the delivery of new homes in the existing built-up footprints of the settlements, and for both greenfield and infill sites, the consolidation of future residential development through increased densities and building heights.

National Planning Framework, Project Ireland 2040 (NPF)

- 6.1.3. Several national policy objectives (NPOs) are applicable to the proposed development, a new residential scheme within a built-up area of a county town. For

the ease of reference, I direct the Board to the applicant's Planning Statement (pgs. 39-40) which cites several objectives.

- 6.1.4. I identify those objectives which support development in existing settlements such as Cavan town, NPO 3c, NPO 4, NPO 13, and NPO 35, as being applicable to the proposed development.

Housing for All

- 6.1.5. Identifies four pillars by which to achieve universal access to quality housing options. The proposed development contributes to the achievement of Pillar 1, increasing new housing supply.

Climate Action Plan 2024

- 6.1.6. Identifies measures and actions required to deliver the carbon budgets and reduce emissions across sectors of the economy so as to achieve the commitments made by government for 2030 and 2050.

Section 28 Ministerial Planning Guidelines

- 6.1.7. Several national planning guidelines are applicable to the proposed development (increased residential densities and building heights at certain types of locations, achievement of certain standards for apartment development). The relevant guidelines include the following (my abbreviation in brackets):
- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Compact Settlement Guidelines). Applicable policy includes:
 - Section 3.3: contains Table 3.5 which defines categories of urban areas within 'Key Towns'. 'Key Town – Suburban/ Urban Extension' describes suburban areas as comprising low density car orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for mixed-use (including residential) development. For such locations, the guidelines state that densities in the range of 30dph-50dph should be applied and that densities up to 80dph are to be open for consideration at 'accessible' Key Towns – Suburban/ Urban Extension locations.

- Section 3.4: outlines a two-step density refining process, based firstly on a determination of accessibility (as per definitions in Table 3.8) and secondly on site-specific criteria (impacts on character, historic environment, protected habitats and species, daylight/ sunlight of residential properties, and water services capacity).
- Section 3.4: contains Policy and Objective 3.1 which requires that the recommended density ranges set out in Section 3.3 are applied in the consideration of individual planning applications, and that these density ranges are refined further, where appropriate, using the criteria set out in Section 3.4.
- Section 4.4: contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
 - **SPPR 1 – Separation Distances** which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of apartment units above ground floor level.
 - **SPPR 2 – Minimum Private Open Space** (new standards for houses) private open space for apartments remains as per the Apartment Guidelines.
 - **Policy and Objective 5.1** which recommends a public open space provision of between 10%-15% of net site area, exceptions to this range are outlined.
 - **SPPR 3 – Car Parking** which restricts the maximum rate of car parking provision for residential development in ‘intermediate and peripheral’ locations to 2 no. spaces per dwelling (exclusive of visitor spaces).
 - **SPPR 4 – Cycle Parking and Storage** which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a mix of cycle parking types, and cycle storage

facilities in a dedicated facility of permanent construction (within or adjoining the residences).

- **Section 5.3.7 – Daylight** indicates that a detailed technical assessment is not required in all cases, regard should be had to standards in the BRE 209 2022, a balance is required between poor performance and wider planning gains, and compensatory design solutions are not required.
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023 (Apartment Guidelines). Applicable policy includes:
 - **SPPR 1** specifies that apartment schemes can contain up to 50% 1 bedroom apartments and no minimum % of 3 bedroom apartments unless otherwise indicated in a CDP HNDA.
 - Standards and requirements of **SPPR 3** (minimum floor areas, and by reference to Appendix 1, minimum storage, private open space areas for 1-3 bedroom units), **SPPR 4** (33% to be dual aspect units in accessible urban areas), **SPPR 5** (minimum 2.7m requirement for ground level floor to ceiling height), and **SPPR 6** (maximum of 12 apartments per floor level per core).
 - Section 3.7 refers to types of 2-bedroom apartments, indicating the preferred design is that of four-person occupancy, and restricts the proportion of 2 bedroom apartments of three-person occupancy to no more than 10% the total number of units in any private residential development.
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable to the proposed development includes:
 - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
 - SPPR 4 requires:

It is a specific planning policy requirement that in planning the future development of ... edge of town...locations for housing purposes, planning authorities must secure:

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 ...;

2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and

3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.

- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).

6.2. Regional Planning Context

Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032 (RSES)

- 6.2.1. The RSES provides a development framework for the northern and western region. The counties of Cavan/ Monaghan/ Leitrim form a sub-region within which Cavan town is the largest town.
- 6.2.2. The RSES designate Cavan town as a 'Key Town', the third-tier of urban settlement within the region. The regional policy context for which is to support targeted growth in population by at least 30% from the 2016 Census population figure (Cavan town had 10,900 persons) up to 2040.
- 6.2.3. Accordingly, certain regional policy objectives are applicable to the proposed development. These include:

RPO 3.1: Develop urban places of regional-scale through...[d]elivering significant compact growth in Key Towns.

RPO 3.2(c): ...Deliver at least 30% of all new homes that are targeted in settlements with a population of at least 1,500 (other than the Galway MASP and the Regional Growth Centres), within the existing built-up footprints.

6.3. Local Planning Context

- 6.3.1. The local policy context guiding future growth in Cavan town is determined by the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028.

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

- 6.3.2. Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028 (for ease of reference, I refer to same as CDP) contains policy in several chapters which establish the context for the proposal. The Cavan Town LAP is contained within Chapter 2 Settlement Strategy, Section 2.2 Key Town Cavan.

- 6.3.3. I identify other specifically relevant CDP policies and objectives include the following:

Chapter 1: Core Strategy

- In Table 11: Core Strategy indicates for Cavan Town: Population 2022 as 11,794 persons, and Population 2028 as 12,674 (an increase of 1,760 persons). During this period, the associated housing unit yield on residential zoned lands (47.15ha, this quantum includes an identified surplus of 14.55ha from that indicated in the RSES) is 943 houses (which reflects a density of 20dph).
- Section 2.15: Residential Density states that densities are to be determined as per the applicable planning guidelines, notes the 'difficult topography of County Cavan', and indicates 'approximate key residential outputs over the life time of the plan and site density will be determined on a case by case basis'.

Chapter 7 Infrastructure

- Table 7.3: Non-National & Other Strategic Road Improvement Projects lists Cavan Northern Strategic Link Road (R198-R212-N3) as a road improvement scheme.
- Objective RLR04: Support essential non-national road infrastructure including...improvement schemes and, where necessary, reserve the corridors of any such proposed routes free of development, which would interfere with the provision of such proposals...those listed in Table 7.3...

Chapter 11 Built and Cultural Heritage

- Objective AH1: Protect and safeguard the county's archaeological resource and ensure the sympathetic enhancement of archaeological heritage. Applications will be referred to the Department of Housing, Local Government and Heritage by the Planning Authority in its capacity of being charged with the implementation of the National Monuments Acts.

Chapter 13 Development Management

- Section 13.4.1 Residential Density for Cavan Town a density of development on Proposed Residential zoned lands is indicated as 18-22 dph with a caveat that density ranges are targets and should not be read as maxima
- Section 13.4.8 Public Open Space, includes Objective PCOS01: Ensure public open spaces in new residential developments comply with the standards in residential planning guidelines in force.' i.e. defers to the Compact Settlement Guidelines standards.

Chapter 14 Land Use

- For each zoning objective, permitted in principle and not permitted use classes are listed.
- In the Proposed Residential and Low Density Residential zoning objectives the 'residential', 'crèche', 'open space' use classes are permitted in principle.
- In the Strategic Residential Reserve zoning objective, the 'residential', 'crèche' use classes are not listed in either permitted in principle or not permitted. The CDP advises that such land uses will be considered on their merits having regard to the overall vision and objective of the zoning.

Map Based Designations

- Book of Maps, Map 1: Cavan Town and Environs, Cavan Town Local Area Plan 2022-2028 applies (note: I advise the Board that I have consulted this referenced map and also the online 'Land Use Interactive Zoning Maps' viewer for more precise mapping).
- Zoning Objectives:
 - 'Proposed Residential' which seeks to 'Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure'.
 - 'Strategic Residential Reserve' which seeks to 'Provide for and protect the future housing requirements of the town'.
 - 'Low Density Residential' which seeks to 'Facilitate serviced low density residential development in a structured and coordinated manner'.
- Map Based Specific Objective 28, to:
- 'Facilitate the appropriate access to proposed residential lands to the west of the site that does not compromise the future potential of the subject lands'.
- Flood Zone A and Flood Zone B apply to minor sections of Poles Stream, along the eastern boundary of the site.
- National monument, Ringfort – rath (CV020-037), and its buffer zone are located adjacent to the northwest of the site.

6.4. Natural Heritage Designations

- 6.4.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 6.4.2. The European site designations in proximity to the appeal site include (measured at closest proximity):
 - Lough Oughter and Associated Loughs SAC (site code: 000007) is c.1.24km to the northwest.
 - Lough Oughter SPA (site code: 004049) is c.2.07km to the west.

- Upper Lough Erne SAC (site code: UK 0016614) and
- Upper Lough Erne SPA (site code: UK 9020071) are c.11.87km to the northwest.

6.4.3. The pNHA designations in proximity to the appeal site include:

- Drumkeen House Woodland pNHA (site code: 000980) is c.68m to the west.
- Lough Oughter and Associated Loughs pNHA (site code: 000007) is c.1.17km to the northwest.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. One third party appeal has been made against the planning authority's decision to grant permission. The appeal is made by Ciaran Fitzpatrick, 11 The Willows, Latt and stated as being on behalf of residents of 1-16 The Willows, Latt. The Willows is located to the east of the appeal site. Several grounds of appeal are cited, the key points of which can be summarised as follows (headings as arise in the appeal):

Planning Statement

- Proposed development (a large scale residential development, LRD) is to be accessed via a Strategic Development Zone (SDZ) which is not permissible as applications for LRDs are restricted to residential zoned lands.
- References to obsolete policy in the National Climate Action Plan 2021, which has been superseded by that of 2024.

Environmental Impact Assessment Report

- A full EIA should have been undertaken due to location to European sites and potential impacts of the proposed development.
- A full AA (NIS) has been undertaken.

Inadequate Wastewater Treatment Capacity

- Refers to compliance records on the EPA's website which raise concerns in relation to treatment capacity of Cavan WWTP (reported incidents, ongoing issues, uncontrolled release, shock loads, open compliance investigation).
- Uisce Eireann's Capital Investment Plan 2024 does not include for upgrade works at Cavan WWTP.
- A Statement of Design Acceptance from Uisce Eireann cannot be assumed, and permission should be refused.

Stormwater Discharge Impact

- Stormwater is to be discharged to the Poles River, which is part of the sub catchment of the Cavan River, which is classified as 'poor' (EPA), with a Water Framework Directive (WFD) classification of 'at risk'.
- An objective of the WFD is the restoration of water bodies to reach good status. The development will have a negative impact on a WFD objective.
- There is no WFD Screening Assessment, and permission should not be granted.

Natura Impact Statement

- The Poles River provides direct connectivity to Lough Oughter SPA and SAC.
- The NIS does not address the inherent risk to these sites during the construction and operational stages due to stormwater discharges.

Cultural Heritage

- Red line boundary cynically devised to omit adjacent ringfort (CV020-037), which is significant in scale.
- Granting permission is contrary to CDP policies and objectives to protect and enhance archaeological monuments.
- Site contains the old Cavan to Clones Road, which could be used for walking and cycling linking with other green ways.

Sightline Requirements

- Critical of attached condition requiring any post-consent works necessary for visibility splays with the public road to be agreed with the planning authority.

Proposed Entrance

- Proposed location of the entrance will cause light pollution from vehicles to the existing opposite residences.
- Requests entrance be relocated in line with the existing entrance of The Gallops (better location for sightlines, road safety, and minimises impacts).
- Critical of Traffic and Transportation Assessment (surveys on one day, no independent review of suitable entrance locations).

View

- Appellant (residents of The Willows) have enjoyed views of farmland from the front of their properties for several years.
- Properties will be totally overlooked, privacy taken, and no protective boundary screening.
- Refutes planning authority's reason to grant permission, i.e. not adversely affect the residential amenities of the area.

Services

- Questions the capacity of services for the proposed development as water restrictions and overloading of the WWTP have occurred in the area in recent times.

Flooding

- Refers to flooding due to storm events at Drumgola Woods.
- States proposed development will increase the frequency of flooding as surface water has nowhere to go.

Traffic Impact

- Proposed development will have a huge impact on traffic.
- Local roads are already congested especially at morning and evening commuting hours.

- Access is onto the L-1532, a local road, not a national road (TII guidelines contains threshold values for the latter).

Nature and the Natural Environment

- Proposed site is a haven for wildlife, including foxes, badgers, birds, bats.
- Due to the topography, a lot of soil needs to be removed, proposed development should be relocated to a flatter part of the site.

Proposed Development

- Proposed development only the first phase of a larger development.
- Not clear what overall development will look like when finished.
- The proposal is poorly designed with little open space.
- Area is already overpopulated with few/ little play areas and open space.

7.2. Planning Authority Response

- 7.2.1. A response has been received from the planning authority in respect of the third party appeal. The response aligns to the appeal grounds (14 items identified) and the key points can be summarised as follows:

Planning Statement

- Access road routed on lands zoned as 'Residential Strategic Reserve', there is no SDZ in the county.
- Regard has been had to the requirements of Cavan Town LAP Map Based Specific Objective 28.
- Layout and position of the access road and the entrance were assessed, and found to not compromise the future potential of the subject lands/ lands zoned as Residential Strategic Reserve at this location.
- References to policy in the 2021 CAP does not negate policy in 2024 CAP, which the proposal complies with (e.g. on the built environment).
- Content of applicant's Building Lifecycle Report considered to accurately apply.

Environmental Impact Assessment Report

- Appeal grounds assessed in the relevant section of the planner's report.

Inadequate Wastewater Treatment Capacity

- Appeal grounds assessed in the relevant section of the planner's report.

Stormwater Discharge Impact

- Appeal grounds addressed in relevant conditions attached to grant of permission.

Natura Impact Statement

- Refers to/ quotes from the content of the applicant's NIS.
- All stormwaters will be disposed of via a new stormwater attenuation system.
- No direct hydrological 'source-pathway-receptor' linkage exists (via the Poles Stream, to Cavan River, to Lough Oughter SAC).
- Mitigation measures are included to ensure there are no downstream impacts of the proposal.

Cultural Heritage

- Observation received from the prescribed body, DAU in Department of Housing, Local Government, and Heritage (requires a 20m buffer zone, 30m being provided).
- Site layout plan incorporates part of the existing agricultural track (old road) as a new walkway linked to the site.

Sightline Requirements and Proposed Entrance

- Refers to the assessment and requirements in the internal report from Roads Design, that a Quality Audit was undertaken by consultants, and the application of standard conditions.

View

- The view from the appellants' properties is not identified as a scenic viewing point in the CDP, nor is the wider landscape identified as being of significant landscape value.

Services

- Appeal grounds assessed in the relevant section of the planner's report.

Flooding

- Appeal grounds assessed in the relevant section of the planner's report.

Traffic Impact

- Appeal grounds assessed in the relevant section of the planner's report.

Nature and the Natural Environment

- Refers to the content of Ecological Impact Assessment, the proposed mitigation measures, and finding of residual impacts with no significant effects.

Proposed Development

- Appeal grounds addressed in relevant condition (omission of houses and provision of open space) attached to grant of permission.

7.3. Applicant's Response

- 7.3.1. The applicant made a response to the third party appeal. From the outset, the applicant states the appeal is invalid and requests that the Board rejects the appeal.
- 7.3.2. The appeal response is accompanied by a legal opinion prepared by senior counsel which refers to copies of the 'Acknowledgement of Receipt of Submission on a Planning Application' and the receipt for the payment of the submission fee to the appellant from Cavan County Council.
- 7.3.3. The appeal response (prepared by the planning consultant) is supplemented by a Technical Report (engineering consultants) and a Water Framework Directive Assessment (environmental consultants).
- 7.3.4. The key issues raised in the applicant's response can be summarised as follows:

Validity of the Third Party Appeal

- Questions who the third party of the submission is/ stating to represent (only one named person, purports to represent other parties, no other names given, inconsistent use of pronouns/ nouns (singular/ plural), different references to addresses (The Willows/ The Gallops)).

- The LRD application was lodged on Wednesday 28th February 2024. The five-week period for public consultation ended on Tuesday 2nd April 2024.
- The appellant's Acknowledgement of Receipt of Submission is dated 2nd April 2024, however the receipt from Cavan Couty Council to the appellant for the submission fee payment is dated 3rd April 2024.
- States, with reference to several statutory provisions, as the submission was made without payment of the prescribed fee within the appropriate period (i.e. by 2nd April 2024), the submission and, by association, the third party appeal are invalid.
- Highlights that conflicting references in the submission remain in the third party appeal (e.g. inconsistent use of pronouns/ nouns (singular/ plural), different references to addresses (The Willows/ The Gallops)), such that the persons purporting to be represented in the appeal are not clearly named.

Planning Statement and Strategic Development Zone

- Incorrect statement, no SDZ in Cavan, proposal is plan-led, compliant with the zoning and map-based objectives in the CDP/ LAP.

Environmental Impact Assessment

- EIA screening report with Schedule 7A information has been provided, which determines there is no real likelihood of significant effects on the environment, and EIA not required. Planning authority's assessment confirmed same.

Inadequate Wastewater Treatment Capacity

- Uisce Eireann confirms there is capacity for the proposal and the design particulars are to their satisfaction (Confirmation of Feasibility, Statement of Design Acceptance provided). Appeal grounds are not justified as appellant has failed to note the Statement of Design Acceptance from UE.

Stormwater Discharge

- Appeal response includes a Water Framework Directive (WFD) Assessment. The assessment identifies four environmental objectives (based on Art.4.1 of the WFD Directive) against which to assess the proposed development (pg. 8).

- In summary these include: no change affecting a high status waterbody; no change causing a deterioration in Good Ecological Status (GES) or Good Ecological Potential (GEP) of a waterbody during construction/ operation; no change preventing the environmental objectives being achieved in another waterbody; and change causing a deterioration in status of a groundwater body).
- The proposal is demonstrated to be in compliance with the environmental objectives of the WFD. It is concluded that the proposal will not compromise progress towards achieving GES/ GEP or cause a deterioration of GES/ GEP of any water body in the scope of the project.
- Surface water drainage system is designed in accordance with the GDSDS and the Regional Code of Practice for Drainage Works, and has been reviewed and approved of by the planning authority.
- Design of SuDS elements ensures interception of surface water (5mm-10mm of rainfall) to prevent runoff to receiving watercourse and protect water quality.
- SuDS elements include swales, bioretention areas, permeable pavement, attenuation structures, and an isolator row and petrol interceptor to prevent pollutants leaving the site.
- Follows that the impact of the proposed development of the WFD classification of the Poles River will be undetectable.

European Sites

- Disputes appeal grounds as the hydrological connection between the site and European sites via the Poles River was identified in the AA screening report. Refers to same and NIS prepared due to the connection.

Cultural Heritage

- Redline boundary of site maintains the underlying Proposed Residential zoning objective, which excludes the ringfort and an associated buffer zone.
- Agricultural trackway has no CDP/ LAP designations or heritage protections, notwithstanding it has been incorporated into the scheme.

Sightline Requirements

- All sightline requirements can be achieved as subject lands for same are within the control of the applicant.

Proposed Entrance

- Initial siting and design of the proposed entrance based on complying with requirements of Map Based Objective 28.
- Subsequent siting and design was undertaken in discussions with the planning authority, based on technical standards for the traffic speed at the proposed location (including considerations of topography), and has been subject to a Road Safety Audit.
- Opposes the appellant's request to relocate the entrance in line with The Gallops' entrance as it would create a traffic hazard due to conflicting traffic movements within a signalised junction.
- Rejects criticisms of the Traffic and Transportation Assessment (TTA) as the appellant fails to note the scope of junction analysis undertaken (full operational assessment on 6 no. junctions, of queue lengths, delays at junctions, with mitigation measures).

View

- Proposal several hundreds of metres away from The Willows, no overlooking, cites the planning authority assessment whereby lands zoned, no protected landscape designations, no entitlement to a view.

Services

- Refers to positive assessments received from Uisce Eireann and the planning authority relating to water services (capacity, requirements) for the proposed development.

Flooding

- A SSFRA was undertaken for the proposal which found the site is not within a fluvial or a tidal flood zone, and is not at risk from pluvial flooding.

- To ensure the proposal does not increase surface water runoff, the surface water management system (on site attenuation, size of structures, restricted flows) has been designed for 1-in-100 year extreme storm events with 20% increase added for climate change.

Traffic Impact

- Refers to the analysis in the TTA and conclusions of the impact of the proposed development on the local road network (i.e. junction performance).
- Proposed access (safe), internal layout (DMURS compliant), and parking provision (complies with policy standards) are all acceptable.
- Refers to 'Local Authority Part VIII works' to provide 'for a bus layby in the near future' which the proposed development will tie-in with and will assist in alleviating traffic congestion concerns raised by the appellant.

Nature and Natural Environment

- Refers to the Ecological Impact Assessment (EcIA) which found there to be no impact on otter, badger, squirrel or bat species. A minor negative local impact due to loss of hedgerow habitat is identified which following mitigation measures, will be negligible in impact.
- Rejects appellant's appeal grounds of ecology and protected species being adversely affected by the proposal.

Proposed Development

- Rejects appellant's criticism regarding open space which has been designed in response to site conditions and exceeds minimum standards.
- Refers to the masterplan concept provided which indicates the potential development of the surrounding zoned lands, and how the proposal will relate to same.

7.4. Observations

7.4.1. No observations have been made on the appeal.

7.5. Further Responses

7.5.1. No further responses have been received on the appeal.

8.0 Planning Assessment

8.1. Introduction

8.1.1. Having examined the appeal and all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main issues in the appeal to be as follows:

- Validity
- Zoning
- Residential Density
- Design and Layout
- Residential Amenity
- Biodiversity
- Archaeology and Cultural Heritage
- Traffic and Access
- Water Services and Utilities

I propose to address each item in turn below.

8.1.2. In respect of the proposed development, I have carried out a stage 2 Appropriate Assessment (AA) and a screening determination for Environmental Impact Assessment (EIA) which are presented in sections 9.0 and 10.0 below.

8.2. Validity

8.2.1. At the outset, I consider it is necessary to address the applicant's contention that the third party submission (as made to the planning authority) is invalid (due to the date indicated for the submission fee payment), and by association, that the appellant's appeal is invalid, and that the Board should reject the appeal.

8.2.2. The applicant is questioning the public participation, processing and decision-making functions of the planning authority. The applicant does not appear to have raised the potential for the submission to be invalid at the time of the planning authority's assessment of the application. I accept that the relevant documentation (i.e. the dated receipts of the submission and fee payment) may not have been available to

the applicant. The potential invalidity due to the unclear/ inadequate naming of persons being purportedly represented in the submission would have been apparent.

- 8.2.3. I have reviewed the applicant's case and the copies of the 'Acknowledgement of Receipt of Submission on a Planning Application' and the receipt for the payment of the submission fee. In issuing the acknowledgement, the planning authority confirmed that the submission was received on 02/04/2024 and an appropriate fee was paid (with reference to a receipt that is dated 03/04/2024). The acknowledgement states that the submission is in accordance with the appropriate provisions of the Planning and Development Regulations, 2001, as amended (2001 Regulations).
- 8.2.4. While I acknowledge the applicant's case, I do not recommend to the Board that the appeal be invalidated. This is due to the potential (albeit of unknown likelihood in the absence of more definitive information from the appellant and planning authority) for there to be a reasonable explanation that the receipt for the submission fee payment was issued on the 3rd April 2024 (e.g. a problem with the payment method, printing of receipts, availability of appropriate staff, an accident or emergency etc).
- 8.2.5. I also acknowledge the applicant's case regarding the inconsistent use of pronouns/ nouns (singular/ plural) and different references to addresses (The Willows/ The Gallops)). However, from a review of the case file, I confirm to the Board that I am able to identify (at least) one named person with an address on the submission and the appeal, i.e. Ciaran Fitzpatrick of 11 The Willows. The appeal does include signatures from the majority of persons with given addresses purported to be represented in the submission. On balance, I consider the level of identifying detail of the third party appellant to be sufficient.
- 8.2.6. Should the Board disagree with this position, the Board may wish to request responses from the appellant and planning authority on the applicant's contention that the appeal is invalid due to the third party submission being invalid (as is allowed for in accordance with section 131 of the Planning and Development Act, 2000, as amended (2000 Act)).
- 8.2.7. As requested by the applicant, the Board may decide to invalidate the appeal in line with the applicant's recommendation, i.e. that the appeal fails to comply with the

provisions of section 37(1)(a) of the 2000 Act. The applicant also suggests that the Board hold an oral hearing to address any queries relating to the matter.

- 8.2.8. I do not recommend same to the Board as I consider the Board has jurisdiction to determine the appeal, and that there is sufficient information on the case file to allow an assessment of the proposed development.

Conclusion

- 8.2.9. In conclusion, on the basis that the planning authority determined that the submission was valid at the time of receipt, that the appellant's third party appeal to the Board (in and of itself) has been validly made, and in the interests of fairness and reasonableness, I consider the Board has the jurisdiction to determine the appeal.

8.3. Zoning

- 8.3.1. The appeal grounds include that the proposed development is partially located in a 'Strategic Development Zone' (SDZ), and that a large-scale residential development is not permissible therein (only on lands zoned as residential). In the responses to this appeal ground, both the applicant and planning authority highlight that there is no SDZ in the county.
- 8.3.2. I confirm to the Board that the appeal site is subject to three zoning objectives, Proposed Residential, Strategic Residential Reserve, and Low Density Residential. It would appear that the appellant has mistakenly referred to the Strategic Residential Reserve zoning as a Strategic Development Zone. I note the responses from the applicant and planning authority, and confirm that the site is not located within a SDZ, as per the meaning afforded to same in the 2000 Act.
- 8.3.3. Associated with the above appeal ground, is the contention that the proposal does not accord with the site's zoning objectives. I note that the parts of the site zoned as Strategic Residential Reserve and Low Density Residential are located adjacent to the public road L-1532 (eastern boundary), while the majority of the site, zoned as Proposed Residential, is set back further west from the L-1532. Accordingly, the proposal seeks facilitating infrastructure to access and service the residential units sited within the Proposed Residential zoned part of the site.
- 8.3.4. The main entrance and access road (Road 01, with water services connections laid thereunder), an attenuation tank, part of internal access road (Road 03), and a

shared pedestrian/ cycle path traverse the Strategic Residential Reserve zoning, while underground drainage services (surface water and foul) traverse the Low Density Residential zoning.

- 8.3.5. The proposed development comprises a residential use with associated childcare (crèche) and open space uses. As per Chapter 14 of the CDP, these land uses are permitted in principle within the Proposed Residential and Low Density Residential zoning objectives. Under Strategic Residential Reserve, the key land uses (residential, crèche) are not listed in either permitted in principle or not permitted. In these instances, the CDP advises that such land uses will be considered on their merits having regard to the overall vision and objective of the zoning.
- 8.3.6. The objective for the Strategic Residential Reserve zoning is to 'Provide for and protect the future housing requirements of the town' and the vision allows consideration to be given to development/ uses that would not prejudice the principal use of these lands for urban residential expansion in the future.
- 8.3.7. I consider the proposed main entrance, access road, internal road and water services to be ancillary to the primary residential use of the proposal. I consider this facilitating infrastructure complies with the stated Strategic Residential Reserve zoning objective and vision as the siting (e.g. water services under the proposed roads or shortest connection distances, surface water access to Poles Stream retained) and design (e.g. roads up to site boundaries allowing for future connections, pathway/ roads connecting with existing and future links) ensure that the future development of the Strategic Residential Reserve zoned lands are not prejudiced or compromised (i.e. that the lands would be rendered inaccessible and/ or unserviceable).

Conclusion

- 8.3.8. In conclusion, I do not consider the use classes within the proposed development to be contrary to the zoning objectives pertaining to the site and/ or adjacent lands, nor do I identify any issue arising from the siting and design of the proposed development that would prejudice or impede the future development of the site and/ or wider lands.

8.4. **Residential Density**

- 8.4.1. The appeal grounds include concerns regarding the adverse implications of the population increase associated with the proposed development for traffic growth and demands on services in the area. Related, I identify residential density as a relevant planning issue for consideration.

Compact Settlements Guidelines, 2024

- 8.4.2. Applying the methodology included in Appendix B of the guidelines, the applicant calculates that the net area of the site is 4.44ha (gross area of 5.1ha), yielding a net density of c.32.6dph for the scheme (145 residential units). In the application documentation, and reiterated in the appeal response, the applicant submits the proposed density complies with the guidelines and is appropriate for the receiving local area in terms of its design, character and layout.
- 8.4.3. The guidelines require a two-step refining process for residential density (Policy and Objective 3.1, see section 6.0 of this report). The provisions of the guidelines on these matters now supercede similar policies/ standards in other planning guidelines and the CDP.
- 8.4.4. Firstly, as Cavan town is designated as a Key Town in the RSES, the site is categorised according to its location (as per definitions in Table 3.5 of the guidelines) and its level of accessibility (as per definitions in Table 3.8) which determine an appropriate density range. Secondly, site-specific analysis is undertaken to further refine the residential density acceptable for the site.

Refining Residential Density: Steps 1 and 2

- 8.4.5. I have undertaken the two-step density refining process required by Policy and Objective 3.1. In the first part of Step 1, I identify the site (as per Table 3.5) as being located within the category of 'Key Town – Suburban/ Urban Extension'. I consider the site to most accurately align with the description of this category as '[s]uburban areas are the low density car-orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development'.
- 8.4.6. The site is located c.3km north of Cavan town centre, is greenfield in nature, adjacent to suburban residential development, and is zoned for residential

development. For such locations, the guidelines state that densities in the range of 30dph-50dph shall generally be applied, and that densities up to 80dph shall be open for consideration at 'accessible locations' (as per Table 3.8).

- 8.4.7. In the second part of Step 1, I have considered the accessibility of the site with regard to the range and frequency of existing and planned public transport options in the vicinity of the site. I have reviewed the information provided in the case file and available sources of information (TFI local link, planning authority, Bus Eireann, google maps) on existing and planned bus services. In terms of proximity to bus stops, the site displays accessibility features of an 'intermediate location' being within 500m walking distance of three bus stops along the L-1532 (one notably closer, c.100m distance), and within 1km distance of two bus stops on the R212. However, in terms of frequency of services, the site appears to be more of a 'peripheral location' as these bus stops serve one to three bus routes, which do not operate at the required frequency of service (i.e., every 10-15 minutes during peak hours).
- 8.4.8. While the application documentation refers to plans for a future bus stop to be provided by the planning authority located in proximity to the site on the L-1532, (e.g. the applicant's appeal response provides brief details in the context of traffic impact), there are no details on the bus route(s), the frequency of service planned, or when the bus stop would be constructed and operational. For assessment purposes therefore, I consider a residential density towards the lower end of the density range for new developments in 'Key Town – Suburban/ Urban Extension' areas (i.e. c. 30dph-35dph) to be reasonable and appropriate.
- 8.4.9. In Step 2 of the refining process, I have analysed the impact of the proposed development on the five site-specific criteria. These include the character of the area, historic environment, protected habitats and species, daylight/ sunlight of residential properties, and water service capacity. The analysis for each criterion is outlined in the relevant subsections of this report (8.5 Design and Layout, 8.8 Archaeology and Cultural Heritage, 8.7 Biodiversity, 8.6 Residential Amenity, and 8.10 Water Services and Utilities, respectively).
- 8.4.10. In short, I find that two of site-specific criteria are sensitive components of the receiving environment and cause the site to be vulnerable to a denser form development. These are the character of the area (steep topography, semi-rural/

outer suburban location, dominant pattern of development, existing low rise low density residential development), and the historic environment (zone of archaeological potential associated with the recorded monument Ringfort CV020-037, geophysical survey identifies anomalies for which test-trenching is recommended, old trackway (a possible turnpike) traverses the site, eastern site boundary (Poles Stream) is the townlands boundary between Drumlark and Latt).

- 8.4.11. As such, in completing the two-step density refining process, I consider a residential density of c.33dph, as is proposed, to be appropriate for the appeal site. Whilst being at the lower end of the applicable density range, this density aligns with the direction in the guidelines (peripheral edge of town location, limited accessibility in terms of public transport), is consistent with the flexibility allowed for in density policy in the CDP (CDP Sections 2.15 and 13.4.1 confirm the Core Strategy allocations are targets and residential density is to be determined subject to the applicable planning guidelines, site conditions, and on a case by case basis), reflects the nature of the site (residential zoning, semi-rural/ outer suburban character, steep topography, archaeological monument, trackway) and can be absorbed at the site without causing a negative impact (no protected habitats or species at the site, existing residential amenity and visual amenity not injured, capacity in water services to manage the increased demand).

Population Increase

- 8.4.12. In considering the impact of the proposal on the receiving area, I note that in the 2022 Census, the population of Cavan town is 11,741 persons (Census website reviewed at the time of assessment). For the proposal, I estimate there to be a population increase of between c.396-524 persons (c.3.4%-4.5% increase in the town's population). This range is based on the 2022 Census average household size for Cavan town (c.2.73 persons) and the total number of bedspaces in the scheme (524 if all occupied, see Table 2(d) of this report above). Should the Board agree with my assessment in respect of amendments to the residential unit mix discussed in subsection 8.6 Residential Amenity below, the bedspace figure will decrease to 499 persons (see Table 3 below).
- 8.4.13. Having regard to the unit mix, proposed amendments (outlined in Table 3), and the proportion of 1 and 2-bedroom units in the overall scheme (c.54.5%), I consider a

population increase nearer the town's household average to be more likely (i.e., c.396 persons, c.3.4% increase).

- 8.4.14. While the appellant opposes the increase of people to the area and associated increase in traffic generation and demand on services, I consider this proportion to be well within acceptable parameters for Cavan town which comprises several services and facilities, and to be in line with national and local policy for planned and targeted growth for the town.

Conclusion

- 8.4.15. In conclusion, I am satisfied that the proposal represents a suitable form of new residential development at an appropriate density on zoned and serviced lands. The proposal will contribute to an increased provision of new homes and a greater mix and variety of residential typologies available in Cavan town, thereby complying with a range of applicable policy objectives at the national, regional, and local levels. Further, I have reviewed and had regard to several reports on the case file, including the Schools, Childcare and Social Infrastructure Assessment, Traffic and Transport Assessment (TTA), and the Engineering Services Report (ESR), and am satisfied that there are and will be sufficient services and facilities in the area to cater for the proposed development.

8.5. Design and Layout

- 8.5.1. The design and layout of the proposed development are key considerations in assessing whether the proposal is acceptable in terms of protecting the character of the receiving area, extent of compliance with several planning guidelines, and achievement of high levels of amenity for future residents.
- 8.5.2. The appeal grounds include loss of views, uncertainty regarding the nature of the future development of adjacent lands, no consideration of recent climate change policy, and criticism of the proposed open spaces in the scheme. I propose to consider same in the context of the overall design and layout of the proposed development.

Receiving Area

- 8.5.3. With regard to the character of the receiving area, I find this to be semi-rural/ outer suburban. The area includes detached dwellings fronting onto the public roads and

low rise, low density suburban housing estates opposite the site on a rising hill (including The Willows and The Gallops). The site itself is notable for its topography, as ground levels rise steeply from the L-1532 in a westerly direction towards the ringfort at the top of the hill.

- 8.5.4. As such, I consider the character of the receiving area to be sensitive to change, and positively note the design approach taken for the proposed development. The scheme comprises conventional residential buildings (duplex blocks, own-door housing) with modest heights (1-3 storeys), and of similarly modest scale and massing (in small terrace rows, semi-detached pairs, detached dwellings). The architectural design, elevational treatment, and external finishes of the buildings are consistent with those of the receiving area. I consider the design and layout of the proposal will complement the existing area and contribute to the creation of the character of the area.
- 8.5.5. The appellant opposes the proposal due to the loss of views over farmland stated as having been enjoyed for several years. I have reviewed the CDP and relevant Appendices 14, 16, and 18, and confirm that the appeal site is not within a protected landscape nor is the westwards view across the site from the appellants' stated address (The Willows) a designated scenic view. As such, I concur with the planning authority and find the development of the site is not prohibited due to the resultant change in its appearance/ the landscape, i.e. the loss of a view. The development of the site would not be acceptable if the character of the area and the quality of the landscape were being adversely affected. As I have outlined above, I do not find this to be the case. Indeed, I highlight to the Board that the development of the site (streets of residential dwellings on a rising hill) is wholly consistent with the pattern of development to the east of the site, i.e. The Willows, The Gallops, Drumgola Woods, and Sean Bhothar estates are laid out on a rising hill.
- 8.5.6. For the reasons outlined above, I consider the design and layout of the proposal, in terms of the building height, scale, and massing, to be acceptable, to not cause injury to the visual amenities of the area, nor negatively impact on the quality of the landscape.

Quality Proposal

- 8.5.7. With regard to the design quality of the proposed development, in brief, as this is not an appeal ground per se), I confirm to the Board that I have reviewed the applicant's Design Statement, and all plans, elevations, cross section drawings. I find the proposed development to be of an acceptable design, which creates character areas through the use of distinct architectural features and external finishes, with the height, scale and massing of the buildings being consistent and complimentary to each other, and the proposed boundary treatments (public interfaces, between individual properties, framing open spaces) are well considered. I find the proposed buildings (including the childcare facility) to be arranged logically and functionally, with dwellings predominantly laid out back-to-back and fronting onto open spaces and paths, and the duplex blocks along site boundaries on the lower lands in the southwest of the site.
- 8.5.8. I am satisfied that the layout of the scheme has adequately considered the issue of permeability with pedestrians and cyclists well catered for. New paths are proposed to the public road (increasing accessibility to future infrastructure), the existing agricultural trackway is connected into the pedestrian layout of the scheme, and linkages are indicated to the planning authority's future greenway along lands to the west of the site. Overall, I find the proposed development to be in broad compliance with the design and layout requirements of several planning guidelines (Compact Settlement, Apartment, Building Height, DMURS).
- 8.5.9. The appeal grounds include the uncertainty regarding the future development of lands in the wider area. While I acknowledge the concerns, I have reviewed the applicant's Design Statement and identify the Masterplan concept provided (pg.23). I consider this sufficiently indicates the potential future development of the applicant's wider landholding and the manner by which the proposed development would align and connect with same. The Masterplan indicates a similar approach to design and layout as is evident in the proposed development (conventional housing on short roads from a curving spine adapting to local conditions). I consider that the extent of information provided by the applicant is reasonable. In any event, the planning authority has zoned the lands for residential development in the CDP, and the development of same will be subject to future applications, public consultation, and assessment.

- 8.5.10. The appeal grounds also state that there has been no consideration of recent climate change policy in the scheme. I have reviewed the application documentation and am satisfied that climate change has been considered in the design of the scheme and factored into specific components, e.g. in the energy and carbon emissions of the buildings (outlined in the applicant's Building Life Cycle Report), in optimum access to sunlight/ daylight due to the orientation of the buildings (majority of private amenity spaces are on an east-west orientation) (Sunlight, Daylight, and Shadow Assessment), and attenuation storage in the surface water management system (Engineering Services Report).
- 8.5.11. Further, I have reviewed the Climate Action Plan 2024 and concur with the planning authority's position in the appeal response that references to policy in the 2021 CAP does not negate policy in 2024 CAP, which the proposal complies with (e.g. on the built environment).

Open Space: Quantitative and Qualatative Standards

- 8.5.12. The appeal grounds include criticism of the design (poor) and amount of open space (limited) in the proposed development. I have reviewed the applicant's Design Statement, Landscape Management and Maintenance Plan, the corresponding landscaping plan (which incorporates tree survey results (trees to be retained are identified, particularly along the western boundary)), and the site layout plan.
- 8.5.13. The proposal includes for both public and communal open space. There are four areas of public open space, referred to as Areas 1-4 totalling c.7,956sqm (pg. 25, Design Statement) and one area of communal open space adjacent to Area 4, totalling 530sqm (pg. 25, Design Statement, and Landscape Plan, Site Layout Plan).
- 8.5.14. With regard to the quantitative standard of the open space provision, I first consider the public open space and then the communal open space.
- 8.5.15. For the public open space, I note that the net developable area of the site is indicated as c.4.4ha (44,370sqm), and the public open space as c.0.7ha (7,956sqm). I calculate the public open space provision constitutes c.18% of the net site area. The policy context for public open provision is set by planning guidelines and the CDP (see section 6.0 of this report above).

- 8.5.16. Objective PCOS01 of the CDP requires public open spaces in new residential developments to comply with the requirements of the applicable planning guidelines. I identify this in turn as being Policy and Objective 5.1 of the Compact Settlement Guidelines. This guides that development plans should establish a public open space provision of between 10-15% (minimum-maximum limits) of a net site area. Flexibility to exceed the maximum 15% is allowed in exceptional circumstances, including for sites that contain heritage, landscape or recreational features whereby a higher proportion of public open space may need to be retained. Due to the topography of the site, presence of archaeology and cultural heritage features (ringfort and trackway), and Poles Stream, I find the proposed provision of c.18% of net developable area as public open space to be acceptable in this instance.
- 8.5.17. For the communal open space (applicable to the duplex apartments, see Tables 2(c) and 2(d) above of this report), the Apartment Guidelines require a provision of 5sqm for 1 bed apartments and 6sqm for 2 bed/ 3P apartments (Appendix 1). I calculate that the proposal (comprising 15 1 bed and 39 2 bed/ 3P apartments) generates a communal open space requirement of 309sqm (75sqm+234sqm). Should the Board agree with my recommendation to revise the apartment unit mix (see Table 3 in subsection 8.6 Residential Amenity below), the proposal as revised (comprising 40 1 bed and 14 2 bed/ 3P apartments) generates a communal open space requirement of 284sqm (200sqm+84sqm). In either scenario, the proposed communal space of 530sqm is notably in excess of the minimum quantitative requirements required by the Apartment Guidelines.
- 8.5.18. With regard to the qualitative standard of the open space provision, I find the areas of both public and communal open space to be largely accessible, functional, appropriately landscaped (soft and hard), serving clear passive or active amenity uses, offering variety in recreational options to users, overlooked, and safe.
- 8.5.19. Areas 1 and 3 include pocket parks (limited play equipment with seating) and allow for pedestrian linkages through the scheme and connections with the public road/ footpath, and future greenway respectively. Area 2 is the largest area of public open space, centrally located in the scheme, adjacent to the childcare facility, and performing active (play area, levelled green/ grass), and passive (seating) functions. Area 4 and the adjacent communal open space are modestly landscaped and likely

to offer passive recreation, which I consider appropriate due to the proximity of the spaces to the adjacent houses to the north. While ideally communal open space(s) to serve the duplex apartments would be aligned adjacent to the apartments' private open spaces, I accept that the proposed location is more widely accessible to residents of the seven blocks dispersed along the southern/ southwestern site boundaries. Overall, I do not concur with the appellant and instead find the open space to serve the proposal is satisfactory in terms of both quantitative and qualitative standards.

8.5.20. Linked to an assessment of the open space provision in the proposal, are Conditions 1(b) and 5 attached by the planning authority in its grant of permission. In effect, the conditions omit three dwelling units from the proposal, Houses 110, 122, and 123 and direct that the released area is assimilated into the adjacent 'public open space'. House 110 is adjacent to the area of communal open space and Houses 122 and 123 are adjacent to Area 4 of public open space.

8.5.21. I have reviewed the planning authority's report which states that the applicant has not '*adequately demonstrated the provision of qualitative and quantitative Public Open Spaces in accordance with the development management standards. It is considered that the scheme should be amended to provide for additional useable Public Open Space...*'. For the reasons outlined above, I find that the open space, both public and communal, satisfies the quantitative standards in the applicable national and local policy, and is of a qualitative standard to offer a good level of amenity to future residents. I do not consider the omission of the houses to be necessary or sufficiently justified. As such, I do not recommend the attachment of similar conditions to the Board in the event of a grant of permission. Condition 5(ii) of the planning authority's decision requires the design of adjacent House 111 to provide for passive surveillance. I have considered the design, layout, and boundary treatments of Area 4 and the communal open space. As the areas are either open on three sides (low railings), address several residential units, and front onto the public paths, I consider they are afforded good levels of passive surveillance.

Conclusion

8.5.22. In conclusion, I am satisfied that the design and layout of the proposal will result in the delivery of a quality residential scheme. The proposal is acceptable in terms of

building height, scale, and massing, is in compliance with applicable national and local policy requirements, with sufficient quantitative and qualitative open space, ensuring an acceptable level of amenity for future residents. I am satisfied that the proposed development is an appropriate design solution for this site and will not have negative impacts on the character or visual amenities of the receiving area.

8.6. Residential Amenity

- 8.6.1. The appeal grounds include the adverse impact on the residential amenity of the appellant, existing properties adjacent to the east of the site in The Willows. Further, I identify the impact on existing properties to the north/ northeast of the site, and levels of amenity afforded to future residents of the scheme as relevant planning considerations.

Existing Residential Amenity

- 8.6.2. Impacts on existing residential amenity include those relating to overlooking, overshadowing, overbearance, and disruption associated with construction phase activities and operation phase noise and traffic generation.
- 8.6.3. In considering existing residential amenity, I highlight the fundamental context of the receiving area. The site is comprised of full or parts of three agricultural fields within the applicant's wider landholding. At a corner point of the north/ northeastern site boundary, the site is adjacent to the rear garden of a cottage (end dwelling in a grouping of dwellings accessed via a laneway from the L-1532). The site does not directly oppose this property but is rather at an oblique angle. The site does not directly oppose/ is not adjacent to the rear of any existing residential properties. Other residential properties in the vicinity of the site are those in The Willows and The Gallops estates on the opposite (eastern) side of the public road L-1532.
- 8.6.4. The parts of the site which are most proximate to the existing properties correspond with the two agricultural fields that are adjacent to the public road, L-1532. These fields are zoned as Strategic Residential Reserve and Low Density Residential respectively, and importantly, there are no dwellings proposed thereon in the appeal case.
- 8.6.5. The proposed dwellings are sited in the agricultural field that is furthest away from the public road and the properties in The Willows and The Gallops. The proposed

dwellings on Road 03 (north/ northeast of Site Layout Plan) are in closest proximity to the existing cottage and properties in The Willows. I calculate the separation distances to the former is c.80m while to the latter is c.160m, both of which I consider to be notable. Further, I highlight that there is extensive vegetation/ screening around the boundaries of the cottage, and The Willows properties are sited on a rising hill, at a raised level from the public road with a separating area of open space.

- 8.6.6. In respect of potential overlooking, overshadowing and overbearance, for the contextual reasons outlined above, I do not consider there to be any adverse impact arising from the proposed development of the properties in the vicinity of the site. While I acknowledge the concerns raised by the appellant, at these separation distances and orientations, the proposed development will not realistically result in any undue impacts on the properties. By way of comparison, the separation distances are well in excess of the 16m separation distance recommended to be achieved by SPPR 1 of the Compact Settlement Guidelines between sides/ rears of residences to prevent overlooking. The existing properties are all well outside of the zone of influence for assessing potential overshadowing (the Sunlight, Daylight and Shadow Assessment (SDSA) report assesses a sample of the proposed duplex blocks). In the previous subsection, I have considered the issue of visual overbearance (impact on character of the area, loss of view, visual amenity) in the context of the design and layout of the proposal which I found to be acceptable.
- 8.6.7. In respect of construction and operation phase impacts, I consider that these are within acceptable parameters for a mid-scale, low-density development such as the proposal, at a location in a semi-rural/ outer suburban location such as the appeal site. The likely anticipated impacts will be primarily mitigated by measures included in the outline Construction and Environmental Management Plan (CEMP), which can be addressed by condition. A Phasing Plan accompanies the proposal, indicating five phases which progress from north to south and east to west across the site. Positively, I note that Phase 1 includes the main entrance, access road, shared pathway connecting with the L-1532, and the largest area of open space, Area 2. Final Phase 5 includes the duplex apartments in 7 blocks, along the southern and western site boundaries.

Future Residential Amenity

- 8.6.8. Key considerations in determining the level of amenity for future residents of the scheme include open space provision and function (which I have considered in the context of the design and layout in the previous subsection), and of particular relevance to the residents of the duplex apartments, the apartment unit mix, accommodation design and standards. The proposed development is subject to the requirements of national policy in the Compact Settlements Guidelines and the Apartment Guidelines, both of which include mandatory SPPRs.
- 8.6.9. With regard to amenity levels of future residents of the scheme, I confirm to the Board that I have reviewed the range of plans and relevant particulars, including the Design Statement, Housing Quality Assessment (HQA), SDSA (I note the sample of duplex apartments (Blocks C, D, and E) assessed all achieved the applicable standards in the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BR209 – 2022)), Landscape Management and Maintenance Plan, Schools, Childcare and Social Infrastructure Assessment, TTA, and ESR.
- 8.6.10. For the most part (except for the proposed duplex apartment mix, which I discuss in detail below), I find that the proposed development materially complies with standards for residential development included in the national planning guidelines and local policy context (cited in section 6.0 of this report above). I am also satisfied that the applicant has demonstrated in the above reports that the proposed development will provide future residents with acceptable levels of amenity, in a well-designed, serviced, and managed development.
- 8.6.11. Finally, I consider the childcare facility (design, location, capacity for 37 children) to be a positive component of the proposal, and its provision will serve both future residents and the wider community. Final agreement on its finishes, signage and operation can be addressed by condition. In the interests of amenity for future residents, I also recommend the construction and operation of the childcare facility be incorporated into the Phasing Plan. From which I calculate that Phases 1-3 have a cumulative total of 80 residential units. I consider that commencement of Phase 4 should be restricted until the childcare facility is constructed and operational (this is in line with the Childcare Guidelines recommendation for a childcare facility to be provided for schemes of 75 dwellings). Similarly, I recommend that the occupation

of residential units within each phase should be restricted until the public and/ or communal open spaces to serve that phase has/ have been developed and made available for use.

Residential Unit Mix

- 8.6.12. The proposal includes 54 duplex apartments (15 1 bedroom and 39 2 bedroom units), arranged in seven blocks (Blocks A-G), sited along the southern and southwestern boundaries of the site.
- 8.6.13. Blocks A, B, and C are the same in design being two storeys in height, with single storey 2 bedroom apartments at ground and first floor levels, with each Block containing 8 apartments. Blocks D, E, and G are the same in design (Block F is similar) being 3 storey in height, with single storey 1 bedroom apartments at ground floor level and 2 bedroom apartments at first and second floor levels. Blocks D, E, and G contain 8 apartments, while Block F contains 6 apartments.
- 8.6.14. Following review of the duplex apartment floor plans and corresponding HQA, I highlight to the Board that all the 2 bedroom apartments in the proposed development are designed for occupancy by three persons (2 bed/ 3P). I consider such an arrangement to be contrary to the requirements of the Apartment Guidelines (see section 6.0 of this report). In particular, I have not identified any 2 bedroom apartments of the preferred design specified in SPPR 3 and Appendix 1 of the Apartment Guidelines, i.e. a 2 bed/ 4P configuration.
- 8.6.15. For the Board's ease of reference, I cite Section 3.7 of the Apartment Guidelines which refers to 2 bed/ 3P apartments and states as follows:

'While providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two bedroom four person apartment. Therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three person apartment. This is to allow for potential social housing provision further to Part V of the Planning and Development Act 2000 (as amended), or, if this type of unit is not required to meet social and affordable housing requirements, that it would allow for an acceptable level of variation in housing type'.

- 8.6.16. I direct the Board to Table 2(d) in section 2.0 of this report above, where I identify the number and proportion of 2 bed/ 3P apartments proposed as being 39 apartments, which is c.27% of the total number of units in the scheme (145 residential units). As outlined above, the guidelines state that 2 bed/ 3P apartments can comprise no more than 10% of the total number of units in a private residential development. For the proposal, this equates to 14.5 apartments, and as the proportion can be no more than 10%, I consider that the proposal can only include 14 2 bed/ 3P apartments (I highlight there are also 17 2 bed/ 3P houses in the scheme).
- 8.6.17. The proposed unit mix and excessive proportion of 2 bed/ 3P apartments in the scheme do not appear to have been raised by the planning authority during preplanning consultations or assessment stage, nor is an explanation provided in the documentation by the applicant. I have reviewed the applicant's Statement of Housing Mix, however I cannot identify a reference to Section 3.7 of the Apartment Guidelines. While the Statement of Housing Mix (Table 9, pg. 14) refers to two bedroom units being for 3 or 4 persons, as I stated previously, from a review of the duplex apartment floor plans and the HQA, I can only identify 2 bed/ 3P units.
- 8.6.18. I confirm to the Board that I have given consideration as to whether any of the 2 bed/ 3P apartments could be revised to 2 bed/ 4P apartments. However, on examination of the HQA, I note that all the target/ required floor areas, aggregate areas, storage, private open space etc are for the 2 bed/ 3P apartments design. While I acknowledge that some apartments display metrics that align with the 2 bed/ 4P apartment design (e.g. total floor area or aggregate L/K/D area), these do not achieve other requirements, in particular, the minimum 2 bedroom floor area (11.4sqm) and the aggregate 2 bedroom floor area (24.4sqm). As such, I consider these matters are too material to change by way of condition due to the likely requirement for amendments to internal layouts and the potential for alterations to be necessary to the external designs of the duplex blocks (e.g. access arrangements, door and window openings) that are beyond the scope of this appeal.
- 8.6.19. Conversely, I recommend to the Board that 14 2 bed/ 3P apartments be retained as such, and the remaining 25 2 bed/ 3P apartments be revised to be 1 bed/ 2P in design. I recommend this revision be achieved by condition through repurposing the single bedroom of each of the 2 bed/ 3P apartments to an ancillary room in the

apartment (e.g. storage, office, playroom). As such, the external design of the blocks can remain as proposed and assessed.

8.6.20. I direct the Board to Table 3 below, in which I outline the recommended changes to the residential unit mix so as to secure compliance with the Apartment Guidelines for their stated purpose of ensuring an acceptable level of variation in housing type.

Table 3: Changes to Unit Types (totals and %) and Bedspaces

Houses and Duplex Apartments								
Unit Type B/ P	1 bed/ 2P	2 bed/ 3P	2 bed/ 3P	2 bed/ 4P	3 bed/ 4P	3 bed/ 5P	4 bed/ 6P	Total
Houses			17	8	47	8	11	91
Duplex Apts	40	14						54
Unit Type Total	40	14	17	8	47	8	11	145
% of Overall Total	27.59%	9.66%	11.73%	5.51%	32.41%	5.51%	7.59%	100%
Total Bedspaces	80	42	51	32	188	40	66	499

Conclusion

8.6.21. In conclusion, I have considered the residential amenity for existing and future residents. For existing residents, I consider that the proposed development will not injure the residential amenity of adjacent properties or amenities in the wider area. I find that future residents will be provided with residential accommodation of an acceptable standard (subject to conditions) and enjoy a high level of residential amenity.

8.7. Biodiversity

- 8.7.1. In relation to biodiversity, the appeal grounds include criticisms of the application documentation, such as the requirement for an Environmental Impact Assessment Report (EIAR), the accuracy of comments and adequacy of addressing risk to European sites in the Natura Impact Statement (NIS), and the absence of a Water Framework Directive Assessment (WFDA). Also, the grounds include opposition to the loss of wildlife, and to the extent of ground works required due to the topography of the site.

Application and Appeal Documentation

- 8.7.2. Of the requirement for an EIAR to have been prepared for the proposed development, I confirm to the Board that I have undertaken an EIA pre-screening and an EIA screening determination (included in Appendices 2 and 3 of this report). For the reasons outlined in section 10.0 below, I have concluded that the project (proposed development) would not be likely to have significant effects on the environment and that the preparation and submission of an EIAR is not therefore required.
- 8.7.3. Of the accuracy of comments in the NIS, I acknowledge there may be potentially conflicting statements made in respect of the connectivity between Poles Stream, Cavan River, and Lough Oughter and Associated Loughs SAC (Section 4.3.2) which may have given rise to the submission by the appellant that the NIS has not adequately addressed the risk to the SAC during the construction and operational stages of the proposal due to stormwater discharges. I confirm to the Board that I have undertaken an Appropriate Assessment (AA) Stage 1 and Stage 2 (included in Appendix 1 of this report). For the reasons outlined in section 9.0 below, I have concluded that the project (proposed development), individually or in-combination with other plans or projects would not adversely affect the integrity of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA in view of the sites' conservation objectives and qualifying interests.
- 8.7.4. Of the absence of a WFDA, I note that the applicant has submitted a WFDA as part of the appeal response. I discuss the contents of same as part of the 'Watercourses' subsection below.

Site: Habitats and Species

- 8.7.5. I have reviewed the applicant's Ecological Impact Assessment (EclA). The EclA confirms that the site is not under any wildlife or conservation designation (fig 1). The site comprises habitats of agricultural grassland, drainage ditch, hedgerows, and treelines. No evidence of badger, otter, red squirrel, or bat populations were recorded during field survey work. No rare or protected species (mammal or flora) were recorded, and the habitats and flora onsite are determined to be of a low local importance. No high impact invasive plant species were recorded. There is no hydrological or hydrogeological connection with pNHA site, Drumkeen House Woodland.
- 8.7.6. In short, the site is determined to have no key ecological receptors and no evidence of habitats or species with links to European sites. With regard to the impact of the proposed development on biodiversity within the site, the removal of hedgerow habitat is identified as having a minor negative impact, which following mitigation will be negligible in effect.
- 8.7.7. While I acknowledge the appellant's concerns regarding the loss of wildlife and alteration of the site, I am satisfied that the applicant has demonstrated that the site is not subject to any ecological designations, and that no protected species or habitats are present. Fundamentally, as the planning authority has zoned the lands for development in the CDP, changes to the site in terms of its greenfield nature, agricultural use, and topography can be reasonably anticipated so as to accommodate buildings and ancillary infrastructure.

Watercourses

- 8.7.8. Poles Stream (described as a 1st order watercourse, less than c.1.5m in width) flows along the eastern site boundary and is identified in the EclA (plate 1, pg. 4). The stream is identified as the closest watercourse to the proposed development, as rising in Drumgola Lough and flowing in a southerly direction discharging to Cavan River. I calculate Drumgola Lough as being c.320m upstream of the site, and Cavan River as being c.1.2km downstream of the site.
- 8.7.9. Cavan River discharges to Lough Oughter and associated loughs at varying points. I calculate that the closest point at which Cavan River discharges to Lough Oughter and Associated Loughs SAC (specifically Coalpit Lough) is c.2.6km downstream of the intersection point between Poles Stream and Cavan River (i.e., the site is

c.3.8km upstream of the SAC). The closest point at which Cavan River discharges to Lough Oughter SPA (specifically Derrigid Lough) is c.4.6km downstream of the intersection point between Poles Stream and Cavan River (i.e., the site is c.5.8km upstream of the SAC).

- 8.7.10. As Cavan River discharges to Lough Oughter and associated loughs, I identify that there is an indirect hydrological connection between the site and the European sites, Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.
- 8.7.11. Water quality testing of the stream was undertaken for the EclA, with an 'at risk' result recorded (i.e., of failing to achieve the 'Good' water quality status goals of the Water Framework Directive). The overall species diversity and abundance is recorded as very low, with limited aquatic vegetation.
- 8.7.12. In considering the impact of the proposed development on the stream, in addition to the EclA, I have reviewed the ESR, CEMP, and NIS.
- 8.7.13. During the construction phase, two culverts are required to be installed to channel the stream to facilitate the construction of the main entrance and the shared pedestrian/ cycle path as they intersect with the L-1532, and c.100m of the stream is required to be realigned by 1-2m in a westerly direction to facilitate a 4m setback of the site's eastern boundary along the L-1532 (for the construction of a footpath, see Dwg No. D111-CSC-XX-XX-DR-C-0001 Proposed Road Layout). The impact of these works on the stream is subject of the CEMP and NIS. In short, a range of mitigation measures are identified during the construction phase of the development as necessary to protect the water quality of the stream, prevent pollution events, and mitigate against excessive siltation.
- 8.7.14. In respect of water quality, the applicant's WFDA concludes that the impact of the proposed development on the WFD classification of Poles Stream will be undetectable.
- 8.7.15. During the operation phase, surface water will be collected in SuDS features, attenuated onsite, with excess stormwater discharged at greenfield rates to Poles Stream via two drains with petrol interceptors. There is no proposed foul water discharge to or water abstraction from Poles Stream, and the EclA states a change in the assimilation capacity of the watercourse will not occur.

- 8.7.16. In respect of water quality during the operation phase (i.e. occupation) of the development, I direct the Board to subsection 8.10 Water Services and Utilities of this report below where I assess the proposed surface water management system for the scheme and any flood risk associated with the proposal.

Conclusion

- 8.7.17. In conclusion, the site is not under any wildlife or conservation designation and has been demonstrated to have no key ecological features, or protected habitats, flora, or fauna species. An indirect hydrological connection exists between the site and Lough Oughter SAC and SPA via Poles Stream and Cavan River. The impact of the proposal on the European sites is subject of an Appropriate Assessment (see section 9.0 and Appendix 1 below of this report). I am satisfied that the proposal will not have an adverse impact on biodiversity at the site or in the wider area. I recommend that the implementation of the mitigation measures included in the EcIA be subject to condition in the event of a grant of permission (as these are in addition to those included in other related reports, e.g. NIS and CEMP).

8.8. Archaeology and Cultural Heritage

- 8.8.1. The appeal grounds include criticism of the site's development boundary in respect of the adjacent ringfort, the proposal being contrary to CDP policy and objectives to protect and enhance archaeological monuments, and the dissatisfaction with the treatment of the old Cavan to Clones Road (the agricultural trackway) which should be used for walking and cycling, linking with other greenways.
- 8.8.2. From a review of the case file, it is apparent that the appeal site is in an historical environment. Adjacent to the northwest corner of the site is a recorded monument, Ringfort – rath (CV020-037). An Archaeological Impact Assessment (AIA) accompanies the application, which states that the site is within the zone of archaeological potential associated with monument. The AIA includes a geophysical survey of the site that identifies several anomalies for which test-trenching is recommended. The AIA describes the old trackway which traverses the site, identifying it as a possible turnpike of 18th/ 19th century date, and identifies the eastern site boundary (describing Poles Stream as a wet ditch) as the historic townland boundary between Drumlark and Latt.

- 8.8.3. Of the appeal grounds, I confirm that the red line boundary used for the application does exclude the ringfort. However, I concur with the applicant's appeal response that this is due to the site boundary aligning with the Proposed Residential zoning objective at this location. Appropriately, the extent of the zoning excludes the ringfort and provides a further 30m buffer zone around same.
- 8.8.4. Of the proposal being contrary to the CDP, I do not concur with the appellant. I identify objective AH1 in the CDP as relevant (see section 6.0 of this report), and consider the proposal complies with same. This requires the protection of the county's archaeological resource, sympathetic enhancement of archaeological heritage, and applications to be referred to the Department of Housing, Local Government and Heritage.
- 8.8.5. As stated above, the site excludes the ringfort and provides a further 30m buffer zone thus protecting the archaeological resource from any direct disturbance. I consider the design of the proposal to be sympathetic to the setting of the monument as closest to the buffer zone are proposed dwellings fronting onto Road 02 which are laid out to reflect curved buffer zone. The rear garden areas of the dwellings provide a further set back of 11m-15m from the buffer zone of the ringfort, with a descending stepped retaining wall along the rear boundary such that the houses are notably lower than the ground levels. On the southern side of the buffer zone, is the landscaped Area 3 public open space and the gable of Duplex Block A is sited a further c.30m from the buffer zone. I note that the buildings in the vicinity of the ringfort are modestly designed and scaled 2 storey structures, thus minimising the visual impact on the ringfort's setting. Finally, I confirm the Department of Housing, Local Government and Heritage was consulted. I have reviewed the prescribed body's submission and note there is no objection to the proposed development subject to condition.
- 8.8.6. In respect of the recommended conditions, I highlight to the Board that these relate to undertaking test trenching, completing a photographic survey of the referenced wet ditch and laneway, and delineating a 20m buffer zone in agreement with the consultant archaeologist with no works permitted within same (I note that the CDP zoning map incorporates a wider 30m buffer zone which is reflected in the Site Layout Plan). Condition 36 of the planning authority's grant of permission relates to

archaeological monitoring of topsoil stripping. In the event of a grant of permission, I recommend the attachment of an archaeological condition as advised by the Department with the delineation of the buffer zone to be agreed.

- 8.8.7. Of the treatment of the agricultural trackway, while I acknowledge its cultural heritage value being described as the old Cavan to Clones Road and identified as a potential 18th/ 19th century turnpike, I consider the extent to which it is incorporated into the pedestrian/ roadway layout within the scheme as being reasonable. A photographic survey will be undertaken of the trackway. The route is not removed or terminated by the proposal but remains accessible and able to be incorporated into future developments in both northerly and southerly directions.

Conclusion

- 8.8.8. In conclusion, while the site is in an historical environment with archaeological and cultural heritage features, I consider the proposed development protects and is sympathetic towards these, minimising any adverse impacts through appropriate mitigation measures. To reflect the historical environment of the site, I recommend that the naming of the scheme be conditioned to have a local historical context.

8.9. Traffic and Access

- 8.9.1. The appellant raises concerns in relation to the location of the proposed entrance, the adequacy of the sightlines available, excessive traffic generation, and negative impact on the local road network. Further, I identify facilitating works to the public road L-1532 as a relevant planning consideration.

Proposed Entrance

- 8.9.2. The proposed entrance is located towards the northeast of the site creating a new access point onto the L-1532. The entrance is sited opposite 6 and 7 The Willows. The appellant cites light pollution from vehicles using the entrance, and requests that it be relocated to align with the existing entrance of The Gallops (better location for sightlines, road safety, and minimises impacts). I highlight that the appellant has not provided any evidence per se of the shortcomings of the proposed entrance or analysis in support of an alternative more suitable entrance on the L-1532 or elsewhere.

- 8.9.3. Of claims of light pollution, I do not consider that the use of the entrance would be such as to likely cause injury to the adjacent properties, and I note that The Willows properties are sited several metres higher than the public road and are separated by an area of open space. Of the request for a different entrance location to serve the scheme, I highlight that the policy context, future infrastructure development, and the requirements of the planning authority are determining factors in the selection of the entrance location.
- 8.9.4. It is evident from the case file that the proposed entrance (its siting, design, safety standards, alignment with other infrastructure (e.g. active travel (footpath, cycle lanes), public transport (bus stops) and future road improvements (the indicative route of the Cavan Northern Strategic Link Road)) featured prominently in pre planning consultations between the applicant and the planning authority, and the assessment of the planning authority (LRD Opinion, Road Section report, decision).
- 8.9.5. I note Map Based Specific Objective 28 applies to the northern part of the site (for full wording see section 6.0 above). In subsection 8.3 Zoning above, I considered the siting and design of the facilitating infrastructure (including the entrance and access road), and found this to be appropriate and to not prejudice the future development of the Strategic Residential Reserve zoned lands.
- 8.9.6. Additionally, the reservation of the Cavan Northern Strategic Link Road (R198-R212-N3) (a strategic road improvement project listed in Table 7.3 of the CDP, see section 6.0 above) has implications for the proposed access arrangements. Consultations with the planning authority show the applicant was required to have regard to the link road's layout. 'A 'Future Road Reservation' designation is indicated on the application's site layout plans across the southwest corner of the Strategic Residential Reserve zoned lands, and through the majority of the Low Density Residential zoned lands. The reservation further limits the options available to the applicant for alternative access points along the L-1532.
- 8.9.7. Of the appellant's request for the entrance to be relocated in line with that of The Gallops, the applicant submits this would be a traffic hazard due to conflicting traffic movements within a signalised junction. The planning authority has indicated its preferred entrance location as that proposed.

- 8.9.8. With regard to potential alternative access points, I note that restricted access (pedestrian, agricultural vehicles) is available via the existing trackway which extends from the public road, Keadue Lane to the south of the site. However, this is an overgrown agricultural trackway in private ownership. As discussed previously in subsection 8.8 Archaeology and Cultural Heritage above, the trackway is identified as a cultural heritage feature and has been incorporated into the proposal as part of the pedestrian/ road layout. Given this context, I do not consider the development of this route for vehicular access (requiring notable engineering works) to serve as a main or alternative vehicular access arrangement for the scheme to be appropriate.
- 8.9.9. On balance, I find the provision of the main access from the L-1532 to be acceptable in principle, and the proposed entrance location to be specifically suitable. I note that the planning authority deemed the proposed access arrangements to be acceptable, expressed no objection to the proposal, and that the road safety/ quality audits undertaken by the applicant demonstrated the access to be safe, thus not causing a traffic hazard.

Sightline Requirements

- 8.9.10. The appellant is critical of the attached condition (I identify this as Condition 6) requiring that any post-consent works necessary for visibility splays with the public road have to be agreed with the planning authority.
- 8.9.11. From a review of the plans and particulars in the case file (drawings of the proposed road layout, sightlines, entrance layout, and the quality audit), I note that sightlines of 59m in both directions are indicated from the proposed entrance. Such sightlines are required for road conditions with design speeds of 60km/h (I direct the Board to Table 4.2 of DMURS). The planning authority recommends that a higher standard be achieved, that of road conditions of 60km/h on a bus route with a resultant increase in sightlines from those proposed of 59m to 65m (again, as per Table 4.2 of DMURS). In the appeal response, as the applicant has confirmed that all sightline requirements can be achieved as the subject lands for same are within the applicant's control, I find this matter to be satisfactory.
- 8.9.12. In the event of a grant of permission, I recommend the continued attachment of specific conditions from the Roads Section (i.e., entrance designed for conditions of 60km/h on a bus route, and the completion of final road safety/ quality audits for the

written approval of the planning authority) to ensure safe access and egress to the proposed development.

Traffic Generation and Impact on Road Network

- 8.9.13. In relation to concerns regarding traffic generation, I have reviewed the applicant's TTA which includes a Mobility Management Plan (MMP). I consider the appellant's claims of huge impact arising from traffic flows associated with the proposal to be somewhat unfounded. The TTA predicts total vehicle trips (combined arrivals and departures) of 147 trips during the AM peak hour, and 90 trips in the PM peak hour. I do not consider this level of traffic generation to constitute excessive vehicular traffic flows, in and of itself, or for the location of the appeal site.
- 8.9.14. Similarly, I consider the criticisms of the TTA to be unfounded as I confirm that the extent of junction analysis undertaken is as outlined in the applicant's appeal response (full operational assessment of six junctions in the local road network (fig.3, pg.9) with identification of queue lengths, delays at junctions, and mitigation measures (e.g. those incorporated into the proposal's design and/ or those proposed including implementation of the MMP)). I find the methodology and information used in the TTA to be accurate and reliable. I note that the planning authority did not dispute the findings of same (i.e., junctions will operate within their effective capacities past the design year 2041).

Facilitating Works along the Public Road

- 8.9.15. The proposed development includes for a 4m set back of the site's eastern boundary along the public road L-1532 (see Dwg No. D111-CSC-XX-XX-DR-C-0001 Proposed Road Layout). Within the setback, a 2m footpath is proposed from the main entrance southwards to a zebra crossing and bus stop arrangement which is indicated proximate to the entrance of The Gallops estate.
- 8.9.16. The requirement and rationale for the setback and footpath are outlined in the application documentation and planning authority's reports (pre planning consultation, LRD opinion, assessment). These are also the subject of Condition 7 of the grant of permission (delivery timing, standards, costs to be incurred by the developer). I consider the proposed setback of the site boundary which will facilitate

the provision of the footpath to serve the proposal to be desirable, necessary, and reasonable.

- 8.9.17. Condition 4 of the grant of permission requires the payment of €70,000 as a section 48(2)(c) special contribution, stated as being required towards expenditure proposed to be incurred by the planning authority in respect of *'public infrastructure and active travel facilities benefiting the development (i.e. the proposed zebra crossing and offline bus stop on the L-1532 public road)'*.
- 8.9.18. I have reviewed the Cavan Development Contribution Scheme 2017-2020 (stated as being in force until the adoption of a new scheme). The Scheme describes a special development contribution as a payment in respect of a particular development where specific exceptional costs not covered by the scheme are incurred by the local authority in respect of public infrastructure and facilities which benefit the proposed development (my emphasis).
- 8.9.19. From the Scheme, I note the following contents: Section 1.1 defines 'public infrastructure and facilities' as including: d) provision of bus corridors and lanes, bus interchange facilities, infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures. Table 1 indicates that 87% of development contributions will be allocated to the category of 'Roads, Infrastructure and Facilities'. Appendix 2 lists the projects to benefit from contributions, including categories such as new and improved pedestrian linkages in urban areas, public footpaths and lights, and smarter travel initiatives.
- 8.9.20. I note that the applicant has not appealed Condition 4, however, I have concerns regarding the transparency and reasonableness of this condition. From a review of the case file, I cannot identify any details regarding the calculation of the special contribution and/ costings for the referred to works. The reference to a charge of €70,000 is included in the Roads Section report. The planner's report outlines the calculation of the standard development contributions applying to the proposed development, a total of €720,000. No reference is made therein to the special development contribution. The applicant's appeal response refers to 'Local Authority Part VIII works' to provide 'for a bus layby in the near future'.
- 8.9.21. While I accept that the main entrance and footpath along the L-1532 are to the benefit of the proposed development, these will be paid for by the applicant. I

consider the indicative 'zebra crossing and offline bus stop' will not be solely or even primarily for the benefit of the proposed development. Once delivered (which is unspecified in the case file), these will be available to and tie-in with existing public infrastructure used by the general public. Further, I consider that the provision of a 'zebra crossing and offline bus stop' to come within the definition of 'public infrastructure and facilities' as described in the Development Contribution Scheme and are the types of projects covered by the contributions allocated to the category of roads and infrastructure.

8.9.22. Accordingly, I do not consider that the zebra crossing and bus stop are a form of development which would necessitate specific exceptional costs being incurred by the planning authority in their delivery. I do not consider the works subject of Condition 4 to meet the test of exceptional costs, and thereby to justify the requirement of a special development contribution.

8.9.23. Should the Board disagree with this position, the Board may wish to request information from the planning authority on the nature of the works and the specific exceptional costs being incurred (as is allowed for in accordance with section 131 of the 2000 Act). However, for the reasons outlined above, and based on the available information on the case file, I do not recommend the attachment of such a condition in the event that permission is granted for the proposed development.

Other Considerations

8.9.24. The proposed development includes totals of 248 car parking spaces (c.2 per dwelling house, 1 per apartment) and 120 cycle parking spaces (c.1 per bedroom for the apartments) for residential use, and 6 car and 5 cycle parking spaces for the childcare facility. In terms of car and cycle parking provision, I have had regard to SPPR 3 and SPPR 4 respectively of the Compact Settlements Guidelines (see section 6.0 above). I find both the car and cycle parking provision to be an appropriate response for the proposed development and the appeal site.

8.9.25. The planning authority attached several conditions to the grant of permission relating to transport matters. I recommend the continued inclusion of conditions relating to the main entrance design and specification of sightlines, setback of the site's road frontage and provision of a footpath along same, and agreement on final road safety/quality audits. I also recommend conditions relating to the internal layout of the

scheme accords with the requirements of DMURS and the National Cycle Manual, design of roads to ensure future connections, and infrastructure for electric vehicles.

Conclusion

8.9.26. In conclusion, while I acknowledge third party concerns in respect of the proposed entrance, sightlines, and traffic impacts, I consider the proposal to be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and is of a scale and intensity of use that is not likely to cause congestion or to have an adverse impact on the traffic conditions of the surrounding area. In the event of a grant of permission, I recommend that standard and project specific conditions be attached, the latter requiring final agreement with the planning authority.

8.10. Water Services and Utilities

- 8.10.1. The appeal site is greenfield in nature and unserved. Existing water services controlled by Uisce Eireann include a watermain and foul sewer (a combined sewer) which are located in the public road L-1532, to the east of the site. Forming the eastern boundary of the site, adjacent to the public road, is Poles Stream. This is a minor watercourse, to which the site presently drains (lowest level in the site).
- 8.10.2. The proposed development seeks connections to the public water supply and wastewater treatment systems. Connections to these systems are proposed via new piped infrastructure laid in the access road to the north of the site. Wastewater arising from the proposal will be collected and discharged for treatment at Cavan WWTP. The proposal includes a surface water management system (two catchment areas, north-west and south-east) with onsite attenuation and several SuDS features. Following attenuation, excess stormwater will be discharged (at greenfield rates) to Poles Stream via two drains (with petrol interceptors), one laid in the access road and the other laid across lands to the south of the site.
- 8.10.3. The appeal grounds include inadequate capacity in the public wastewater treatment system for the proposed development, concerns regarding the adequacy of the surface water management system, and potential flood risk associated with the proposal.

Inadequate Wastewater Treatment Capacity

- 8.10.4. In respect of wastewater treatment, I have reviewed the case file and confirm that Uisce Eireann indicates there is capacity in its system to cater for demands of the proposal without requiring infrastructural upgrades, and that the design particulars are acceptable (Confirmation of Feasibility, Statement of Design Acceptance provided).
- 8.10.5. While I note references made to content on the EPA website, Uisce Eireann is the competent authority for wastewater services and a connection will be made subject to their approval. I recommend the matter be addressed by standard condition. For the Board's clarity, I have reviewed Uisce Eireann's WWTP Capacity Register which indicates Cavan WWTP as status 'green' (i.e. has spare capacity available).

Surface Water Management

- 8.10.6. The appellant links concerns regarding the adequacy of the surface water management system with the potential for pollution to be caused to Poles Stream which flows to Cavan River, with implications for the achievement of Water Framework Directive objectives.
- 8.10.7. I have reviewed the applicant's ESR, Site Specific Flood Risk Assessment (SSFRA), CEMP, and the supplementary information in the appeal response, in particular the WFDA.
- 8.10.8. I find the system incorporates several SuDS features (namely swales, bioretention areas, permeable paving, attenuation structures, and an isolator row and petrol interceptor). The applicant confirms the system has been designed in accordance with the requirements of the GDSDS and the Regional Code of Practice for Drainage Works, with an allowance made for climate change. The planning authority has not raised any issue regarding the design of the system or proposed discharge to Poles Stream. The system will be constructed, operated and maintained in accordance with the requirements of the planning authority, for which I recommend a condition be attached.
- 8.10.9. With regard to concerns raised in respect of water quality and the WFD, I highlight the WFDA demonstrates that the proposal complies with the environmental objectives of the WFD, and will not compromise progress towards achieving Good Ecological Status (GES)/ Good Ecological Potential (GEP), or cause a deterioration

of GES/ GEP, of any water body in the scope of the project. The WFDA concludes that the impact of the proposed development on the WFD classification of Poles Stream will be undetectable.

- 8.10.10. As such, I consider that the applicant has satisfactorily demonstrated that the surface water system is appropriately designed, and the proposed development will not cause a negative impact on the receiving water environment.

Flood Risk

- 8.10.11. The appeal grounds include claims there is an increased flood risk associated with the proposal, and refers to flood events in Drumgola Woods (no detailed information or analysis is provided regarding same). I have reviewed the SSFRA undertaken for the proposal (states no localised flood event is recorded on OPW website), which concludes the site is located in Flood Zone C, i.e., not within a fluvial or a tidal flood zone, and is not at risk from pluvial flooding.

- 8.10.12. The SSFRA confirms that the surface water management system has been designed with allowance for climate change (i.e. on-site attenuation storage for the 1-in-100-year extreme storm event (1% AEP) is increased by 20% for the predicated effects of climate change), thus ensuring the proposal does not increase surface water runoff elsewhere. The SSFRA outlines that the predicted 1-in-1000-year flood event (0.1% AEP) flood level of 60.33m OD is considered to represent the 1% AEP plus the 20% climate change flood level. The lowest finished floor level in the proposal is stated as 65.66m OD, which is 5.33m above the 1% AEP future change flood level. As such, the proposed development site is considered to be adequately mitigated for in a future scenario extreme fluvial flood event in the area (e.g. Poles Stream).

- 8.10.13. I find the methodology used and information relied upon in the SSFRA to be accurate and robust, and note that the planning authority accepted the findings of same. I recommend that a condition be attached requiring the mitigation measures (e.g. features designed into the scheme, finished floor levels, overland flows to green spaces) included in the SSFRA be implemented.

Conclusion

- 8.10.14. In conclusion, while I note concerns raised by the appellant, I consider that the applicant has adequately demonstrated that there is sufficient capacity in the public systems to accommodate the demands arising from the proposal, and that the water services infrastructure for the proposal will be designed, operated, and maintained to all required standards. Further, the proposal does not create or increase flood risk for adjacent properties. In the event of a grant of permission, standard conditions should be attached.

9.0 Appropriate Assessment

9.1. Stage 1 – Screening Determination for Appropriate Assessment

- 9.1.1. Having carried out Appropriate Assessment screening (Stage 1) of the project (included in Appendix 1 of this report), 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.
- 9.1.2. 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.
- 9.1.3. 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 weakness of connections between the project, the appeal site, and the European sites, Upper Lough Erne SAC (site code: UK 0016614) and Upper Lough Erne SPA (site code: UK 9020071).

9.2. Stage 2 – Appropriate Assessment

- 9.2.1. In carrying out an Appropriate Assessment (Stage 2) of the project, I have assessed the implications of the project on the 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 include in the case file is adequate to allow the carrying out of an Appropriate Assessment.

9.2.2. Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually 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.

9.2.3. 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.
- 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.

10.0 Environmental Impact Assessment

10.1. Pre Screening for Environmental Impact Assessment

10.1.1. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act 2000, as amended (2000 Act), identify classes of development with specified thresholds for which EIA is required.

10.1.2. I identify the following classes of development in the 2001 Regulations as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units,
 - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

10.1.3. The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and/ or (iv) of the 2001 Regulations. In respect of the latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use. I do not consider that the appeal site (with a site area of c.5.1ha) comes within this definition and is instead another part of a built-up area where the 10ha threshold applies.

10.1.4. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors leading to an environmental impact.

10.2. Screening Determination for Environmental Impact Assessment

10.2.1. The applicant has submitted an Environmental Impact Assessment screening report (EIASR) with the application addressing issues included for in Schedule 7A of the 2001 Regulations.

10.2.2. Based on the criteria in Schedule 7 of the 2001 Regulations, I have carried out an EIA screening determination of the project (included in Appendix 3 of this report). I have had regard to the information provided in the applicant's EIASR and other related assessments and reports included in the case file. I concur with the nature and scale of the impacts identified by the applicant and note the range of mitigation measures proposed. I am satisfied that the submitted EIASR identifies and describes adequately the effects of the proposed development on the environment.

10.2.3. I have concluded that the proposed development would not be likely to have significant effects (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

10.2.4. This conclusion is based on regard being had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.

- b) The location of the site on lands zoned lands (Proposed Residential, Strategic Residential Reserve and Low Density Residential zoning objectives), and other relevant policies and objectives in the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Ecological Impact Assessment, Natura Impact Statement, Landscape Management and Maintenance Plan, Site Specific Flood Risk Assessment, and Archaeological Impact Assessment.

11.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

12.0 Recommended Draft Board Order

Planning and Development Act 2000, as amended

Planning Authority: Cavan County Council

Planning Authority Register Reference: 24/60067

Appeal by Ciaran Fitzpatrick and others against the decision made on the 23rd day of April 2024 by Cavan County Council to grant permission subject to conditions to Drumlark Investments Limited, c/o of Genesis Planning Consultants, Dean Swift Building, Armagh Business Park, Hamiltonshawn Road, Armagh, BT60 1HW, in accordance with plans and particulars lodged with the said Council.

Proposed Development

Large-scale residential development, consisting of the provision of a total of 145 no. residential units along with provision of a crèche, on lands at Drumlark Townland, Cavan Town, County Cavan.

Particulars of the development comprise as follows:

- (a) Site excavation works to facilitate the proposed development to include excavation and general site preparation works;
- (b) The reprofiling of ground levels within the site and associated site works as required;
- (c) The provision of a total of 91 no. residential dwellings which will consist of 25 no. 2 bed units, 55 no. 3 bed units and 11 no. 4 bed units. The dwellings range in height from single storey to two storey;

- (d) The provision of a total of 54 no. duplex apartment units consisting of 15 no. 1 bed units and 39 no. 2 bed units. The duplex apartment blocks range in height from two storey to three storey;
- (e) Provision of a 2 storey crèche with associated parking, bicycle and bin storage;
- (f) Provision of associated car parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the crèche and duplex apartment units;
- (g) Provision of electric vehicle charge points with associated site infrastructure ducting to provide charge points for residents throughout the site;
- (h) Provision of associated bicycle storage facilities at surface level throughout the site and bin storage facilities;
- (i) Creation of a new access point from the public road with associated works to include for a connections to the existing public footpath along with provision of a pedestrian crossing point with a raised table;
- (j) The provision of a new shared cycleway and footpath to serve the site;
- (k) Provision of internal access roads and footpaths and associated works to include for retaining walls and regrading of site levels as required;
- (l) Provision of residential communal open space areas to include formal play areas along with all hard and soft landscape works with public lighting, planting and boundary treatments to include boundary walls, railings & fencing;
- (m) Internal site works and attenuation systems which will include for provision of a hydrocarbon and silt interceptor prior to discharge;
- (n) Installation of culverts and headwalls to facilitate crossing over the existing watercourse aligning the site boundary with associated works;
- (o) All ancillary site development/construction works to facilitate foul, water and service networks for connection to the existing foul, water and ESB networks.

A Natura Impact Statement has been prepared and accompanies this application.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the following reasons and considerations, and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- a) Policies and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Northern and Western Region.
- b) Policies and objectives set out in the Cavan County Development Plan 2022-2028 incorporating the Cavan Town Local Area Plan 2022-2028, including the location of the site on lands subject to Zoning Objectives 'Proposed Residential', 'Strategic Residential Reserve', and 'Low Density Residential' and the permitted in principle uses therein.
- c) Housing for All, A New Housing Plan for Ireland, 2021.
- d) Climate Action Plan, 2024.
- e) The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- g) The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- h) The Design Manual for Urban Roads and Streets, 2013, updated 2019.
- i) The Childcare Facilities, Guidelines for Planning Authorities, 2001.
- j) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- k) The Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- l) The nature, scale, and design of the proposed development.

- m) The availability in the area of a range of social, community, and transport infrastructure.
- n) The pattern of existing and permitted development in the area.
- o) The planning history at the site and within the area.
- p) The reports of the planning authority.
- q) The submissions received by the planning authority from observers and prescribed bodies.
- r) The grounds of appeal.
- s) The response to the grounds of appeal by the applicant and planning authority.
- t) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Screening for Appropriate Assessment – Stage 1

The Board completed a screening for Appropriate Assessment (Stage 1), and determined that the project may have likely significant effects on the European sites, Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049), in view of those sites' conservation objectives and qualifying interests. The Board determined that an Appropriate Assessment (Stage 2) is required of the implications of the project on same. The Board is satisfied that the possibility of likely significant effects by the project on other European sites could be excluded in view of the nature and scale of the project and those sites' conservation objectives.

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement submitted by the applicant and all other relevant documentation on the case file, and completed an Appropriate Assessment (Stage 2) of the implications of the project on Lough Oughter and

Associated Loughs SAC and Lough Oughter SPA in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

The Board concluded that the project, individually 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.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening determination of the project and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the project on the environment.

Regard has been had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The location of the site on lands zoned lands (Proposed Residential, Strategic Residential Reserve and Low Density Residential zoning objectives), and other relevant policies and objectives in the Cavan County Development Plan 2022-

2028 incorporating the Cavan Town Local Area Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).

- c) The greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Ecological Impact Assessment, Natura Impact Statement, Landscape Management and Maintenance Plan, Site Specific Flood Risk Assessment, and Archaeological Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable 'Proposed Residential', 'Strategic Residential Reserve', and 'Low Density Residential' zoning objectives and other policies and objectives of the Cavan County Development Plan 2022-2028, incorporating the Cavan Town Local Area Plan 2022-2028, would constitute an acceptable mix and quantum of residential development, would result in an appropriate density of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall be amended as follows:
 - a) A maximum of 14 no. duplex apartments of 2 bedroom/ 3 person design are hereby permitted.

b) The remaining 25 no. duplex apartments initially proposed as 2 bedroom/ 3 person units are hereby permitted as 1 bedroom/ 2 person apartments. The revision in unit type shall be achieved through the repurposing of the single bedspace bedroom in each apartment to ancillary accommodation (e.g. office, playroom, storage space).

c) Revised floor plans and an updated Housing Quality Assessment for the duplex apartments, identifying/ numbering each unit and indicating compliance with the minimum floor areas and standards of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023, shall be submitted to the planning authority for its written agreement.

Reason: To comply with Section 28 Ministerial Guidelines and protect the amenities of future residents.

3. The development shall be implemented subject to the following:

a) The development of the site shall be undertaken in a phased manner in accordance with Phasing Plan Dwg No. DR-A-510 subject to Condition 3(c) below, unless otherwise agreed in writing with the planning authority.

b) Construction of Phase 4 shall not be commenced until such time as the childcare facility (included in Phase 2) is constructed, available for use and/ or operational, to the satisfaction of the planning authority.

c) The occupation of residential units within each phase shall be restricted until the public and/ or communal open spaces to serve that phase has/ have been developed, landscaped, and made available for use, to the satisfaction of the planning authority.

Reason: In the interests of orderly development and to ensure the timely provision of amenities and infrastructure for future residents.

4. a) Mitigation and monitoring measures outlined in the plans and particulars, including the Construction and Environmental Management Plan, Ecological

Impact Assessment, Natura Impact Statement, Landscape Management and Maintenance Plan, and Site Specific Flood Risk Assessment, submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

b) Prior to the commencement of development, the developer shall submit a comprehensive list of mitigation and monitoring measures from the named reports and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.

Reason: In the interest of protecting the environment, public health, and clarity.

5. a) Proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

b) The development name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

6. a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

b) Details of security shuttering, external lighting, and signage for the childcare facility shall be agreed in writing with the planning authority prior to commencement of development.

c) Details of a maintenance strategy for all external finishes within the proposed development shall be submitted for the written agreement of the planning authority. 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. 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. The agreed lighting system shall be fully implemented and operational before the proposed development is made available for occupation.

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

9. All links/ connections to adjoining lands (within and outside the developer's control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

10. The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of traffic and pedestrian safety.

11. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/ points, and ducting shall be provided for all remaining car parking 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 have 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 occupation of the development.

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

12. a) The main entrance to the development on the L-1532 shall be provided in accordance with the standards specified in the Design Manual for Urban Roads for a design speed of 60kph on a bus route (with minimum unobstructed visibility splays of 65m), and to the construction standards of the planning authority for such works. Prior to commencement of development, a site entrance visibility splay plan indicating same shall be submitted to and agreed in writing with the planning authority.

b) The site frontage along the L-1532 shall be set back and a footpath shall be provided in accordance with Dwg No. D111-CSC-XX-XX-DR-C-0001

Proposed Road Layout, and to the construction standards of the planning authority for such works.

c) All works shall be undertaken at the developer's expense and completed to the satisfaction of the planning authority.

Reason: In the interest of traffic and pedestrian safety, and sustainable transport.

13. Prior to commencement of development and/ or occupation of the residential units, as applicable, final Road Safety Audit(s) and/ or Quality Audit(s) of the development, including the main entrance with the L-1532, internal road and path layouts, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of sustainable transportation, and traffic and pedestrian safety.

14. a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being so taken in charge.

b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/ bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.

c) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: In the interests of orderly development and to provide for the satisfactory future maintenance of this development.

15. a) The areas of communal and public open space in the development shall be reserved for such use, levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with Landscape Management and Maintenance Plan and associated landscape plans, unless otherwise agreed in writing with the planning authority.
- b) Final design, finishes, methods of construction and/ or installation of footpaths, cycle paths, seating, crossing points over ditches/ watercourses/ SuDS features, and equipment in play areas shall be submitted to the planning authority for its written agreement.
- c) The landscaping work shall be undertaken in accordance with the phasing requirements stipulated in Condition 2 and shall be completed before the applicable residential units are made available for occupation, unless otherwise agreed with the planning authority and completed.
- d) A schedule of landscape maintenance shall be submitted to and agreed in writing with the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.
- e) The areas of communal and public open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.

Reason: In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the open space areas and their continued use for this purpose.

16. a) The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930- 2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/ her express consent.
- b) The archaeologist shall notify the National Monuments Service of the Department of Housing, Local Government and Heritage in writing at least

four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.

c) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.

d) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service of the Department of Housing, Local Government and Heritage for consideration.

e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Department of Housing, Local Government and Heritage will advise the developer with regard to these matters.

f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the Department of Housing, Local Government and Heritage.

g) A photographic survey shall be conducted of the wet ditch and laneway and be included in the archaeologist's report.

h) In order to safeguard Recorded Monument CV020-037--- Rath, a buffer zone from the external perimeter of the monument shall be delineated by agreement with the consultant archaeologist and subject to approval with the Department. The buffer zone shall be fenced off during construction works. No works including landscaping, planting or construction shall be permitted within the buffer zone.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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 residential amenities of property in the vicinity.

18. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

19. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

20. a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development (including duplex apartment

blocks and childcare facility), the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.

b) The OWMP shall provide for screened communal bin stores for the duplex apartment blocks and the childcare facility, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

21. Drainage arrangements including the attenuation and disposal of surface water, 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.

22. a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.

b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

Reason: In the interest of public health.

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and sections 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and

been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. All of the permitted house and duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/ or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing. Prior to commencement of development, the applicant, or any person with an interest in the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect. Such an agreement must specify the number and location of each house or duplex unit.

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

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 and/ or management company 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.

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.

Phillippa Joyce

Senior Planning Inspector

26th August 2024

Appendix 1:

Appropriate Assessment: Stage1 and Stage 2

Appropriate Assessment Stage 1 Screening Determination

Description of the project

I have considered the proposed residential development in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

Subject Site

The subject site is located at Drumlark, in Cavan, approximately 3km north of the town centre. The site is greenfield in nature, comprised of agricultural fields. Poles Stream (a 1st order watercourse, less than c.1.5m in width) flows along the eastern site boundary. The stream is identified as the closest watercourse to the project, as rising in Drumgola Lough and flowing in a southerly direction discharging to Cavan River. Drumgola Lough is c.320m upstream of the site, and Cavan River is c.1.2km downstream of the site.

Cavan River discharges to Lough Oughter and associated loughs at varying points. Lough Oughter and Associated Loughs SAC (specifically Coalpit Lough) is c.3.8km downstream of the site, and Lough Oughter SPA (specifically Derrigid Lough) is c.5.8km downstream of the site.

Project

The project comprises the construction of a residential development comprising 145 residential units with a childcare facility, and all ancillary site development/ construction works.

Access to the proposal is via a new vehicular entrance and a new shared footpath/ cycleway from the public road L-1532. The project proposes the partial realignment of the eastern site boundary (including rerouting c.100m of Poles Stream by 1-2m in a westerly direction), the provision of a footpath along the realigned road frontage, and the installation of two culverts and headwalls to facilitate crossing Poles Stream.

The proposal includes internal access roads, car and cycle parking spaces, bin storage facilities, footpaths, public lighting, and plant. Public and communal open spaces, hard and soft landscaping, boundary treatments, retaining walls and regrading of site levels are also included for. As are all infrastructural works associated with water supply and wastewater drainage (with connections to public systems). Wastewater arising from the proposal will be collected and discharged for treatment at Cavan WWTP.

The proposal includes a surface water management system (two catchment areas, north-west and south-east) with on-site attenuation and several SuDS features (swales, bioretention areas, permeable paving, attenuation structures, and an isolator row and petrol interceptor). Following attenuation, excess stormwater will be discharged (at greenfield rates) to Poles Stream via two drains (with petrol interceptors), one laid in the access road and the other laid across lands to the south of the site.

Submissions and Observations

Uisce Eireann indicates the project can be serviced and that there is capacity in these public systems without requirement for any infrastructural upgrades (Confirmation of Feasibility, Statement of Design Acceptance provided for connections to water supply, and wastewater to the existing services infrastructure located in L-1532).

Department of Housing, Local Government and Heritage (Development Applications Unit) provides heritage related recommendations on archaeology. The issues raised are not of consequence to this appropriate assessment.

The planning authority undertook an appropriate assessment of the project. The applicant's NIS was relied upon, and the conclusion was concurred with.

Potential impact mechanisms from the project

Site Surveys

Site surveys confirm the site is not under any wildlife or conservation designation. The site comprises habitats of agricultural grassland, drainage ditch, hedgerows, and treelines. No evidence of badger, otter, red squirrel, or bat populations were recorded during field survey work. No rare or protected species (mammal or flora) were recorded, and the habitats and flora onsite are determined to be of a low local importance. No high impact invasive plant species were recorded. In short, the site is determined to have no key ecological receptors and no evidence of habitats or species with links to European sites, including bird species. The overall species diversity and abundance of Poles Stream is recorded as very low, with limited aquatic vegetation.

European Sites

The NIS identifies four European sites in the zone of influence of the project (Section 1.5, Table 1, pg. 3). These are Lough Oughter and Associated Loughs SAC (site code: 000007), Lough Oughter SPA (site code: 004049), Upper Lough Erne SAC (site code: UK 0016614), and Upper Lough Erne SPA (site code: UK 9020071).

Table 3 provides a summary of the screening conclusion. Appendices 1-4 of the NIS includes the full Conservation Objectives entries for each of the four European sites, respectively.

The AA screening concludes: *'Given the proximity of the Poles Stream to the eastern boundary of the site (i.e. headwater tributary of Cavan River), it was concluded that potential impacts arising from the development on the aforementioned Natura 2000 Sites could not be discounted at the screening stage... Consequently, it was determined that Appropriate Assessment (AA) – Stage 2 for the project was required'.*

Of the Upper Lough Erne European sites, I note the following:

- the nature of the project (a mid-scaled residential development designed in compliance with requirements of the GDSDS and the Regional Code of Practice for Drainage Works, the likely low amounts of polluting material arising from the project, and the low likelihood of a polluting event occurring);
- the nature of the indirect pathway (surface water if not infiltrated to ground onsite is attenuated and discharged via petrol interceptors by restricted flow to Poles Stream undergoing further extensive dilution and dispersion with other watercourses (Cavan River, River Erne) and loughs (several in the wider complex).

- the nature of the Conservation Objectives and QIs (e.g. maintain and/ or restore habitats and/ or species of forests, lakes, woodland, fen, meadows, otter, salmon, whopper swan);
- the notable distances involved (Upper Lough Erne SAC and SPA are c.11.9km north of the site, measured at closest proximity, but notably further away downstream of the site, e.g. by way of comparison the site is c.3.8km upstream of Lough Oughter and Associated Loughs SAC and c.5.8km upstream of Lough Oughter SPA).

Due to these factors, I consider that the likelihood of any significant effect of the project on the Upper Lough Erne SAC and SPA can be reasonably excluded at this preliminary examination stage.

Effect Mechanisms

There are no protected habitats or species identified at the site and therefore the likelihood of any significant effect of the project on any European site due to loss of habitat and/ or disturbance of species can be reasonably excluded. There are no European sites in the zone of influence with groundwater-dependent QIs/ SCIs and therefore the likelihood of any significant effect of the project on groundwater due to pollution or spillage can be reasonably excluded. There is no hydrological connection between the project and any European site arising from wastewater.

An indirect hydrological connection has been established between the project and the Lough Oughter European sites via surface water drainage to Poles Stream and Cavan River.

Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on two European sites, Lough Oughter and Associated Loughs SAC (site code: 000007) and Lough Oughter SPA (site code: 004049).

- A) Surface water pollution during construction phase.
- B) Surface water pollution during 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.	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]
As above	As above	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	Effect C	Effect D
Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Bog woodland [91D0]	<i>To restore the favourable conservation condition of...</i>	Y	Y		
	<i>To maintain the favourable conservation condition of...</i>	Y	Y		
Lutra lutra (Otter) [1355]	As above	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	Effect C	Effect D
Great Crested Grebe (Podiceps cristatus) [A005]	<i>To maintain or restore the favourable conservation condition of...</i>	Y	Y		
Whooper Swan (Cygnus cygnus) [A038]	As above	Y	Y		
Wigeon (Anas penelope) [A050]	As above	Y	Y		
Wetland and Waterbirds [A999]	As above	Y	Y		

Effect Mechanism A (surface water pollution during construction phase)

- The construction of the project involves culverting (two culverts) and realigning Poles Stream (c.100m stretch).

Effect Mechanism B (surface water pollution during operation phase)

- The operation phase of the project involves discharging stormwater to Poles Stream.

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 weakness of connections between the project, the appeal site, and the European sites, Upper Lough Erne SAC (site code: UK 0016614) and Upper Lough Erne SPA (site code: UK 9020071).

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

**Appropriate Assessment
Stage 2**

Aspects of the Proposed Development

During the construction phase, two culverts are required to be installed to channel Poles Stream to facilitate the construction of the main entrance and the shared pedestrian/ cycle path as these intersect with the L-1532, and c.100m of the stream is required to be realigned by 1-2m in a westerly direction to facilitate a 4m setback of the site's eastern boundary along the L-1532.

The project includes a surface water management system for two catchment areas (north-west and south-east of the site) with onsite attenuation, several SuDS features (namely swales, bioretention areas, permeable paving, attenuation structures, and isolator row and petrol interceptor), and two associated stormwater drains, one laid in the access road and the other laid across lands to the south of the site.

Following attenuation, excess stormwater will be discharged at greenfield rates to Poles Stream via the two surface water drainage pipes. There is no proposed foul water discharge to or water abstraction from Poles Stream.

Mitigation Measures

The description and consideration of the impacts of these works to Poles Stream are the subject of the ESR, EclA, NIS, CEMP, and WFDA. A range of mitigation measures are identified during the

construction and operation phases of the project to protect the water quality of the stream, prevent pollution events, and mitigate against excessive siltation, primarily in the NIS and CEMP.

The mitigation measures are outlined under the following headings here in summary (I direct the Board to the respective documents for details):

- Surface Water Management
- Noise
- Dust
- Harmful Materials
- Adjacent Watercourse
- Further Ecological Protection Measures

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 Section 4.3.3 of the NIS and supplemented by information in section 5.0 of this report.	A and B, as per Table 1 above

I have had regard to the information included in the NIS and EIASR, and information submitted in the first party appeal response relevant to a consideration of in-combination impacts (including the WFDA). I have also had regard to planning applications (proposed/ decided) in Cavan Town (see section 5.0 of this report above) which have been accompanied by NISs and (as relevant) subject to AAs. 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. 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	Effect C	Effect D
Lough Oughter and Associated Loughs SAC (site code: 000007) As per Table 2 below	As per Table 2 below	N	N		

Lough Oughter SPA (site code: 004049) As per Table 2 below	As per Table 2 below	N	N			
<p>Appropriate Assessment: Stage 2 Conclusion</p> <p>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 the 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 NIS and all other relevant documentation and submissions on the case file. I consider that the information include in the case file is adequate to allow the carrying out of an Appropriate Assessment.</p> <p>Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually 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.</p> <p>This conclusion is based on:</p> <ul style="list-style-type: none"> • 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. • 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: __26th August 2024__

Appendix 2

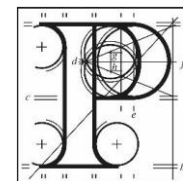
EIA Pre-Screening Form

An Bord Pleanála Case Reference	ABP 319750-24		
Proposed Development Summary	145 no. dwelling units, childcare facility, and all ancillary site development/ construction works.		
Development Address	Drumlark townland, Cavan, County Cavan.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No			
Yes	✓	Class 10(b)(i) and/ or Class 10(b)(iv)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		Preliminary Examination required	
Yes	✓	Screening Determination required	

Inspector: _____

Date: ___26th August 2024___

Appendix 3: EIA Screening Determination Form



An
Bord
Pleanála

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP 319750-24
Development Summary		145 no. dwelling units, childcare facility, and all ancillary site development/ construction works.
	Yes/ No/ N/A	Comment (if relevant)
1. Has an AA screening report or NIS been submitted?	Yes	A NIS has been submitted with the application which considers the content of Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	N/A
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA.	Yes	<p>Other assessments carried out include:</p> <ul style="list-style-type: none"> • An EIASR which considers the EIA Directive (2011/92/EU, as amended by 2014/52/EU). • An EcIA which considers the Habitats Directive (92/43/EEC), Birds Directive (2009/147/EC), and Water Framework Directive (2000/60/EC). • A SSFRA which considers the content of the EU Floods Directive (2007/60/EC). • A WRDA which considers the Water Framework Directive (2000/60/EC). • A OWMP which consider the content of the Landfill Directive (1999/31/EC). • A Building Lifecycle Report which considers the content of the Energy Performance in Buildings Directive (2010/31/EU). <p>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.</p>

B. EXAMINATION	Response: Yes/ No/ Uncertain	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	<p>The project comprises the construction of a mid-scaled, low-density residential scheme on zoned lands.</p> <p>The project does not differ from the surrounding area in terms of character (residential and childcare uses exist in the area, suburban estate designs and layouts, with surface parking, landscaped open spaces, conventional boundary treatments), or of scale (use of conventional houses and duplex apartment blocks, moderate increases in building height with duplex blocks up to 3 storeys, and in density).</p>	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>The project will cause physical changes to the site during the site development works (i.e., site enabling and construction activities).</p> <p>There will be changes to the topography of the site, which is characterised by ground levels rising steeply in westerly and northerly directions from the eastern site boundary. Top and subsoils will be stripped, reused on site where possible, or removed off-site. The project involves notable ground alteration and reprofiling to facilitate buildings, roads/ paths, open spaces, and site services.</p> <p>The site is presently greenfield in nature and agricultural in use. The proposed residential land use will result in physical changes to the built environment at the site. The architectural approach taken for the design and layout of the scheme is well considered, creates distinct character areas, and consistent with the character of the existing area (low rise, low density, suburban built forms).</p> <p>The project will cause physical changes to Poles Stream, a minor watercourse, which flows along the site's eastern boundary. The project</p>	No

		<p>involves crossing the stream (two culverts and headwalls to be installed) to facilitate the vehicular and pedestrian/ cycle access points with the L-1532, and rerouting the stream (c.100m by 1-2m in a westerly direction) as part of the realignment (4m setback) of the site's eastern boundary to facilitate a pedestrian footpath along the L-1532.</p> <p>I direct the Board to the response to Q; 2.1 below in respect of protected water bodies/ ecological designations, Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.</p> <p>I direct the Board to the response to Q: 2.5 below in respect of water resources including surface waters, groundwaters, and flood risk.</p> <p>Accordingly, I do not consider that the physical changes arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.</p>	
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?</p>	No	<p>The project uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the CEMP. Similarly, waste arising from the demolition and construction phase will be managed through the implementation of a RWMP (required by condition). There is no significant use of natural resources anticipated.</p> <p>The project uses land more efficiently and sustainably than at present (in agricultural use, provision of mid-scaled, low-density residential scheme, blocks of up to 3 storeys high). Otherwise, the operational phase of the project will not use natural resources in short supply.</p> <p>The project connects to the public water and wastewater services systems which have sufficient capacity to cater for demands arising from the project.</p> <p>The project includes an energy efficient design, several SuDS features, and is located in reasonably close proximity to several amenities and services in Cavan town.</p>	No

<p>1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction phase activities would require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances would be typical of construction sites.</p> <p>Noise and dust emissions during the construction phase are likely. These works would be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition).</p> <p>Operational phase of the project does not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential and childcare activity will be managed through the implementation of the OWMP.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?</p>	<p>No</p>	<p>Conventional waste will be produced from construction activity and will be managed through the implementation of the CEMP and a RWMP, as outlined above.</p> <p>Operational phase of the project (i.e., the occupation of the residential units and the childcare facility) will not produce or release any pollutant or hazardous material. Conventional operational waste will be managed through the implementation of the OWMP to obviate potential environmental impacts.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>The project involves notable grounds works due to the site's topography with excavation and reprofiling to facilitate buildings, roads/ paths, open spaces, and site services.</p> <p>Standard construction methods, materials and equipment are to be used, and the process would be managed through the implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition), and a RWMP.</p>	<p>No</p>

		<p>I direct the Board to the response to Q: 2.1 below in respect of protected water bodies/ ecological designations, Lough Oughter and Associated Loughs SAC and Lough Oughter SPA.</p> <p>I direct the Board to the response to Q: 2.5 below in respect of water resources including surface waters, groundwaters, and flood risk.</p> <p>Accordingly, as risks of contamination to ground or water bodies are mitigated and managed, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	
1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	Yes	<p>Noise and vibration impacts during the site development works are likely. These works are short term in duration, and impacts arising will be temporary, localised, and be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition).</p> <p>The operational phase of the project will also likely result in noise and light impacts associated with the residential use and childcare service (increased traffic generation, use of public, communal, private open spaces, operation of the childcare facility) which are considered to be typical of such mid-scaled, low-density schemes as proposed.</p> <p>Traffic impacts will be mitigated by the implementation of the MMP, and lighting impacts will be mitigated by the provision of a public lighting plan designed to comply with industry guidance and provided to the satisfaction of the planning authority.</p> <p>I direct the Board to the response to Q: 2.8 below in respect of the project's effect on sensitive land uses.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality (noise, vibration, light pollution).</p>	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	<p>The potential for water contamination, noise and dust emissions during the construction phase is likely.</p>	No

		<p>These works would be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition). Site development works are short term in duration, and impacts arising will be temporary, localised, addressed by the mitigation measures.</p> <p>Operational phase of the project would not likely cause risks to human health through water contamination or air pollution due to the nature (residential, childcare uses) and design (SuDS features) of the scheme, connection to public water services systems, and scale of residential use/ activities arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	There is no risk of major accidents given nature of the project.	No
1.10 Will the project affect the social environment (population, employment)	Yes	<p>The project increases localised temporary employment activity at the site during site development works (i.e. site enabling and construction phases). The site development works are short term in duration and impacts arising will be temporary, localised, addressed by the mitigation measures in the CEMP.</p> <p>The operational phase of the project (i.e. the occupation of the residential units) results in a potential increase of c.396 persons, or a c.3.4% increase in the population of Cavan Town, a slight in scale of effect. The childcare facility will cater for a minimum of c.37 children and 7 staff.</p> <p>The receiving area is a developing suburban location, in relatively close proximity to education, amenities, services, public transport, and has the capacity to accommodate the impacts associated with the population increase.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.</p>	No

<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The site is zoned for residential development in the CDP incorporating the LAP for Cavan Town. The zonings at the site and in the vicinity (e.g. Proposed Residential and Strategic Residential Reserve) effectively serve to phase the development of Cavan Town.</p> <p>The site is a greenfield site, comprised of agricultural fields within the applicant's wider landholding, in a semi-rural/ outer suburban location. As such, the site is part of a wider large-scale change in the area as envisaged by the planning authority in the CDP incorporating the LAP for Cavan Town for the plan period until 2028.</p> <p>However, the project pertains to a greenfield site, subject to the Proposed Residential zoned lands and in this context is contained and restricted at this time. The applicant provides a masterplan concept of the future development of parts of the wider landholding, the manner by which the project would align and connect with same. The Masterplan indicates a similar approach to design and layout as is evident in the project (conventional housing on short roads from a curving spine adapting to local conditions). The development of same would be subject to future applications, public consultation, and assessment.</p> <p>I direct the Board to the response to Q: 3.1 below in respect of considerations of cumulative effects of the project.</p> <p>Within this planned and, importantly, phased context, I do not consider that cumulative significant effects on the area could be reasonably anticipated.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna 	<p>Yes</p>	<p>The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>I identify that there is an indirect hydrological connection between the site and the European sites, Lough Oughter and Associated Loughs SAC and Lough Oughter SPA, via Poles Stream and Cavan River.</p>	<p>No</p>

e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		<p>The NIS, supplemented by the EclA, ESR, CEMP, presents information on potential impacts of the project on the European sites, allowing the Board to undertake an Appropriate Assessment: Stage 1 and Stage 2 (see section 9.0 and Appendix 1 of this report).</p> <p>This process concluded that the project would not adversely affect the integrity of Lough Oughter and Associated Loughs SAC and Lough Oughter SPA in view of the sites' conservation objectives and qualifying interests. The conclusion was based on mitigation measures proposed, in-combination effects with other plans and projects, and there being no reasonable scientific doubt as to the absence of adverse effects on the sites.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity.</p>	
2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	No	<p>The site comprises habitats of agricultural grassland, drainage ditch, hedgerows, and treelines. No evidence of badger, otter, red squirrel, or bat populations were recorded during field survey work.</p> <p>No rare or protected species (mammal or flora) were recorded, and the habitats and flora onsite are determined to be of a low local importance.</p> <p>The site is determined to have no key ecological receptors and no evidence of habitats or species with links to European sites, including bird species.</p> <p>The overall species diversity and abundance of Poles Stream is recorded as very low, with limited aquatic vegetation.</p>	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	<p>There are no landscape designations or protected scenic views at the site.</p> <p>There are no protected structures or architectural conservation area designations at the site.</p>	No

		<p>The site is adjacent to/ does contain archaeological and cultural heritage features. Adjacent to the northwest corner of the site is a recorded monument, Ringfort – Rath (CV020-037). The AIA states that the site is within the zone of archaeological potential associated with monument, includes a geophysical survey of the site that identifies several anomalies for which test-trenching is recommended, describes the old trackway which traverses the site as a possible turnpike of 18th/ 19th century date, and identifies the eastern site boundary as the historic townland boundary between Drumlark and Latt (describing Poles Stream as a wet ditch).</p> <p>I note the project excludes the ringfort and provides a further protective 30m buffer zone, has a design sympathetic to the setting of the monument (siting of buildings, layout of private garden areas and public open spaces, additional separation distances, changes in topography), incorporates the trackway into the pedestrian/ roadway layout, and mitigates adverse impacts through appropriate conditions (photographic records of the trackway and townland boundary (Poles Stream), test trenching, preservation by record or in-situ).</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of archaeology and cultural heritage.</p>	
2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?	No	There are no such resources on or close to the site.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	<p>Poles Stream, a minor watercourse (described as 1st order, less than c.1.5m in width) flows along the eastern site boundary.</p> <p>The project involves crossing the stream (two culverts and headwalls to be installed) to facilitate the vehicular and pedestrian/ cycle access points with the L-1532, and rerouting the stream (c.100m by 1-2m in a westerly direction) as part of the realignment (4m setback) of the site's eastern boundary to facilitate a pedestrian footpath along the L-1532.</p>	No

		<p>A range of mitigation measures are identified in the EcIA, NIS, and CEMP during the construction phase of the project to protect the water quality of the stream, prevent pollution events, and mitigate against excessive siltation. Operation phase impacts are addressed primarily through design, with a comprehensive surface water management system including several SuDS features, onsite stormwater attenuation and discharge at greenfield rates to the stream via two drains with petrol interceptors. There is no proposed foul water discharge to or water abstraction from the stream, such that a change in the assimilation capacity of the watercourse will not occur.</p> <p>Water quality testing of the stream was undertaken for the EcIA, with an 'at risk' result recorded (i.e., of failing to achieve the 'good' water quality status goals of the Water Framework Directive). In respect of water quality, with the implementation of construction and operation phase measures, the applicant's WFDA concludes that the impact of the proposed development on the WFD classification of Poles Stream will be undetectable.</p> <p>The project's SSFRA indicates there is no history of the Poles Stream flooding at/ in the vicinity of the site, and concludes the site is located in Flood Zone C, is not within a fluvial or a tidal flood zone and is not at risk from pluvial flooding. The project's design includes mitigation measures to address flood risk such as the incorporation of several SuDS features, attenuation design capacity for 1-in-100 year storm events plus allowance for climate change with greenfield-discharge rates (thus ensuring the proposal does not increase surface water runoff elsewhere), buildings' finished floor levels, and proper operation and maintenance of the drainage system.</p> <p>Other water resources in the vicinity of the site include Drumgola Lough which is upstream of the site, so no contamination or flooding impacts are anticipated. Adverse impacts on groundwater are not anticipated. The groundwater vulnerability of the site varies from low, moderate, to high (N-W, NE-C-S (majority area), to SE), and the groundwater underneath the site is within the Killashandra Groundwater Body, which is classified as being of 'good' status.</p>	
--	--	---	--

		<p>I direct the Board to the response to Q: 2.1 above in respect of Lough Oughter and associated loughs.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of water.</p>	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion, or which cause environmental problems, which could be affected by the project?	No	<p>The site is accessed from L-1532, part of the local road network, which is well connected to regional roads, R188 and R212, and the national road N3 (c.1.8km in closest proximity to the north of the site).</p> <p>During the site development works, the project will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Site development works are short term in duration and impacts arising will be temporary, localised, and managed under the CEMP (Chapter 9: Traffic Management).</p> <p>The TTA considers operation phase impacts for the project, predicting total vehicle trips (combined arrivals and departures) of 147 trips during the AM peak hour, and 90 trips in the PM peak hour, assesses six junctions in the local road network with identification of queue lengths, delays at junctions, and mitigation measures, and concludes the junctions will operate within their effective capacities past the design year 2041. Thus, the key transport routes in the vicinity of the site will not be congested by or otherwise affected by the project.</p>	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	No	<p>There are no sensitive community facilities, such as hospitals or schools, in proximity to the site and/ or that could be significantly affected by the project.</p> <p>There are private residential dwellings located to the north and east of the site. However, the separation distances are such that there is no realistic prospect of undue overlooking, overshadowing, overbearance caused.</p>	No

		<p>Site development works will be implemented in accordance with the CEMP which includes mitigation measures to protect the amenity of adjacent properties and residents.</p> <p>The operational phase of the project causes an increase in activity at the site (traffic generation, use of public, communal, private open spaces, operation of the childcare facility) which are considered to be typical of such mid-scaled, low density schemes as proposed, in outer suburban locations such as the receiving area and well within acceptable parameters for same. The project will be under the control of an established management company and/ or taken in charge by the local authority, and no undue impacts are anticipated.</p>	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	<p>Existing and/ or approved planning consents in the vicinity of the site and the wider area of Cavan Town have been noted in the application documentation and associated assessments, e.g. in respect of AA, TTA, SSFRA.</p> <p>However, these developments are of a nature and scale that have been determined to not have likely significant effects on the environment.</p> <p>No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects with the project.</p> <p>No cumulative significant effects on the area are reasonably anticipated.</p>	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	<p>The potential impacts of the project on the Upper Lough Erne SAC (site code: UK 0016614) and Upper Lough Erne SPA (site code: UK 9020071) were considered during the Appropriate Assessment: Stage 1.</p> <p>The possibility of likely significant effects on these European sites was excluded on the basis of the nature and scale of the project, separation distances, and the weakness of connections between the project, the appeal site, and the European sites.</p>	No

		There are no transboundary effects are arising.	
3.3 Are there any other relevant considerations?	No	No	No
C.CONCLUSION			
No real likelihood of significant effects on the environment.	X	EIAR Not Required	
Real likelihood of significant effects on the environment.		EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
<p>Regard has been had to:</p> <ul style="list-style-type: none"> a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended. b) The location of the site on lands zoned lands (Proposed Residential, Strategic Residential Reserve and Low Density Residential zoning objectives), and other relevant policies and objectives in the Cavan County Development Plan 2022-2028, incorporating the Cavan Town Local Area Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC). c) The greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure. d) The pattern of existing and permitted development in the area. e) The planning history at the site and within the area. f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations. g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003). h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. 			

- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Ecological Impact Assessment, Natura Impact Statement, Landscape Management and Maintenance Plan, Site Specific Flood Risk Assessment, and Archaeological Impact Assessment.

12.1. In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Inspector: _____ **Date:** __26th August 2024__