



An
Bord
Pleanála

Inspector's Report

ABP-320528-24

Development

Construction of 28 apartments in three-storey over basement block, on partially developed site (previously approved under planning reference 02991625), together with all associated site works.

Location

Kinnypottle, Cavan, Co. Cavan

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

23271

Applicant(s)

Bernard Farrell

Type of Application

Permission

Planning Authority Decision

Grant with conditions

Type of Appeal

Third Party against decision

Appellant(s)

1. Declan Gargan
2. Gareth Talbot
3. Eithne and Sean Gurley

Observer(s)

Date of Site Inspection

13/3/25

Inspector

Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is located within the townland of Kinnypottle and is c. 300m to the east of Cavan Town Centre. It is located at the junction of Harmony Heights and Ardkeen Road. The area surrounding the site is predominantly residential in character, with dwellings generally comprising of two storey dwellings.
- 1.2. The appeal site has a stated area of 0.24ha and is enclosed by a large boundary wall. At present the site comprises of an open basement structure and retaining walls that were built pursuant to a previously approved development on the appeal site under Reg. Ref. 02991625.
- 1.3. The topography of the site is notable, the contours of the site which range from 101mOD to the in the north-eastern corner to 97m OD to the south-eastern corner of the site.
- 1.4. The appeal site is primarily bounded to the west and north by Harmony Heights, to the south by Ardkeen Road and to the east by a two-storey semi-detached dwelling.

2.0 Proposed Development

- 2.1. This application seeks planning permission for a three storey over basement apartment block consisting of 28 (12 no. 1 bed and 16 no. 2 bed) apartments including basement parking and vehicular access from the LT25384-0 (at the entrance to Harmony Heights).
- 2.2. The apartment block would have a maximum height of 9.7m and a maximum length of 47.2m. The proposed development would be finished in a buff brick with areas of zinc cladding to parts of the upper floors of the eastern, western and southern elevations.
- 2.3. At basement level the proposal would provide for 28 car parking spaces. The basement is accessed by way of a ramp located at the south-western corner of the building. Residential accommodated would be provided by 8 apartments at ground floor with 10 apartments on each of the first and second floor levels.
- 2.4. Private open space is provided by way of terraces at ground floor level and balconies at first and second floor levels.

2.5. The proposed development does not propose any public open space.

Table 2.1: Site Statistics and Development Details:		
Site Area	0.24ha (as stated)	
No. Of Residential Units	28	
Gross Floor Area	2840.9m ²	
Demolition	Nil	
Housing Mix	Refer to table 2.2 below.	
Density	c. 116 units /ha (28 units on a site of 0.24ha)	
Height	Three-storey over basement.	
Duel Aspect	12 units (42.8% of apartments)	
Parking	Car Parking	31 underground spaces (1 accessible space)
	Cycle Parking	44 spaces
Open Space	Communal open space	647.5m ²
Access	New vehicular & pedestrian access from Harmony Heights to the new apartment block.	

2.1. Table 2.2 below provides detail of the proposed housing mix.

Table 2.2 Housing Mix		
Unit Type	No. of units	%
Houses		
1 Bed Apartment	12	43

2 Bed Apartment (2 x 3 person apartments)	16	57
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3.0 Planning Authority Decision

3.1. Decision

Cavan County Council decided to grant planning permission by order dated 17/7/24, subject to 28 conditions which were generally standard.

Condition 4 required the following:

4. Prior to the commencement of development, the developer shall submit revised drawings for submission and agreement in writing with the Planning Authority of the following:

- i) North-east of the proposed apartment block- 1,2,3,4 (ground floor); 9,10,11 & 12 (first floor) and 19,20,21&22) (second floor) to be staggered at 3m away from the north-east boundary of the site.
- ii) Revised internal layout for apartments for apartments 2,10 & 20 mirrored to reflect position of balconies so that the living areas and associated balconies are adjacent to the stairwell / lift side.
- iii) Apartments 1,9 & 19 balconies to be revised to the north-east corner, with full length side screening included in the design.
- iv) A pedestrian access gate shall be provided in the north-eastern corner of the site to the existing footpath.

Condition 19 required the following:

19. Prior to the commencement of development, the Developer shall submit to the Planning Authority for approval; a Chartered Structural Engineer's report confirming the existing structural elements to be incorporated into the new development are fit for purpose. All structural elements are to be designed, supervised and certified by a Chartered Structural Engineer.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial area planners report dated 26/9/23 assessed the application in terms of the principle of development, density, design and layout, public and private open space, boundary treatment, services, car parking / bicycle stands, vehicular entrance / traffic impact, Part V, operation and management of apartments and submissions. The initial report recommended that further information was requested related to the following items:

1. A design statement
2. A revised site layout plan to show distances to adjacent boundaries and buildings.
3. Updated plans to show that the floors above the basement would have the same width as the basement.
4. A roof plan showing the location of the lift shaft.
5. Private open space for units 6 and 8 on the ground floor.
6. A Construction Environmental Management Plan.
7. Surface water drainage system.
8. A road safety audit.
9. An updated site plan to showing the location of proposed refuse storage, bicycle stands and lighting plan.
10. A shadow projection plan which shows impacts on adjoining properties.
11. Details of EV charging points.
12. Details of long-term management and maintenance of the scheme including the establishment of an Owners Management Company.
13. Concerns that the balconies serving units 9,10,19 and 20 may have an undue impact on the residential amenities of the property to the east by way of overlooking. The applicant was requested to provide proposals to address these concerns.

3.2.2 Other Technical Reports

- **Environment:** report dated 22/8/23 requesting Further Information relating to the need to submit a Construction Environmental Management Plan and the need to provide drawings which show that the surface water drainage system including all infrastructure proposed to serve same and proposed to protect the same during construction.
- **Waste Management** report dated 30/8/23: requesting Further Information relating to the need for a no objection, subject to conditions relating to the submission of a waste management plan, all waste arising from site clearance and construction works shall be managed on site and waste disposal receipts shall be obtained and retained for 5 years.

3.2.3 A Further Information response was received on 12/6/24 (after a three-month extension of time was granted by the planning authority). It is noted that the information received by the planning authority was deemed to be significant and the application was re-advertised. The Further Information response included the following:

- Cover letter prepared by Wynne Gormely Gilsenan Architects and Surveyors Ltd.
- A Design Statement prepared by Wynne Gormley Gilsenan Architects and Surveyors Ltd.
- Architectural Drawings prepared by Wynne Gormley Gilsenan Architects and Surveyors Ltd.
- Construction Environmental Management Plan prepared by Traynor Environmental.
- A Traffic and Transport Assessment report prepared by NRB Consulting Engineers. Including a Road Safety Audit prepared by Bruton Consulting Engineers.
- Public Lighting Calculation Report and Public Lighting Layout Plan prepared by Sabre Electrical Services Limited.
- Shadow Analysis prepared by James Horan Architectural Illustration.
- Innovative Commercial Charging data sheet prepared by Gocharge
- Letter from Roger and Byron Solicitors.

3.2.4 A second planning report dated 17/7/24. The second planners report considered that the applicant's response to the further information was sufficient and recommended that planning permission be granted, subject to conditions.

3.2.5 Other Technical Reports relating to Further Information

Environment: Response dated 1/7/24 outlining no objection, subject to conditions.

Road Design Section: Response dated 12/7/24 outlining no objection, subject to conditions.

4.0 Planning History

4.1 Subject land

Reg. Ref. 02991625. In July 2003 planning permission was granted for a development comprising of three storey over basement apartment block consisting of 24 no. fully serviced 2 bedroom apartments, site entrance and underground car parking. Connection to public mains water, sewerage and surface water drainage and all ancillary site works. The permitted apartment block had an overall height of c.9.9m.

4.1.1 The development proposed as part of this application would have a layout similar to that permitted under **Reg. Ref. 02991625**. For the information of the Board, it is noted that the proposed development is slightly taller than that previously permitted and includes four additional units. In addition to this, the development permitted under Reg. Ref. **02991625** included a roof top garden, which is not proposed as part of the application currently being considered.

Site on the opposite side of Ardkeen Road

Reg. Ref. 21528 (ABP-313863-22) Cavan County Council granted planning permission for the demolition of an existing derelict dwelling house and erect 26 no. 3-bed semi-detached dwellings (12 no. dormer style semi-detached dwellings with basement and 14 no. two-storey semi-detached dwellings) together with entrance, access road, footpath, street lighting, connect to existing public services, landscaping, boundary treatments and all associated works. A Natura Impact Statement (NIS) will

be submitted to the Planning Authority with the application. This decision was overturned by An Bord Pleanála for the following reason:

1. *The majority of the appeal site is zoned for “Amenity and Open Space” purposes within the Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town, 2022-2028 with an objective to “Protect and provide for amenity and open space areas”. The eastern portion of the site is zoned for Existing Residential purposes with an objective to “Protect and enhance the amenity of developed residential communities”.*

The proposed development seeks to provide a residential development in lands primarily zoned for ‘Amenity and Open Space’ purposes within the Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town, 2022-2028. ‘Residential’ is listed as a use which is not permitted on lands zoned for ‘Amenity and Open Space’ purposes. The development would contravene materially the zoning objectives pertaining to the majority of the site as set out in the Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town, 2022-2028 and would be contrary to the requirements if the Strategic aim (ii) of the Development Plan Core Strategy which seeks to promote development that is reflective of the scale of the Core Strategy and zoning maps.

5.0 Policy Context

5.1 Development Plan

- 5.1.1 The Cavan County Development Plan (incorporating a Cavan Town LAP) 2022-2028 is the operational plan for the area. The appeal site is zoned ‘Existing Residential’ with the associated land use objective ‘to protect and enhance the amenity of developed residential communities’. The vision for lands zoned existing residential as set out in Section 14.5.2 is to ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill developments should be in keeping within the character of the area.

5.1.2 Cavan Town is identified as a Key Town. Key Towns are county towns with large economically active services that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth driver. Key Towns including Cavan Town are targeted to have a 30% population uplift in the Regional Spatial and Economic Strategy for the for Northern and Western Region. The following policies and objectives are pertinent:

KTC04: which requires sustainable, compact, sequential growth in Cavan Town by consolidating the built-up footprint through a focus on regeneration and development of town centre infill and brownfield sites, and encouraging regeneration of underutilised, vacant and derelict lands for residential development and mixed use to facilitate population growth.

HS05: which seeks to ensure that a suitable variety and mix of dwelling types and sizes is provided in developments to meet different needs, having regard to demographic and social changes

HS09: which seeks to support the development of quality residential schemes with a range of housing options having regard to the standards, principles and any specific planning policy requirements (SPPRs) set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009); Urban Development and Building Heights Guidelines for Planning Authorities' (2018) and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).

APT01: Which requires that a detailed design statement is required to be submitted with any development containing multiple apartments and/ or duplex units, including private and communal amenity space, as per the minimum apartment design standards.

APT02: Proposals for apartment development will be assessed with due attention to

- Appropriate mix to cater for different household sizes.
- Aspect – dual aspect units are encouraged.
- Floor areas and room widths.
- Private and communal amenity space.
- Lift/stair core access.

- Storage provision (for general, refuse and bulky items).
- Private and communal amenity space.
- Communal facilities.
- Car, EV (Electric Vehicle) Charging Points and bicycle parking and
- Adaptability.

APT03: Provide for private amenity space that is primarily accessible from the main living area of the apartment, generally in the form of balconies/terraces. Vertical privacy screens shall be provided between adjoining balconies.

APT04: Provide for communal amenity space that is suitable for passive recreation.

REWM03: In apartment schemes, bin storage shall generally be on the ground floor level of the development, be adequately ventilated, screened from public view and adjacent to the block it serves. Where appropriate, the bin storage area shall be a separate structure to the apartment building.

ISUA 01: Proposals for infill development shall accord with the Sustainable Development in Urban Areas Guidelines for Planning Authorities (DEHLG, 2009) and the accompanying document Urban Design Manual or any updates thereof; and the Design Manual for Urban Roads and Streets, 2013, DoECLG or any updates thereof.

ISUA 02: infill development shall take account of the character of the area and where possible retain existing features such as building line, height, railings, trees, gateways.

5.2 **Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032**

5.2.1 Cavan Town is identified as a Key Town. Section 3.8 – Key Towns notes that these towns are those regionally strategic employment centres of significant scale that can act as regional drivers that complement and support the higher-order urban areas within the settlement hierarchy (ie. Regional Growth Centres and Galway Metropolitan Area). They also have the potential to accommodate a significant level of growth in population and employment through appropriate investment in infrastructure, support services and placemaking initiatives.

5.3 National Planning Framework (2018)

5.3.1 Relevant Policy Objectives include:

- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being. •
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.4 Section 28 Ministerial Guidelines

5.4.1 The directly relevant Section 28 Ministerial Guidelines are:

- **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.** These guidelines seek to support sustainable residential development and the creation of compact settlements for urban and rural areas.
- **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023** which seek to achieve high quality apartment development and to increase the overall level of apartment output.

5.5 Other Relevant Guidance

- Design Manual for Urban Roads and Streets, 2019. The manual sets out design guidance for constructing new and reconfigured roads and streets.

5.6 Natural Heritage Designations

There are no designated sites in the immediate vicinity of the appeal site.

5.7 EIA Screening

See completed Form 2 attached by way of appendix to this report. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1 Grounds of the Third-Party Appeals

3 no. third party appeals were lodged by Declan Gargan, Gareth Talbot and Eithne and Sean Gurley. The following provides a summary of the grounds of appeal:

- The process of the application.
- The height of the proposed development which is out of place having regard to prevailing height in the surrounding area.
- The density of the proposed development is excessive, and the proposed development would be overdevelopment of the site.
- The design of the proposed development would not respect the area's existing architectural style.
- The proposed development would cause overlooking of neighbouring properties, especially the property to the north-east of the site.
- The proposed development would cause overshadowing and that the plans submitted are inadequate.
- Overbearing development.

- Solar access and outlook from ground floor apartments of the proposed development.
- The proposed development would not provide any public open space.
- The proposed development would exacerbate existing traffic congestion, especially at school drop off / pick up times.
- Road safety concerns relating to the layout of the existing junction of Ardkeen Road and Harmony Heights. There are also concerns relating to the access to the proposed site and Harmony Heights.
- The site is prone to flooding.
- The structural integrity of the basement, which has been an open structure since construction and open to the elements.
- Local infrastructure does not have the capacity to safely deal with the proposed development; and
- Impact of the outdoor lighting on the area.
- Drawings not compliant with the Building Regulations.
- Construction impacts such as dust and noise impacting on health.

6.2 First Party response to Third Party Appeal

6.2.1 Response dated 9th September 2024 in which the first-party submission provides a response to third party concerns. The response includes updated landscape plans to address condition 4 of the Notification of Decision to Grant Planning Permission. The applicants request that the Board review the updated landscape proposals as a means to mitigate the need for condition 4 of the Notification to Grant Planning Permission. These updated landscape plan include the following:

- An evergreen hedgerow (*Prunus lusitanica*) to be planted at 12-14cm girth along the northeast boundary.
- A pedestrian gate within the north-eastern boundary of the land.

6.2.2 In addition to this, the first party response includes a number of additional reports to respond to third party concerns, as set out below:

- Updated outline construction management plan.
- A review of flooding maps by Traynor Environmental Limited.

- An updated Construction and Environmental Management Plan by Traynor Environmental Limited.
- Traffic and Roads Appeal Rebuttal- NRB Consulting Engineers.
- Sunlight and Daylight Access Impact Analysis by Vico Group.

6.3 Planning Authority Response

6.3.1 There are two responses from the planning authority on file. The first response dated 26/8/24 states that the contents of the appeal submissions have been examined, and it is considered that these matters were addressed in the original planner's report.

6.3.3 A second submission in relation to the first party appeal response, dated 8/10/24 states the following:

- The proposed landscaping on the north-eastern boundary of the land would not resolve overlooking issues. This is particularly relevant to the second-floor apartments.
- The Planning Authority and Road Design Section of Cavan County Council had no concerns in relation to traffic and pedestrian safety on the local network as a result of the proposed development.
- The Construction and Waste Management Plan submitted as part of the appeal response should be considered by the Environment and Waste Management Section prior to the commencement of development.
- The Planning Authority concurs with the findings of the Flood Risk Assessment
- The Planning Authority has no concerns with the density of the scheme and considers that the layout of the proposed development complied with the standards of the Apartment Guidelines.
- The Planning Authority is satisfied with the height and scale of the proposed development; however, concerns persist in relation to potential overlooking of the property to the east from balconies and windows on the second floor which cannot be mitigated by way of the applicants proposed planting scheme along the eastern boundary of the land.

6.4 Observations

6.4.1 No observations on file.

6.5 Further Responses

6.5.1 All three third parties responded to the first party appeal as summarised below:

6.5.2 The responses outline the similar concerns to the initial first party appeals, however the following additional concerns are outlined:

- The plans submitted with the third-party appeal are substantially different to those submitted with the initial application to such an extent that a separate planning application is required.
- The wording of condition 4 is unclear.
- Inaccuracies between the number of units in the initial application and the information provided in the first party appeal response.
- Concerns relating to the Construction and Environmental Management Plan.

7.0 Assessment

7.1 I make the Board aware that the proposed development has been amended by way of the applicant's appeal response submission as described in Section 6.2.1 of this report. In my opinion, the changes are not material and can be appropriately considered by the Board.

7.2 Having examined the appeal details and all other documentation on file, including submissions and responses, the report of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Density
- Residential amenity impacts
- Quality of the proposed units
- Traffic / Transportation
- Basement (Planning History)
- Construction
- Flooding

- Other matters
- Appropriate Assessment

7.2 Principle of Development

7.2.1 The appeal site is zoned Existing Residential which has an objective to '*protect and enhance the amenity of developed residential communities*'. The vision lands zoned existing residential as set out in Section 14.5.2 is to ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill developments should be in keeping within the character of the area. Residential is permitted in principle. I am satisfied that the proposed use is in accordance with the sites zoning objective and that the proposed development is acceptable in principle.

7.3 Density

7.3.1 Third parties state that the density of the proposed development is excessive.

7.3.2 The area planners report states that the density is acceptable having regard to the location of the site within walking distance to the site.

7.3.3 The first-party appeal response notes that the density is acceptable having regard to the minimum density ranges provided in the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities and having regard to the policies of the RESS and the *Cavan County Development Plan 2022-2028* which identify Cavan as a Key Town.

7.3.4 The proposed scheme comprises the development of 28 no. residential units on a c. 0.24 ha site. This equates to a density of 116 units per ha. Cavan Town is identified as a Key Town in the *Cavan County Development Plan 2022-2028*. Table 3.3 of the Sustainable Residential Development and Compact Settlement Guidelines 2024 sets out density range of 40-100 dwellings per ha (net) for the centre and urban neighbourhood of Key Towns, while I note that the density is slightly above the density range, I am satisfied that the proposed density is appropriate at this site close to Cavan Town Centre. This complies with National and Local policy in respect of sustainably increasing the density of serviced lands within town centres.

7.4 Residential Amenity of surrounding properties

7.4.1 Concerns are raised in relation to the height of the proposed development which is out of place to the surrounding areas. In addition to this there are concerns that the proposed development would have an adverse impact on the residential amenity of the area, especially the dwelling to the east of the site by way of overlooking, overshadowing and overbearing development.

Height / Layout / design

7.4.2 I note the concerns of the third parties in relation to the height of the proposed development. Third parties are concerned that the drawings do not accurately reflect the overall height of the proposed development.

7.4.3 Having considered the elevations and sections submitted with the initial application and at further information stage, I am satisfied that the height of the proposed development would be 10.4m. Ordinarily this height would be noticeably higher than the prevailing height of the existing two storey dwellings in the area. However, given the topography of the site, the proposed development would be similar in height to the existing dwelling to the east. I am satisfied that the height of the proposed development is acceptable in this context.

7.4.4 The proposed apartment block is finished with a buff brick finish with areas of zinc cladding to parts of the upper floors of the eastern, western and southern elevations. I am satisfied that the brick finish would provide a reasonably high-quality finish to the proposed development.

7.4.5 However, I do have concerns relating to the zinc finish at upper floor levels (as described above), in my opinion, the zinc finish would not successfully harmonise with the area and this finish should be replaced with a brick finish to match the rest of the building. Subject to this alteration, I consider that the development would assimilate in a reasonable manner with the character of the area.

Overlooking

7.4.5 I note the concerns of the third-party appellants in relation to the potential for the proposed development to cause overlooking. I have considered the plans submitted with the initial application, the further information response and the first party response to appeal. I have concerns in relation to the potential for overlooking of the back garden

of the property to the east from windows and balconies serving units 9 and 19 of the proposed development.

- 7.4.6 Having read the area planner's reports, I note the planning authorities concern in relation to overlooking of the property to the east from the balconies serving units 1, 9 and 19. Condition 4 of the Notification of Decision to Grant Planning Permission seeks to alter the design of the proposed development by staggering the north-eastern façade of the proposed development to be 3m away from the boundary of the land. In addition to this, Condition 4 requires that balconies serving units 1, 9 and 19 be relocated to the north-eastern elevation of the development.
- 7.4.7 I am not satisfied that that the requirements of Condition 4 fully addresses my concerns in relation to overlooking. While the relocation of the balconies would reduce overlooking, I still have concerns relating to the bedroom windows serving units 9 and 19 of the proposed development which would still have a full view of the back garden of the property to the east at c.5m. In my opinion, bedroom windows at such proximity to the back garden of the property to the east have the potential to have an undue impact on the residential amenities of this property.
- 7.4.8 I have considered addressing this issue through the introduction of screening/obscure glazing however, in my opinion these measures may have a negative impact on the internal amenity of the apartments proposed within the scheme and therefore this approach would not be acceptable.
- 7.4.9 In their appeal response, the first party include updated landscape plans which shows enhanced planting along the eastern boundary of the land. The first party contend that these measures would mitigate any overlooking concerns and would address the need for condition 4 of the Notification of Decision to Grant Planning Permission.
- 7.4.10 I have considered these plans, and I would agree with the planning authority that the updated landscaping plan proposed by the first party would not mitigate overlooking concerns.
- 7.4.11 Having considered all of the foregoing and on balance it is my view that the position and size of the windows serving the bedrooms in apartments 9 and 19 at first floor and second floor levels of the eastern elevation of the proposed development, coupled with their proximity to the eastern boundary, would result in undue overlooking and loss of privacy of the garden to the rear of the dwelling to the east. This loss of privacy would

adversely impact the residential amenity of this dwelling and would, therefore, be contrary to the zoning objective of the site which seeks '*to protect and enhance the amenity of developed residential communities*' This matter could not be dealt with by way of condition and therefore, I recommend that planning permission be refused on this basis.

7.4.12 Finally, I would agree with the third parties that the wording of Condition 4i) is unclear.

In my opinion it is not entirely clear whether this condition requires that the north-east of the proposed block to be set back a further 3m from the north-eastern boundary of the land or to be set back a maximum of 3m from the north-eastern boundary of the land.

Overshadowing / Overbearing

7.4.13 I note the concerns of the third parties in relation to overshadowing impacts. However,

I am satisfied that the proposed development would not have any undue impacts in this respect. In coming to this conclusion, I have had regard to overshadowing study presented as part of the Sunlight and Daylight Access Impact Analysis prepared by Vico Group and included in the first party appeal response. While the study does show that there would be additional shadow cast in the late afternoon in March, this effect would be limited. The Annual Probable Sunlight Hour study which demonstrates that all but two of the tested windows in Harmony Heights and Ardkeen Road would be within BRE 209 Guide 2022 recommendations. In addition to this, the study demonstrates that at least 50% of the back garden of the property to the east would continue to receive at least two hours of sunlight on 21st March. I am therefore satisfied that the proposed development would not cause any undue impacts of surrounding properties by way of overshadowing.

7.4.14 I note the concerns of the third parties in relation to overbearing impacts. However, I

am satisfied that the proposed development would not have an undue impact on surrounding properties by way of overbearing development. In my opinion, the combination of the topography of the subject site and the set back / height of the proposed development as presented would ensure that the proposal would not lead to overbearing impacts.

7.5 Quality of the proposed units

7.5.1 The third-party appeals raise concerns that the proposed units do not comply with the relevant standards set out in the Apartment Guidelines. These concerns relate to the unit mix, floor area of the units, outlook from units and lack of communal / public open space.

Unit mix

7.5.2 I note the concerns of the third parties in relation to unit mix. In terms of national policy, Specific Planning Policy Requirement (SPPR) 2 of the 2023 Apartment Guidelines outlines that the housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 1 to 49 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha.

7.5.3 Notwithstanding this, SPPR2 also highlights that all standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development

7.5.4 The overall unit mix comprises of 12 no.1 bed and 16 no. 2 bed apartments. However, having considered the floor plans and accommodation schedules supplied with the application, I note that all two bed apartments comprise of two bed, 3 person units, which would make up 57% of the total number of apartments.

7.5.5 Paragraph 3.6 of the apartment guidelines states that planning authorities may consider two-bedroom apartments to accommodate 3 persons in apartment schemes and that this type of unit may be particularly suited to certain social housing schemes such as sheltered housing. In addition to this, paragraph 3.7 of the apartment guidelines states that it would not be desirable that 2 bed three person units would displace two bed four person units and 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.

7.5.6 There is no evidence that the proposed development would cater for any form of sheltered accommodation and the number of 2 bed three person units within the

scheme is far in excess of 10%. While I acknowledge the flexibility afforded building refurbishment schemes/urban infill schemes on sites of up to 0.25ha regarding these requirements, I do not consider the proposed development to be of a quality that merits the exercise of the discretion afforded to Planning Authorities. Further to this, the buildings traditional floor plan/layout provides scope for the provision of 1-, 2- and 3-bedroom apartments so there is an opportunity for a greater unit mix to be provided. Given the level of design alteration required, I am of the opinion that this matter could not be dealt with by way of condition and therefore refusal is recommended on this basis.

Floor area and room sizes

- 7.5.7 I refer the Board to SPPR3 and Appendix 1 of the Apartment Guidelines which outline minimum apartment floor areas and aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas.
- 7.5.8 I acknowledge the concerns of the third parties in relation to the floor areas of the proposed apartments. I am satisfied, the while there are some minor non-compliances in relation to living room width, storage areas, floor to ceiling height (at ground floor level) and private open space, that the overall floor areas of the apartments are satisfactory.
- 7.5.9 Further to this, pursuant to paragraph 3.8 states that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area by a minimum of 10%.
- 7.5.10 From an inspection of the submitted drawings and the accommodation schedule, I note that 21 of the 28 apartments exceed the minimum floor area by minimum of 10%. This is considered to comply with paragraph 3.8 of the Apartment Guidelines.
- 7.5.11 In addition to the general concerns in relation to the floor areas of the proposed development, third parties have outlined concerns that the floor areas outlined in the third-party appeal are substantially different to those submitted with the initial application in terms of floor areas.
- 7.5.12 I have considered the accommodation schedule submitted in the first party appeal response and the floor plans as permitted by the Local Authority (Drawing No. F123-

103-004, which is date stamped 12/6/24 by the local authority) and note that these areas are predominantly the same. I am satisfied that the floor areas set out in the first party appeal response have been given due consideration by the Local Authority and the third parties.

Dual Aspect

7.5.13 The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration. More specifically, SPPR 4 of the Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations. Furthermore, on urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

7.5.14 Upon review of the plans submitted with the application, 12 of the units (all on the corners) are dual aspect. This represents a total of 42.8%. As I consider the site to be accessible location, I consider that the proposed development would comply with SPPR4. I further note that the single aspect units in this development would be east or west facing.

Access to light / Unit outlook

7.5.15 A number of third-party appeals have highlighted concerns relating to daylight for the floor units on the eastern side of the proposed development.

7.5.16 In my opinion, the biggest concerns would relate to units 2 and 5 at ground floor level of the proposed development. Units 2 and 5 are east facing, single aspect ground floor apartments and due to the level differences between the appeal site and the site to the east of the land, these apartments would be set c.2m below the property to the east of the appeal site.

7.5.17 However, given the set back of the proposed units from the retaining wall and the fact that these units are east facing, I am of the opinion, that these units would receive an acceptable level of natural light.

Private Open space

7.5.18 Private open space is provided by way of terraces at ground floor level and balconies at first and second floors. Appendix 1 of the Apartment Guidelines require a private open space area of 5m² for 1 bed apartments and 6m² for 2 bed, three person apartments.

7.5.19 All private amenity space achieves the required minimum depth of 1.5m. However, it is noted that the private open space for units 3 (5.7m²) and unit 12 (5.5m²) fall below the minimum area standards. I note that paragraph 3.39 of the Apartment Guidelines allows for flexibility on urban infill schemes on a site up to 0.25ha. Given that the floor areas of both apartments exceed the minimum areas set out in the Apartment Guidelines, I am satisfied that the proposed private open space for both highlighted units is acceptable.

Communal Open Space

7.5.20 Appendix 1 of the Apartment Guidelines sets out a minimum of 5m² communal open space per 1 bed apartment and 6m² for 2 bed 3 person apartments. On these figures, the proposed development is required to provide a communal open space area of c. 152m². For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha communal amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.

7.5.21 I note that the potential for the provision of communal open space is limited by the topography of the site which ranges from 101mOD to the in the north-eastern corner to 97m OD to the south-eastern corner of the site.

7.5.22 While this may be the case, there is some opportunity within the site to comply with the communal open space requirements set out in the apartment guidelines. There is a shared surface area to the west (front) of the site and planted area to the south-west and north of the site. This area could be used to provide an area of communal open space which could link with the green area shown to the north of the site. This matter could be dealt with by a condition seeking a landscape plan.

Public Open space

7.5.23 No public open space is provided within the proposed development. Section 13.4.8 of the *Cavan County Development Plan incorporating a Local Area Plan for Cavan Town 2022-2028* relates to public open space in residential schemes. It is noted that a public open space provision requirement is not set out.

7.5.24 Having regard to the proximity of the site to Cavan Town Centre and to sport grounds / GAA pitches and Cavan Swimming Pool to the east of the site and the constraints of the site, this is considered to be acceptable.

7.6 Traffic / Transportation

7.6.1 Concerns have been raised by third parties in relation to traffic safety and traffic congestion along Cock Hill and Ardkeen Road, especially on school mornings. Concerns are also set out in relation to traffic survey dates, sightlines at the vehicular access and Ardkeen Road and the impact of the committed development at Tesco's in proximity to the proposed development.

7.6.2 In response to this, the first party appeal submissions include a response from NRB Consulting Engineers which responds to the third-party appeals. In summary, the appellants response states that the proposed development would generate a total of 90 car movements per day and that the surrounding road network has the capacity to accommodate these movements, given that Harmony Heights is operating at 11% of its capacity and Ardkeen Road is operating at 19% of its capacity.

7.6.3 It is further stated that sightlines at the Harmony Heights / Ardkeen Road junction is consistent with Section 5.4.4 of DMURS and the sightlines at the entrance to the proposed development would be consistent with Section 4.4.5 of DMURS.

7.6.4 With regard to traffic safety there is no evidence that the Ardkeen Road junction as a collision blackspot. In addition to this, the sightlines, including forward visibility are being improved on Harmony Heights with the provision of a 2m footpath.

7.6.5 I note the concerns of the third-party objectors, however, having considered the report prepared by NRC Consulting Engineers and having visited the site, I am satisfied that the proposed development, given its relatively small scale would not unduly increase traffic congestion in the area. I am further satisfied that the junction of Harmony Heights and Ardkeen Road and the entrance to the appeal site into Ardkeen Road have acceptable sightlines and that the proposed development would not lead to an unacceptable traffic safety outcome. I also note that the Road Design Section of Cavan County Council did not object to the proposed development.

7.7 Basement (planning history)

- 7.7.1 A number of third-party appeals outline concerns in relation to the structural integrity of the basement which has been open to the elements for a number of years.
- 7.7.2 Condition No.19 of the Notification of Decision to Grant Planning Permission requires the developer to submit a Chartered Structural Engineers report confirming the existing structural elements are fit for purpose. Notwithstanding this, I am of the opinion that the structural integrity of the basement is critical to the acceptability of the proposed development and this matter should be fully considered within the application process and should not be solely dealt with by way of condition.

7.8 Construction

- 7.8.1 A number of third parties outlined concerns in relation to the information provided in the Construction and Environmental Management Plan. I make the Board aware that a Construction and Environmental Management Plan was submitted by way of response to the Further Information request and a subsequent Construction and Environmental Management Plan was submitted as part of the first party appeal response.
- 7.8.2 The revised Construction and Environmental Management Plan includes the use of electric generators to reduce noise and emissions. In addition to this the revised Construction and Environmental Management Plan outlines detailed dust and dirt control measures and states that there would be no significant noise impacts associated with the proposed development.
- 7.8.3 I note the third-party concerns; however, I am of the opinion that a detailed Construction Management Plan would be required to be prepared and agreed with the Local Authority prior to the commencement of development and therefore this matter could be dealt with by way of conditions.

7.9 Flooding

- 7.9.1 A number of third-party appeals outline concerns that the appeal site is flood prone. The first party appeal response includes a letter from Traynor Environmental Limited which states that there is no evidence of flooding on site or in the surrounding area. The response includes a map showing that the appeal site is outside of any fluvial

AEP event. I have also consulted the Flood maps ([Flood Maps - Floodinfo.ie](#)) and I note that the appeal site is not identified as having any flood risk.

7.9.2 I also note the location of the site on top of a hill and contours of the site which range from 101mOD to the in the north-eastern corner to 97m OD to the south-eastern corner of the site. In addition to this, on my site visit I observed that the basement structure was inundated and was watertight.

7.9.3 Having regard to the foregoing, I am satisfied that that the subject site is not flood prone and does not constitute a flood risk.

7.10 Other matters

Process of the application

7.10.1 A number of third parties outline concerns in relation to the process and validity of the application, including the information provided on the application form and the visibility of site notices.

7.10.2 I note the concerns of the third parties, however, in terms of procedural matters and the validity of the application. I note that these matters were considered acceptable by the planning authority. I am satisfied that this did not prevent any concerned parties from making representations.

Building Regulations

7.10.4 A number of third-party appeals have highlighted concerns in relation to various building regulations and codes. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal

Sewerage capacity

7.10.6 I note the concerns of the third parties in relation to the capacity of the local water and sewerage network.

In the first instance, I note that neither the Water Services Department of Cavan County Council nor Uisce Éireann did not object to the proposed development. In addition to this, I refer the Board to the Waste Water Treatment Capacity Register on the Uisce Éireann Website ([Cavan | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#)) which shows that there is capacity in the Cavan Waste

Water Treatment Plant. This matter could be dealt with by way of condition requiring appropriate connection agreements with Uisce Eireann be agreed before the commencement of development, should the Board be of a mind to grant planning permission.

8 AA Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located within the urban centre of Cavan Town. The proposal comprises of the construction of 28 apartments in one block.
- 8.2 The subject land is not directly adjacent to a European site. The closest such site to the appeal site is the Lough Oughter and Associated Loughs SAC (site code 000007) and Lough Oughter SPA (site code 004049) which are located c.3.6km to the southeast of the site. It is noted that there is no hydrological connection between the site and either the either European site. In this regard, all surface water, effluent, and greywater generated on site is required to be discharged to the Uisce Eireann Sewerage Network.
- 8.3 It is noted that Killymooney Lough is c. 170m to the south of the site. Killymooney Lough is not a European site but is hydrologically connected to the Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA via the Killymooney Lough and Stream, the Green Lough Stream and the Cavan River. There are no watercourses within the site and there is no hydrological connection between the appeal site and any of the designated sites. The site is located within an urban area and there is extensive buffer between the appeal site and the designated sites
- 8.4 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The relatively small scale of the proposal; and
 - The absence of connectivity to any European site and the brownfield nature would not make it unsuitable for ex-situ foraging.

- 8.5 I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9 Recommendation

- 9.1 Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reasons and considerations set out below.

10 Reasons and Considerations

1. The position, size and design of the window serving the bedrooms of units 9 and 12 at first and second floor levels of the eastern elevation of the proposed development would result in undue overlooking and loss of privacy of the rear garden of the dwelling to the east. Such overlooking and loss of privacy would adversely impact the residential amenity of the occupants of this dwelling. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the *Cavan County Development Plan incorporating a Local Area Plan for Cavan Town 2022-2028* and the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023)*, the overprovision of two bed three person units would not provide an appropriate unit mix for this location. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar development in the area, be contrary to proper planning and sustainable development.

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

Ronan Murphy
Planning Inspector

24 March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320528-24		
Proposed Development Summary	Construction of 28 apartments in three-storey over basement block, on partially developed site (previously approved under planning reference 02991625), together with all associated site works.		
Development Address	Kinnypottle, Cavan, Co. Cavan		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i)(iv) - Infrastructure Projects	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10(b)(i)(iv) - Infrastructure Projects. Thresholds: > 500 homes > 10 hectares	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320258-24	
Proposed Development Summary	Construction of 28 apartments in three-storey over basement block, on partially developed site (previously approved under planning reference 02991625), together with all associated site works.	
Development Address	Kinnypottle, Cavan, Co. Cavan	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development.</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The development comprises a small-scale residential development in residential area so is not exceptional in the context of the existing environment.</p> <p>A short-term construction phase and permanent operational phase will generate different waste streams, emissions and pollutants but none are considered</p>	No

	significant due to the limited scale of the proposal.	
<p>Size of the Development</p> <p>Is the size of the proposed development larger than nearby buildings. But not exceptional in the context of the existing environment?</p> <p>Are there significant cumulative impacts when considered in tandem with the proposed development. existing and / or permitted projects?</p>	<p>The existing building is 1,836m² which is larger than nearby buildings. But not exceptional for an urban area.</p> <p>I am not aware of any other plans or projects in the area which would lead to significant cumulative impacts when considered in tandem with the proposed development.</p>	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>No.</p> <p>There are no waterbodies or ecological sensitive sites in the vicinity of the site, I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area, including cultural heritage.</p>	No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

