



An
Bord
Pleanála

Inspector's Report ABP307328-20

Development	Construction of 1 Pig House and ancillary structures and associated site works and upgrading of access road and entrance.
Location	Walsh Island, County Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	19/584.
Applicant	Stephen Fahy.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Stephen Fahy.
Observers	(i) Environmental Action Alliance - Ireland. (ii) Thomas Mooney
Date of Site Inspection	24 th September, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP307328-20 relates to a first party appeal against the decision of Offaly County Council to issue notification to refuse planning permission for the construction of a building to house pigs together with all ancillary structures. Offaly County Council refused planning permission for three reasons relating to the proposed contamination of the underlying waterbody and issues relating to appropriate assessment and the general lack of information to enable the Planning Authority to determine whether or not an environmental impact assessment report is required. Two observations were also submitted supporting the decision of the Planning Authority.

2.0 Site Location and Description

- 2.1. The appeal site is located to the immediate north of the small settlement of Walsh Island in south-west County Offaly. Walsh Island is located approximately 8 kilometres north of Portarlinton, 8 kilometres south-east of the village of Dangan and 15 kilometres to the west of Rathangan in Kildare. The subject site comprises of an irregularly shaped field located approximately 1.8 kilometres north of the village of Walsh Island. The area of land to accommodate the pig house is located on the western side of the field approximately 750 metres from the R400 Regional Route which runs in a north/south direction to the east of the site. Access to the proposed pig house is to be provided via a new access road (c.750 metres in length) which is to be constructed between the subject site and the R400. This access road is to run along the northern boundary of the field. A partial track already exists along part of the proposed route. The site itself is currently under grass and used for pasture. Lands to the immediate north of the site accommodate semi-mature conifer and deciduous planted woodland. There is an old farmyard and a series of outbuildings to the immediate north of the subject site, these buildings are currently vacant. Agricultural fields surround the remainder of the subject site.
- 2.2. In terms of settlement, the area surrounding the subject site is sparsely populated and there are no dwellinghouses in the immediate vicinity. According to the planning

application form the nearest dwellinghouse is c.500 metres away and the nearest surface water features are c.200 metres away. The nearest dwellings are located on the opposite side of the R400 to the south of the proposed entrance and on a local further west of the site than runs parallel to the R400. The overall farmholding area in which the proposed pig house is to be located is 12.25 hectares. The area of the site to which the application relates is 3.819 hectares.

3.0 Proposed Development

3.1. Planning permission is sought for a new building to house approximately 1,800 pigs. The total floor area of the proposed building is 2,990 square metres. The building has an overall length of approximately 130 metres and a depth of 22.4 metres. The overall floor area to be given over to the pig house amounts to 2,274 square metres. It is to comprise of five separate rooms with slatted areas below. A slatted passage is to run along the entire length of the building and an office and storage area is to be located at the eastern end of the building. A wastewater tank to be located underground within a concrete apron and this tank is to be located at the western end of the building. Two feed silos are to be located adjacent to the store area at the eastern end of the building. The building incorporates a relatively shallow pitch and rises to a ridge height of 5.598 metres. The two silos rise to a height just less than 10 metres. The roof of the building is to comprise of corrugated cladding on timber/steel supports. A series of air ventilation exhausts are to be located above each of the slatted area rooms. All rainwater collected in the roof of the structure will be diverted to a nearby drain. A roller shutter is to be located on the eastern end of the building and access to the slatted passage is also to be located on the eastern elevation.

4.0 Planning Authority's Decision

Offaly County Council issued notification to refuse planning permission for three separate reasons. These reasons are set out in full below.

- 1. The proposed development is located on a locally important aquifer which is the source of public and private water supplies in the area. Having regard to the need to provide for the protection of water supply sources, the need to maintain a high standard of water quality in particular in relation to*

groundwaters and the provision of Offaly County Council Development Plan 2014 – 2020 to protect groundwater sources, preserve the quality of surface water, groundwater and drinking water and to protect the county’s waters from pollution set out in Policy and Objectives ENVP-03, ENVO-03 and ENVO-07, the Planning Authority is not satisfied on the basis of the information submitted, that there is sufficient evidence to indicate that water quality and sources of water supply would not be compromised by the proposed spreading of slurry on the land in the area. It is considered that the proposed development would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the information provided in the revised appropriate assessment screening report dated March 2020, the Planning Authority could not be satisfied that a Natura Impact Statement of the European sites, River Barrow and River Nore (SAC) is not required given that mitigation measures are proposed within the screening report. Furthermore, the applicant has not indicated any rationale as to why the Raheenmore Bog (SAC) which was identified within the 15 kilometre zone of influence was not considered for assessment and no conclusion for the Raheenmore (SAC) was drawn. Accordingly, it cannot be established that the proposed development would not have an adverse effect on the integrity of European sites and therefore be contrary to the proper planning of the area.*
- 3. It is considered that inadequate information has been provided in relation to potential groundwater contamination as required under Schedule 7(a) of the Planning and Development Regulations 2001, as amended. In this regard given the lack of information, the Planning Authority is unable to undertake a full assessment whether or not an environmental impact assessment report is required. It is therefore considered that the proposed development, if permitted, would be prejudicial to public health/environmental protection and would be contrary to the proper planning and sustainable development.*

4.1. Documentation Submitted with the Application

- 4.1.1.** A number of documents were submitted with the application which are briefly summarised below.

Report Detailing the Proposed Development

A report details the development specifically in relation to the operation of management of the piggery. It sets out details of the site location and description and notes that the proposed building is located away from existing farmyard structures and dwellings in order to provide for adequate biosecurity measures. It is stated that the proposed development will be carried out to ensure compliance with the Nitrates Directive and in accordance with appropriate environmental standards. The farm is currently used for rearing bovine livestock and it is stated that the proposal will represent a diversification which will allow the applicant an additional income stream.

In relation to the EIA requirement, it is noted that in relation to the previous application on site (see planning history below) which is described as “similar if not identical” to the current application before the Board, both the Planning Authority and An Bord Pleanála concluded that an EIS was not required for the proposal. It is stated that the proposed accommodation unit will be built to Department of Agriculture, Food and the Marine’s specifications.

It is stated that once the proposed unit has been completed there will be an average of 1,800 pigs on site. Pigs are transported to the farm as weaners (c.30 to 35 kilometres) from a specialised pig breeding farm and will remain until they reach a sale weight of 110 to 115 kg c.12 to 14 weeks later. Where possible an all-in/all-out movement of pigs will be practised on this farm. The unit will be washed and cleaned between each batch of pigs arriving on site. Pigs will be fed using a dry feeding system estimated to be approximately 25 to 28 tonnes per week. Water is to be supplied from an on-site well and will be stored in water storage tanks with a capacity of 12 to 15 cubic metres.

The volume of organic fertiliser produced per annum will be in the order of 2,246 cubic metres which will be collected and stored in the underground manure storage tank which will be used by adjoining customer farmers to replace chemical fertilisers. The manure storage tanks will be constructed to Department of Agriculture, Food and Marine’s standards (Minimum Specification for Bovine Livestock Units and Reinforced Tanks – November 2015). The net capacity of the storage tanks will be 5,786 cubic metres. The storage capacity will therefore have the potential to accommodate 30 months of storage.

In terms of traffic generation, it is stated that during the construction period a total of 8 to 10 loads per day will occur over a 2 to 3 week period and approximately two loads per day over a 6 month period. During the operational phase approximately two journeys per day will occur on average.

In terms of the management of organic fertiliser, it is stated that the applicant has identified a number of potential customer farmers adjacent to the farm who would like to avail of the organic fertiliser. These farmers have a combined area in excess of 312 hectares which can accommodate c.255% of the proposed organic fertiliser produced by the pig unit. The submission goes on to suggest that there is no supporting information to the claim that the land is not suitable for organic fertiliser or that the spreading of fertiliser would result in the pollution of ground or surface waters. In assessing the underlying aquifers an examination of the vulnerability concludes that only very small areas/pockets may be potentially deemed unsuitable and these lands have been excluded. The vulnerability relating to the lands in question are low to moderate. It is acknowledged that there is a public water supply in close proximity. However, it being located 0.5 kilometres outside the outer protection area this is more than adequate to ensure that public water supplies are protected.

The submission goes on to highlight policies contained in the Offaly County Development Plan 2014 – 2020 and it is considered that the proposed development fully accords with various policies in relation to agriculture and rural development set out in the development plan. In conclusion therefore, it is considered that the proposed development is appropriate and that the information submitted fully addresses concerns in relation to the previous reason for refusal on the subject site.

Noise Assessment

This report sets out details of the noise emission criteria in respect of the construction and operational phase. It also contains details of an ambient noise survey for three separate locations for both daytime and night-time. The L_{Aeq} measurements at the three locations (in proximity to the nearest noise sensitive locations indicated levels of between 41 and 60 dB(A)). The highest ambient noise levels were recorded at Location 3, closest to the R400. The report goes on to assess both the construction and operational noise impact. The results of the

assessment confirm that potential noise emissions from the pig farm are expected to be low and should have an imperceptible impact on adjacent dwellings. Mitigation measures are proposed to minimise the impact.

Odour Assessment

An odour assessment was also submitted. An odour model was undertaken based on 4,000 finishing pigs or 2.22 times the scale of the proposed development. It concludes using this standard that all inhabited dwellings in the vicinity fall outside the area that could be potentially impacted upon by the proposal.

AA Screening Report

An AA Screening Report was submitted which concludes there will be no impact on the integrity or the conservation objectives of any Natura 2000 sites. The habitats and species associated with the site will not be adversely affected. The proposed development does not therefore need to proceed to Stage 2 of the Appropriate Assessment process.

Also attached is a letter from ESB stating that an extension of the existing electricity supply network to cater for the proposed piggery is possible.

Also submitted was a copy of correspondence from Irish Water which suggests that the proposal did not pose any risk to water supply in the area. A further letter is also submitted which confirms that no organic fertiliser from the proposed development will be allocated for use by farmers on lands within the source protection area in the vicinity.

4.2. Observations

- 4.2.1. A number of observations were submitted raising concerns in relation to the proposed development including its risk to local water supply and its impact on surrounding amenity due to noise, traffic, smells etc. The contents of these various observations have been read and noted.

4.3. Internal Reports

- 4.3.1. A report from the Environment Water Services Section notes that the screening report relies on mitigation measures including mitigation measures set out under SI

605 of 2017 in relation to the spreading of slurry arising from the proposed development. It is not possible to determine the effects of Natura 2000 sites with a high level of uncertainty created by the lack of information on where the spreadlands will be.

- 4.3.2. There were also concerns that the proposed development will impact on water quality and notes that the Walsh Island water supply scheme is extremely or highly vulnerable to contamination.
- 4.3.3. A report from Roads Design states that the proposed development is acceptable subject to conditions.
- 4.3.4. A report in relation to Appropriate Assessment screening notes that the nearest European site the River Barrow and River Nore cSAC is approximately 9.75 kilometres away. However, the potential impact which may arise from land spreading has not been fully assessed.
- 4.3.5. A report from the Edenderry Municipal District Office states that if planning permission is to be granted a total of 8 conditions should be attached primarily in relation to financial contributions and roads.
- 4.3.6. The planner's report sets out details of the site location and description and the planning history associated with the site. It also details the various observations submitted objecting to the proposal. It notes the planning policy relating to the site and the contents of the various internal reports set out above.
- 4.3.7. The planning assessment concludes that further information is related in respect of the following:
 1. The applicant is requested to submit to the Planning Authority information specified in Schedule 7(a) of the Planning and Development Regulations 2001 in respect of screening for subthreshold development for environmental impact assessment.
 2. The Planning Authority has concerns regarding the impacts of the development on the conservation objectives of Natura 2000 sites therefore further information is required in relation to the proposed landbank for the spreading of organic waste.

3. The applicant is invited to comment on the issues raised in the various third party submissions to Offaly County Council.

4.4. **Further Information Submission**

4.4.1. Further information was submitted on 20th March, 2020 which consisted of the following:

- An EIA screening report (Appendix 1).
- A series of six inch maps indicating the lands which are earmarked for land spreading. Also included is a revised statement of screening for appropriate assessment.
- Comments on the various third-party submissions (Appendix 3).
- Appendix 4 copy of correspondence from IE Consulting which includes comments from Irish Water.

4.5. **Further Assessment from the Planning Authority**

4.5.1. A further report by the Environment Water Services Section notes the information submitted and reiterates concerns in relation to potential impact of the proposal on the public water supply of the area.

4.5.2. It is stated that it is not possible to determine the effects on Natura 2000 sites with the high level of uncertainty created by the lack of information on connectivity between the lands earmarked for organic fertiliser spreading and any Natura 2000 site. For the reasons above, it is recommended that the Planning Section refuse planning permission for the proposal.

4.5.3. A further report in relation to the appropriate assessment reiterates that the impact of the proposed development specifically in relation to land spreading needs to be assessed.

4.5.4. A further planning report was prepared on 9th April, 2020. It notes the conclusions of the Environment Water Services Section which recommended a refusal due to the impact that the subject development will have on local groundwater and in particular the Coolagarry Borehole. It is further considered that the EIA screening report does

not adequately address the potential groundwater contamination as required under Schedule 7(a) of the Regulations. Furthermore, there are uncertainties with regard to the impact the subject development will have on Natura 2000 sites within the vicinity due to the land spreading which will take place. On this basis it is recommended that planning permission be refused for the proposed development for the three reasons outlined above.

5.0 Planning History

- 5.1. No history files are attached but details of Reg. Ref. 17/270 are contained in two pouches in the box attached to this file. Under this application permission was sought for what appears to be an identical development for a pig house on the subject site which was refused by Offaly County Council for one reason which stated *“the proposed development is located on a locally important aquifer and that water quality may be compromised given the projected amount of slurry to be land spread by the proposed development, as the land is highly susceptible to phosphorous contamination. Surface and groundwater may be compromised by the proposed development which would pose a risk to nearby water supplies. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area”*.
- 5.2. Offaly County Council’s decision was the subject of a first party appeal. The Board upheld the decision of the Planning Authority and refused planning permission for the reasons set out below.
- 5.3. *The proposed development is located on a locally important aquifer which is the source of public and private water supplies in the area. Having regard to the need to provide for the protection of water supply sources, the need to maintain a high standard of water quality in particular in relation to groundwaters and to the provisions of the Offaly County Development Plan 2014 – 2020 to protect groundwater sources, to preserve the quality of surface water, groundwater and drinking water and to protect the county’s waters from pollution set out in Policies and Objectives ENVP-03, ENVO-03 and ENVO-07. The Board was not satisfied, based on the information submitted, that there was sufficient evidence to indicate that water quality and sources of water supply would not be compromised by the*

proposed spreading of slurry on land in the area. Accordingly, the development would be prejudicial to public health and would also be contrary to the proper planning and sustainable development of the area.

5.4. The Board's decision was dated 30th October, 2018.

6.0 Grounds of Appeal

6.1. The decision of Offaly County Council to issue notification to refuse planning permission was the subject of a first party appeal on behalf of the applicant (Mr. Stephen Fahy) by CLW Environmental Planners Limited. The grounds of appeal are summarised below.

6.2. The grounds of appeal set out the background to the proposed development including details of the proposed activities on site. It is argued that the proposed development is below the EIA and EPA licensing threshold and this conclusion was already arrived at in the original decision issued by Offaly County Council in respect of Reg. Ref. 17/270. The grounds of appeal go on to summarise the comments made by Offaly County Council in its decision.

6.3. The applicant has provided ample evidence to demonstrate that clearly there is a significant excess demand in this area for the organic fertiliser that would be produced by the pig farm and that it can be used in an environmentally friendly/compliant manner. It is argued that there is sufficient detail on file to enable Offaly County Council to come to the conclusion that the proposed development will not pose an environmental threat. It is noted that, in order to receive grant aid farmers must detail the area of lands to be farmed in any given year and the type of crops to be produced on the said lands. It is noted that all farmers are entitled to use organic fertiliser such as that which would be produced by the piggery.

6.4. While Offaly County Council express some concerns regarding nitrate pollution in the groundwater, it is argued that manure nitrate is a natural slow release form of nitrate and is therefore more stable than the nitrate contained in commercial fertiliser. The grounds of appeal go on to outline the benefits of organic fertiliser in sustainable farming practices. It is stated that the lands which will receive the benefit from the organic manure have a capacity of in excess of 250% of the estimated production. The farmers in question are operating under separate legislation (SI 605 of 2017)

and therefore they are not party to or subject to any assessment by the Board in respect of land-spreading activities. It should be remembered that this is a proposed agricultural development in an agricultural area - and as such is acceptable. The proposed development has already been assessed in terms of design, roads and traffic and suitability of the proposed development to the area and no issues are raised in respect of these matters in the Board's previous assessment.

- 6.5. Reference is made to various policy statements in the development plan and it is argued that the proposed development does not contravene any of these policy statements. It is stated that the proposed development is not located within the inner or outer source protection zone and is c.1 kilometre from same. It is suggested that Offaly County Council have permitted other agricultural developments that are located in closer proximity to such source protection zones. There is a requirement that the piggery be designed in accordance with the standards of the Department of Agriculture, Food and the Marine and that all development will be carried out in accordance with the European (Good Agricultural Practice for the Protection of Waters (Regulations) 2017) (as amended). It is therefore inherent that the applicant complies with these statutory requirements. Every effort will be made with regard to the highest standards of management welfare and environmental protection to ensure that the proposal will not have any adverse significant impact.
- 6.6. It is suggested that Offaly County Council have acted beyond its remit in assessing the application as the reason for refusal relate to practices of other farmers on their landholdings which are not party to the application. It is not accepted that the applicant has not provided enough evidence to allow the Council to assess the potential groundwater contamination. The applicant has submitted GSI data confirming that the site is of moderate vulnerability and that the application will be constructed and operated in line with the requirements of the Department of Agriculture, Food and Marine.
- 6.7. The proposed development is located 1.5 kilometres from the Coolagarry Borehole and 1 kilometre from the outer source protection area. It is suggested that the predominant supply to this borehole is from an adjoining more productive regionally important aquifer rather than the aquifer underlying the site in question. It is noted that Irish Water had no specific concerns relating to the proposed development provided that no organic fertiliser was spread within the identified source protection

areas. The applicant is happy to comply with this. It is stated that all land spreading will be done in areas of low moderate and high groundwater vulnerability and there will be no land spreading in any areas of extreme vulnerability or karst.

- 6.8. Offaly County Council have refused planning permission primarily on the basis of the potential impact arising from slurry spreading on surrounding agricultural lands. The process of slurry spreading is not an activity for which planning authorisation is sought or required. And any such slurry spreading will be carried out in accordance with the requirements of SI 605 of 2017. Reference is made to case of Hoey versus An Bord Pleanála [2016 263 JR]. Offaly County Council have failed to meaningfully incorporate the applicant's consultation with Irish Water in advance of the decision-making process. It is also stated that the proposal is compliant with the GSI response matrix in response to land spreading.

In relation to Reason No. 2 it is reiterated that any application to land of organic fertiliser by customer farmers is not the development under consideration and to the mitigation measures referred to by Offaly County Council are in fact legislative requirements on the customer farmers and not mitigation measures undertaken by the applicant. The applicant has arranged for the completion of an NIS to address the issues raised. This accompanies the submission.

- 6.9. In relation to the third reason for refusal, the applicant provided the following to Offaly County Council.

Confirmation that the proposed development is in a moderately vulnerable area (the second lowest category) well removed from the water supply source and outside any source protection area.

Confirmation that groundwater resources in the area will be protected by constructing and operating the proposed development in line with departmental specifications. This will include a leaked detection system under the pig manure storage tanks. It is reiterated that Offaly County Council have granted planning permission in recent years for agricultural related developments on more vulnerable lands than the subject site.

- 6.10. It is reiterated that Irish Water had no specific concerns pertaining to the proposed development provided that no organic fertiliser was spread within the identified

source protection areas. The grounds of appeal also include a number of appended documents including

- The details of the planning decision.
- Details of the environmental benefits of manure application on farming lands.
- A copy of correspondence from IE Consulting Hydrogeologists which conclude that the proposed development and the measures to be undertaken as part of land spreading etc. will offer adequate protection to the underlying aquifer.
- Attachment No. 4 details of the Coolagarry Borehole groundwater source protection zones.
- Attachment No. 5 contains a GSI groundwater response matrix.
- Attachment No. 6 contains details of the judgement in respect of Hoey -v- An Bord Pleanála [2016 263 JR].

6.11. A Natura Impact Statement was submitted. It identifies the River Barrow and River Nore SAC (Site Code: 002162) as the only site that could be potentially impacted upon. A number of qualifying interests associated with the SAC have been screened in for the purposes of the assessment. These include:

- *Hydrophilous tall herb fringe communities.*
- *Watercourses of plain to montane levels.*
- *River Lamprey.*
- *Brook Lamprey.*
- *Otter.*
- *Salmon.*
- *White Clawed Crayfish.*

6.12. The proposal also assesses the potential impact on the Raheenmore Bog SAC and the Longderries SAC. Section 4.3 of the NIS sets out the identification of the potential impacts that could arise. These include:

- Deterioration of water quality.

- Impacts on designated sites from atmospheric emissions.
- Potential impacts on water quality associated with the use of organic fertilisers.
- Cumulative impacts.

6.13. Finally, Section 5 of the NIS set out a series of mitigation measures and concludes that the proposal will result in no significant effects on the conservation objectives or qualifying interests of Natura 2000 sites.

7.0 Appeal Responses

7.1. A response was received from Offaly County Council on the 30th June, 2020. It states that the details of the first party appeal in respect of the above are noted and have been considered. The Board's attention is brought to both the planners and technical reports on file. The Planning Authority respectfully request that An Bord Pleanála supports its decision in this instance.

8.0 Observations

Two observations were received.

8.1. Observation by Mr. Thomas Mooney (on behalf of concerned residents)

8.1.1. The planning history of the site is noted and that the subject application was the subject of a refusal previously by Offaly County Council and An Bord Pleanála.

8.1.2. The applicant is attempting to gain planning permission to erect a pig unit in the centre of and directly on top of a locally important aquifer. This group water scheme is now in the ownership of both Irish Water and Offaly County Council. The aquifer is the source of water for approximately 377 households and includes 34 kilometres of watermains. It is noted that a similar sized group water scheme in County Limerick recently necessitated closure due to high nitrate contamination. It is noted that in the early 1990s planning permission was granted for an outdoor pig farm in close proximity to the water source which was situated at the northern end of the aquifer and within two years Offaly County Council was forced to close this water source because of the level of nitrates far exceeded European Union permitted levels.

Reference is made to the report on file from the Environmental Section of Offaly Co Council which states the aquifer is highly susceptible to phosphorous contamination and groundwater is highly susceptible to nitrate contamination. Current levels in the Coolagarry Boreholes exceed the European Union guidelines. There are karst features and high extreme vulnerability areas in the vicinity of the site.

- 8.1.3. It is also suggested that there are residents living in closer proximity to the proposed pig unit than that referred in the information submitted with the application.
- 8.1.4. The grounds of appeal make reference to the requirement for leaked protection systems for the pig house. This in itself indicates that the units in question are not 100% leakproof and leakages of slurry can occur. This is unacceptable as the pig unit is to be built on grounds classified as highly vulnerable to pollution.
- 8.1.5. It is suggested that an underground tank which has been installed at the subject site may be intended to be used in mixing slurry with water from the adjacent stream for later distribution to farmers. This tank is located adjacent to a stream which runs alongside the R400 roadway eventually entering the River Barrow. Thus, any pollution of the stream in question could in turn result in pollution of the River Barrow downstream. The fact that there are karstic features in the area makes potential contamination of the underground aquifer more probable.
- 8.1.6. Contrary to what is said in the grounds of appeal, it is argued that the Environmental Protection Agency has categorised all areas surrounding the proposed pig unit as being of extreme groundwater vulnerability. The information submitted with the application purporting to suggest that Irish Water are in agreement that the proposal will not adversely impact on the underlying aquifer is not at all conclusive. The hydrogeologist on behalf of Irish Water merely commented that the proposal “looks acceptable” which is very different to, “that is acceptable”.
- 8.1.7. Furthermore, the applicant cannot separate the two activities of constructing a pig unit and consequential land spreading as a result of effluent generated by the pig unit. The customers farmers are an integral part of the pig rearing business and without the facility to dispose the pig slurry the applicant cannot operate his business. Questions also arise as to how the slurry spreading will be policed. Pig slurry is scientifically shown to contain a large excess of nitrate and phosphate ten times higher than ordinary cow manure and this will be on top of a very important

aquifer in an area of high groundwater vulnerability. The proposal therefore constitutes an unacceptable risk to the surrounding water supply.

8.2. Observation by Environmental Action Alliance – Ireland

- 8.2.1. This observation argues that the appeal to An Bord Pleanála is invalid on the basis that the applicant failed to challenge the validity of the decision by the Board on 30th October, 2018 by way of judicial review in accordance with Section 50 of the Planning and Development Act. When an application is appealed to the Board it is contended that it is not permitted for a second application for the same development or a development of the same description to be made to the Planning Authority.
- 8.2.2. It is also argued that the proposal is in non-compliance with the EIA Directive on the basis that the proposed pig development is of a class listed in Schedule 2 and Paragraph 1(c) Intensive Livestock Installations. The threshold is where the floorspace exceeds 500 square metres. Therefore, the Planning Authority shall carry out EIA screening to determine whether the project shall be made subject to an assessment.
- 8.2.3. The applicant in the additional information submission to the Planning Authority failed to include an NIS and failed to include a proper EIA Screening Report.
- 8.2.4. It is argued that the proposed development is a project likely to have significant effects on the environment by virtue of its nature and location and therefore should be subject to a full EIA.

9.0 Planning Policy Provision

- 9.1. The current plan is the Offaly County Development Plan 2014-2020.
- 9.2. Chapter 2 of the plan refers to Economic and Enterprise Strategy and section 2.8.1 specifically to agriculture. There is strong presumption to supporting agriculture and taking a positive approach to applications for agricultural developments generally, subject to the protection of groundwaters, residential amenities, designated habitats and the landscape. Policies and objectives in relation to agricultural development reflecting these provisions include, RDP-01, RDP-03, RDP-05, RDP-06, RDP-07, RDP-11, RDP-15, RDO-01, RDO-03 and RDO-04.

- 9.3. Chapter 4 refers to Infrastructure and Environment Strategy. Water supply is referred to in section 4.8 with the overall aim to continue to ensure the provision of necessary infrastructural services to support development in accordance with the county's settlement hierarchy without compromising the quality of our natural environment. In section 4.10.1 referring to Water Supply, it is indicated that the Council provides a monitoring and regulatory approach in ensuring the protection of groundwater supplies.
- 9.4. In relation to protection of the environment, in section 4.18 there is reference to ensure that environmental protection measures are taken to prevent environmental pollution, in section 4.19.2 to the protection of groundwater as approximately 65% of water supplies in the county are derived from ground water reserve, to the protection groundwater and aquifers and taking a precautionary approach to development in Source Protection Zones which are defined in map 4.3.
- 9.5. Agriculture is specifically referred to in the context of groundwater and water source protection and that the density of intensive pig units shall be carefully controlled, in order to minimise their impact, to prevent soil and ground water contamination and to protect rural amenities. It is indicated that “*developments involving intensive pig units shall be required to show compliance with the following requirements:*
- *The developer shall have all lands available and suitable for spreading in close proximity to the pig unit.*
 - *Satisfactory arrangements for storage, management and spreading of slurries are provided.*
 - *New units shall be well removed from existing settlements and development clusters”.*

Policies and objectives in relation to environmental protection and water protection include:

EnvP-03 It is Council policy to protect groundwater sources in the form of Source Protection Zones. Proposals to develop within these zones will be required to demonstrate that adequate protection of groundwater quality will be put in place.

EnvO-03 It is an objective of the Council to protect and preserve the quality of surface water, ground water and drinking water in the county through the relevant legislative provisions.

EnvO-07 It is an objective of the Council to protect the county's waters from pollution

9.6. Chapter 7 refers to Heritage and Landscape. AHAP-01 is a policy in relation to the protection of the county's areas of high amenity and these areas are identified in map 7.17 which identifies these areas of High Amenity. The site is not located within such an area.

9.7. **SI No. 605 of 2017 – (Good Agricultural Practice for the Protection of Waters) Regulations 2017**

9.8. SI No. 605 of 2017 relates to the European Union (Good Agricultural Practice for the Protection of Waters (Regulations) 2017). Part 2 of these Regulations set out details for farmyard management and Section 10 sets out the capacity of storage facilities for pig manure. It states that the capacity of facilities for the storage on a holding of livestock manure produced by pigs shall be equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks. Part 3 of the Regulations relate to nutrient management and Part 4 relates to the prevention of water pollution from fertilisers and certain activities under Article 17(2). It states that organic fertiliser or soiled water shall not be applied to land within (a) 200 metres of the abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 100 cubic metres or more of water per day serving 500 or more persons.

10.0 **EIAR Screening Determination**

10.1. Please see section in my assessment and appendix 1 of my report in relation to this issue.

11.0 **Planning Assessment**

I have read the entire contents of the file, have had particular regard to the Planning Authority's reasons for refusal and the grounds of appeal contesting these reasons. I

consider the pertinent issues in dealing with the current application and appeal are as follows:

- Principle of Development
- Potential Impact of Proposal on Underlying Aquifer and Water Supply Issues
- The Requirement for EIA
- Appropriate Assessment Issues

11.1. Principle of Development

- 11.1.1. The proposal constitutes an agricultural enterprise located in a rural area which agricultural activities predominate. The proposed pig house is set back a considerable distance (c.750 metres) from the nearest public road and is not proximate to any dwellinghouses in the vicinity. The proposed development of the subject site as a pig farm is compatible with the surrounding land uses.
- 11.1.2. The applicant in this instance has presented a proposal which appears to be for all intents and purposes identical to that submitted to the Planning Authority in 2017 and refused by An Bord Pleanála in October, 2018. An Bord Pleanála in refusing planning permission expressed concerns solely in relation to the potential adverse impacts on the subjacent aquifer. The reason for refusal did not express any concerns in relation to the non-compatibility of the development with surrounding uses. I note the previous planning inspector's report (Section 7.2.2) states that "*I consider that, having regard to the nature of the appeal site, which is an active farm, and its location in the open countryside outside any designated settlement the proposed development would be acceptable in principle and would not be out of character with the surrounding area*". Likewise, in relation to potential impact on residential amenities, the previous inspector's report concluded that "*having regard to the management practices proposed and the separate distances to the nearest dwellings, I consider that the proposed development which is in an established rural area will not therefore injure residential amenities*". The inspector's report also concluded that the siting and design of the proposed structure would be acceptable in visual amenity terms.
- 11.1.3. I would fully agree with the conclusion reached by the inspector in relation to the previous application and appeal (ABP300957-18) in respect of these matters and on

this basis, I consider that the Board can restrict its deliberations to the issues raised in the Planning Authority's reasons for refusal namely:

- Potential Impact on Underlying Aquifer and Water Supply Issues.
- The Requirement for EIA.
- Appropriate Assessment Issues.

11.2. Potential Impact of Proposal on Underlying Aquifer and Water Supply Issues

11.2.1. This issue was central in the Planning Authority's assessment in the planning application and was also a major concern expressed by the various observations submitted to the Planning Authority and submitted to the Board in respect of the appeal. The site overlies an aquifer which supplies water to the Walsh Island Group Water Scheme. Reference is made in the previous planning inspector's report and on one of the observations submitted to the incidence of pollution which occurred on foot of the establishment of an outdoor pig farm in the 1990s. The contamination of the local water supply which is attributed to slurry spreading associated with the pig farm required the relocation of the water supply scheme to its current location at the Coolagarry Borehole.

11.2.2. As in the case of the previous application and appeal the appellant emphasises that:

- (a) The pig unit will be designed in accordance DAFM specifications for agricultural buildings and will also include a leak detection system.
- (b) That the area is located an aquifer of moderate vulnerability and is located over a kilometre from the source protection zone associated with the Coolagarry Borehole.
- (c) The applicant also provides detail of where the customer farms are to be located all of which are located outside and away from the Coolagarry Borehole zone of contribution. It is also stated that all land spreading will be done in accordance with the Nutrient Management Plan for the farm in accordance with the requirements under SI 605 of 2017. It is stated that all land spreading will take place in areas of low, moderate and high groundwater vulnerability and that there will be no land spreading in areas of extreme vulnerability or karst.

11.2.3. I further note that the proposed development in this instance appears to be identical in terms of design, size and scale of production to that which was deemed inappropriate to provide for the protection of water sources under the previous application (ABP300957-18). Furthermore, the farms and parcels of land which are earmarked to accept slurry from the proposed pig unit are the same as those earmarked under the previous application (ABP300957-18). It appears to me therefore that there is no material change in circumstances with regard to the level of production including the amount of slurry to be generated and the areas of farmland which are to accept the slurry from the pig house. As such, there appears to be no material change in respect of the amount of slurry to be generated by the proposal and the areas of land which are to accept such slurry both in terms of size and location which would persuade the Board to arrive at a different view to that concluded under ABP300957-18. Under both the current and previous application the total manure production was estimated to be 2,246 cubic metres. Under both applications it was indicated that the potential customer farmers for land spreading involve a total land area of 312 hectares. An analysis of the lands earmarked for lands spreading appear to be the same lands under both applications. On this basis there would appear to be no material changes in the content of the application which would warrant or justify the Board reaching a different conclusion in respect of the potential impact on groundwater.

11.2.4. The appellant in the grounds of appeal also relies on consultations with Irish Water in which the hydrogeologist on behalf of Irish Water indicate that, provided that the applicant is agreeable not to undertake any land spreading within the zone of contribution, the overall proposal 'looks to be acceptable'. It appears that the view proffered from the hydrogeologist on behalf of Irish Water was somewhat a subjective view and is without the benefit of any detailed analysis. It constitutes a somewhat prime fascia assessment which concludes that the proposal "looks acceptable". As pointed out in one of the observations submitted on file this statement cannot be construed as an unequivocal technical endorsement of the acceptability of the proposal.

11.2.5. It is very clear that the Environmental Water Services Section of Offaly County Council continued to have significant concerns that the proposed development could potentially impact on the water quality of the underlying aquifer. Similar concerns are

also expressed in the Walsh Island Water Supply Scheme Groundwater Source Protection Zone prepared by the Geological Survey of Ireland in collaboration with Offaly County Council (see Attachment 4 of the Grounds of Appeal). This report notes that the land around Walsh Island is free draining indicating relatively high permeabilities of the bedrock. Such high conductivity and permeability would assist in potential contaminants travelling to the underlying aquifer. It is noted that nitrate concentrations are high in the underground aquifer and hydrochemistry and water quality analysis undertaken as part of the groundwater source protection zone report indicate a general high nitrate contamination within the water which was attributed in part of the spreading of inorganic fertiliser and slurry. Nitrate is a highly mobile ion which can move quickly within the soil and subsoil and therefore constitutes a threat to the quality of drinking water. Bacteriological samples indicate that there is occasional significant organic contamination. The fact that the groundwater around the borehole is either extremely or highly vulnerable to contamination together with the inherent high nitrate and on occasion high faecal contamination of groundwater in the area together with the acknowledgement in the groundwater protection scheme that there is not the available information to allow the definite delineation of the groundwater protection zone boundaries, suggests the Board in the case of the previous application were correct in incorporating a precautionary approach in determining the application. As the current application is not materially different than that previously refused by the Board and the same circumstances would apply and therefore the same conclusion can be reached in my opinion.

11.3. The Requirement for EIA

- 11.3.1. The third reason for refusal issued by the Planning Authority is predicated on the opinion that the information submitted under the provisions of Schedule 7(a) of the Planning and Development Regulations 2001 was inadequate to allow the Planning Authority to undertake a full assessment as to whether or not an environmental impact assessment report is required. The Planning Authority's concern specifically related to the potential impact arising from groundwater contamination. The relevant class of development in respect of Schedule 5 of the Planning and Development Regulations is set out in Part 2(1)(e)(ii) – installations for intensive rearing of pigs not included in Part 1 of this Schedule which would have more than 2,000 places for the production of pigs (over 30 kilograms) in a finishing unit. The current application

before the Board seeks permission for the housing of 1,800 pigs which is 90% of the threshold for which a mandatory EIA would be required under the provisions of Part 2 of Schedule 5. The threshold therefore is below albeit marginally for a mandatory EIA.

11.3.2. The applicant has submitted an EIA Screening Statement by way of additional information. The content of this has been read and noted. For the purposes of completeness, I have carried out an independent EIAR Screening Assessment in accordance with An Bord Pleanála's EIA Guidance Note and the requirements of Schedule 7 of the Planning and Development Regulations 2001. This independent assessment is contained in Appendix 1 of this report. The screening assessment concludes that the only potential significant effect arising from the proposed development relates to groundwater contamination and while this presents a very serious risk, it has already been the subject of detailed assessment by the Planning Authority and An Bord Pleanála under the current and previous applications. If the Board are in any doubt as regards to the potential impact arising from the development on groundwater it would be more appropriate in my view to request further information in the form of a more detailed hydrological report rather than request a full EIAR.

11.3.3. On the issue of EIAR the observation submitted by Environmental Action Alliance argues that the proposed pig development is a project likely to have significant effects on the environment on the basis that:

- It will impact on a locally important aquifer.
- It will impact on lands highly susceptible to phosphorous.
- It could compromise water quality and sources of water supply.
- It could compromise surface and groundwater.
- And could be prejudicial to public health.

11.3.4. While I do not dispute any of these potential impacts, the impacts in question all relate to groundwater and it is my considered opinion that there is sufficient information on file to allow the Board to determine the potential impacts on groundwater in the absence of a full environmental impact assessment. I would further reiterate that if the Board have any doubt as regards the potential impact

arising from the development on groundwater, it would in my view be more appropriate to request further information specifically in relation to potential groundwater contamination as opposed to request a full EIAR which would require the applicant to carry out detailed evaluations on potential impacts on the environment which are clearly not a matter of concern to either the Board, the Planning Authority or the observers in question.

- 11.3.5. The observation also suggests the appeal is incomplete as it fails to contain an EIA Screening Report to enable the Board to carry out a full EIA Screening Assessment or an NIS for the Board to carry out an AA Screening Assessment. Issues in relation to appropriate assessment will be dealt with under a separate heading below. The Board however should note that the appeal submitted was accompanied by an NIS. In respect of the EIA Screening Report the Board will note that the additional information submitted by the applicant included an EIA Screening Report. Furthermore, an independent EIA Screening Report was undertaken as part of this report and this screening assessment is attached in Appendix 1.
- 11.3.6. The submission by the Environmental Action Alliance argued that the appeal to the Board is invalid on the basis that the proposed development is exactly the same as the development sought under PL17/270 which was refused planning permission on the 30th October, 2018. While the proposed planning application before the Board appears to be identical in terms of the nature and extent of development being proposed, the application in this instance was accompanied by additional documentation which purported to allay both the Planning Authority and the Board's concerns in respect of the potential impact arising on groundwater and drinking water supplies in the vicinity of the application site. There is nothing to preclude the applicant from submitting a revised application accompanied by additional documentation in an attempt to convince the Competent Authority of the planning merits of the proposed development.
- 11.3.7. The grounds of appeal also suggest on the basis of Hoey -v- An Bord Pleanála [2016 263 JR] that the issue of land spreading is not the subject matter of the application for planning permission. The application relates to the construction of the pig unit therefore it is argued that planning authorisation is neither sought nor required in relation to land spreading. While the issue of spreading slurry and manure on agricultural lands may not in itself require planning permission and is administered

under a separate code namely SI 605 of 2017 the spreading of slurry on adjoining lands is an inherent constituent of the piggery production process. As one of the observers point out, the customer farmers are an integral part of the pig rearing business. Without the facility to dispose of the pig slurry, the applicant cannot operate his business. The two activities are therefore inextricably linked and the consequences of spreading the slurry has to be assessed. The production and disposal of manure generated by the pig house is an inherent consideration in adjudicating on the application in question as it constitutes an indirect effect arising from the application. It is clear that the Board in adjudicating on the previous decision related to the application, (and indeed other applications of a similar nature), considered the issue of land spreading to be germane and indeed a critical consideration in determining the application. I note that the Board's decision under ABP300972 was issued subsequent to the legal case referred to in the grounds of appeal.

11.4. Appropriate Assessment Issues

- 11.4.1. The second reason for refusal issued by the Planning Authority stated that it could not be satisfied that a Natura Impact Statement is not required given that mitigation measures are proposed within the screening report. Furthermore, it is stated that the applicant has not indicated any rationale as to why Raheenmore Bog (SAC) which is identified within the 15 kilometre zone of influence was not considered for assessment and no conclusion in relation to Raheenmore Bog (SAC) was drawn. Accordingly, it is argued that it cannot be established that the proposed development would not have an adverse effect on the integrity of European sites in the vicinity.
- 11.4.2. In response to this the applicant has submitted a Stage 2 Natura Impact Statement to accompany the grounds of appeal. This NIS determined in the first instance that the proposed development is not directly connected with or necessary to the nature conservation management of any designated sites in the wider area. It notes that there are three Natura 2000 sites within a 15 kilometre radius of the subject site. The River Barrow and River Nore SAC (Site Code: 002162) is located between 9.6 and 29 kilometres downstream of the subject site and is hydrologically connected via the Figle River and its tributaries. The Stage 1 Screening Assessment states that potential impacts could arise from deteriorations in water quality during the construction and operation phases and potential impacts would also arise in respect

of atmospheric emissions. The Raheenmore Bog (SAC) (Site Code: 000582) and the Longderries (SAC) (Site Code: 000925) are located approximately 13.5 kilometres and 14.3 kilometres to the north-west and north-east of the subject site respectively. It is also stated that the proposal has the potential to give rise to atmospheric emissions on sensitive vegetation associated with both SACs. It was on this basis and on the basis of “an abundance of caution” a Stage 2 NIS was prepared.

11.4.3. The NIS also notes that there will be no land spreading on any of the designated areas or any areas of extreme vulnerability and all land spreading will be done in accordance with the provisions of SI 605 of 2017. The potential impacts on Natura 2000 sites are identified as follows:

- Deterioration of water quality due to pollution from surface water run-off during site preparation and construction.
- Deterioration in water quality in designated areas arising from pollution during the operation of the proposed development.
- Impacts on designated sites arising from atmospheric emissions.
- Potential impacts on water quality associated with the use of organic fertiliser from the proposed development due to land spreading. It is stated that this potential impact is being screened in at this stage out of an abundance of caution as the customer farmers that receive the manure are not party to nor are they subject to any decision arising from the application. The NIS goes on to note the qualifying interests associated with each of the SACs and screens in and /or screens out various species and habitats associated with the SACs on the basis of whether or not they could be potentially affected by the proposed development.
- In relation to the deterioration of water quality during site preparation and construction works it is stated that there is a possibility that the water quality of the Figle River and subsequent downstream ecological receptors of the River Barrow and Nore may be negligibly impacted upon from a large spillage. During the operational phase a similar deterioration in water quality could take place during a large slurry spill.

- In terms of atmospheric emissions, the proposal has the potential to give rise to elevated ammonia and nitrogen levels.
- And land spreading undertaken in an inappropriate manner could also lead to serious impacts on receiving waters in local catchments which could lead to eutrophication of receiving waters, fish kills and loss of biodiversity.

11.4.4. Section 5 of the NIS sets out various mitigation measures during the construction and operational phase in order to counteract any potential deterioration in water quality due to construction or operation activities. 11 mitigation measures are proposed to address these potential impacts. These mitigation measures are set out in Section 5.1 of the NIS. Section 5.2 of the NIS sets out two mitigation measures in respect of controlling atmospheric emissions and Section 5.3 of the NIS sets out mitigation measures in respect of land spreading and farm operations. The main mitigation in this regard is that all organic fertiliser will be applied on lands in accordance with the requirements of SI 605 of 2017. In light of the above it is considered that with the incorporation of mitigation measures, the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Natura 2000 sites. The integrity of the sites will not be adversely affected by the proposed development.

11.4.5. For the purposes of completeness, it is proposed to carry out an independent appropriate assessment of the NIS submitted with the grounds of appeal. The NIS in my view correctly identifies all Natura 2000 sites which could potentially be impacted upon as a result of the proposed development, namely the River Barrow and River Nore SAC (Site Code: 002162). Despite being almost 10 kilometres south of the subject site this SAC is the most likely to be impacted upon on the basis that some of the lands earmarked for the land spreading of manure are located in proximity to the Philipstown River, Esker Stream and Wouge River - all of which drain eastwards into the Figile River which in turn discharge into the River Barrow and River Nore SAC. While the subject site is located approximately 10 kilometres (as the crow flies) from the River Barrow and Nore SAC the hydrological connection between the subject site and the lands earmarked for land spreading are hydrologically connected via a more circuitous route which is much greater than the 10 kilometres referred to in the NIS. This more circuitous route makes the possibility for potential contamination of surface waters within the River Barrow and Nore SAC to be less likely due to the

separation distance involved and the amount of dilution and dispersion which would take place in the receiving waters.

11.4.6. The other two Natura 2000 sites identified within the 15 kilometre radius are the Raheenmore Bog SAC (Site Code: 000582) which is located 13.5 kilometres north-west of the site and the Longderries, Edenderry SAC (Site Code: 000925) which is located 14.3 kilometres to the north-east of the subject site. Both these SACs are located a considerable distance from the subject site and from the areas designated for land spreading. The proposed development including the land spreading associated with the development do not represent potential threats to the SACs in question because of the separation distances between the lands in question and the SACs. While some of the qualifying interests associated with the above SACs (hydrophilous tall herb fringe communities, raised bog and semi-natural dry grassland) could be adversely affected by atmospheric emissions arising from the proposed development, the separation distance between the development and the SACs in question would ensure that any potential impact will not occur.

11.4.7. With regard to the potential impact on surface waters associated with the Barrow and Nore SAC, this SAC accommodates a number of species and habitats which could potentially be affected by a deterioration in water quality. However, the separation distance between the subject site and the lands earmarked for land spreading are of such a distance so as to ensure that the river in question would not be adversely affected through contaminated groundwater recharge.

11.4.8. With regard to surface water contamination the applicant has proposed a series of mitigation measures for both the construction and operational phase the most important of which are as follows:

- The proposed farm structures will be built in accordance with the Department of Agriculture, Food and the Marine's Farm Building and Structure Specification and would also include leaked detection measures.
- Manure, slurry and soiled water storage facilities will likewise be constructed in accordance with departmental specifications.
- The storage handling of all waste and fertilisers on site will be in accordance with the requirements of SI 605 of 2017 and these Regulations in Part 4

specify minimum distances for the application of fertilisers for various water bodies.

11.5. It is a requirement that the applicant adhere to all protocols set out in the above Regulations. Furthermore, I am satisfied having regard to the hydrological separation distance between the lands which would be the subject of land spreading and the River Barrow and Nore SAC, that should a pollution episode occur, there would be sufficient dispersion and dilution rates in the receiving waters over the length of travel between the pollution event and the receiving waters in the SAC to ensure that there would be no effects on the qualifying interests associated with the SAC in question.

11.5.1. I therefore consider it reasonable to conclude on the basis of the information on file which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the River Barrow and Nore SAC (Site Code: 002162) or any other European site in view of the site's conservation objectives.

12.0 Conclusions and Recommendation

Arising from my assessment above I consider that there has been no material change in circumstances or evidence submitted which would warranted or justify a reversal of the Board's decision made in respect of a previous application and appeal under R300957-18 and I therefore recommend that the decision of the planning authority be upheld for a single reason on the basis that the proposed development is located on a locally important aquifer which is a source of public and private water supplies in the area and that the proposed development could adversely affect the quality of water in the underlying aquifer.

13.0 Reasons and Considerations

The proposed development is located on a locally important aquifer which is the source of public and private water supplies in the area. Having regard to the need to provide for the protection of the water supply sources, the need to maintain a high standard of water quality particularly in relation to the groundwaters and the provisions of the Offaly County Development Plan 2014 – 2020 to protect groundwater sources, to preserve the quality of surface water, groundwater and drinking water and to protect the county's waters from pollutions set out in the Policies and Objectives ENVP-03, ENVO-03 and ENVO-07, the Board is not satisfied on the basis of the information submitted that there is sufficient evidence to indicate that water quality and sources of water supply would not be compromised by the proposed spreading of slurry on land in the area. It is considered that the proposed development would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

18th October, 2020.

Appendix 1 EAIR Screening Assessment

EIA Screening under the Provisions of Schedule 7		
	Brief description of the characteristics of the impacts	Is this likely to result in significant effects on the environment?
1. Characteristics of the Proposal		
1.1 Is the projects of a significantly different in character to the existing Environment?	No. While being more intensive in nature the proposal constitutes and agricultural uses within an existing agricultural environment.	No
1.2 Will construction works cause physical changes to the locality.	Yes, as the land is currently greenfield but the building constitutes an agricultural structure in a rural area.	No
1.3 Will construction use natural resources that are non-renewable or in short supply?	No	No
1.4 Will the project involve the use, storage, transport, handling or production of a substance that could be harmful to human health or the environment?	Yes, the proposal will result in the production and storage of organic pig manure which through land spreading could contaminate groundwater / surface waters.	Yes (Possibly)
1.5 Will the project produce solid waste, pollutants or	Yes, as above. Potential odour problems. However,	Yes (Possibly)

hazardous / toxic / noxious materials?	this has been the subject of a separate report submitted with the application.	
1.6 Will the projects lead to risks of contamination of land or water from releases of pollutants onto the ground?	Potentially as above	Yes (Possibly)
1.7 Will the project cause noise and vibration/ light/ energy / electromagnetic radiation?	Some noise during the construction and operation. A noise impact report was submitted with the application assessing the impact to be negligible	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes possibly through land-spreading of organic pig manure above an aquifer which is a source of drinking water supply.	Yes (Possibly)
1.9 Will there be any risk of major accidents that could affect human health of the environment?	No, there are no Seveso sites in the vicinity	
1.10 Will the project affect the social environment (population, employment)	No	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	No

2. Location of the proposed Development		
<p>2.1 Is the Development located on, in or contiguous or could have the potential to impact on</p> <ul style="list-style-type: none"> - A Natura 2000 Site - NHA/pNHA - A Nature Reserve <p>Designated refuge for flora or fauna</p> <ul style="list-style-type: none"> - A place site or feature of ecological interest as per development plan or LAP 	<p>No, the application has been the subject of an NIS and a independent appropriate assessment my planning assessment.</p>	<p>No</p>
<p>2.2 Could any protected, important or protected species of flora of fauna which may use the areas surrounding the site</p>	<p>The NIS submitted with the appeal suggests that there are no such habitats species or fauna in the</p>	<p>No</p>
<p>2.3 Are there any features of landscape, historic, archaeological or cultural importance that could be affect</p>	<p>No – Children’s burial ground c0.5km to the north. No scenic landscape designations</p>	<p>No</p>
<p>2.4 Are there any high quality or scarce resources in the vicinity?</p>	<p>No</p>	<p>No</p>
<p>2.5 Is there any flood risk?</p>	<p>The site is not located within or near any designated flood zone</p>	<p>No</p>
<p>2.6 Is the location susceptible</p>	<p>No</p>	<p>No</p>

to subsidence, landslides or erosion?		
2.7 Are there any key transport routes which are susceptible to congestion?	No	No
2.8 Are there existing sensitive land uses or community facilities in the vicinity which could be significantly affected by the project.	No	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects?	No other developments of any significant scale have been identified in the vicinity of the site.	No
3.2 Transboundary effects?	No	No
3.3 Are there other relevant considerations?	No	No
<p>Conclusions:</p> <p>Arising from the above assessment, it is considered that the only potential significant effect arising from the proposed development relates to groundwater contamination and while this presents a very serious risk, it has been the subject of detailed assessments by the Planning authority under the previous and current applications and by the Board under Reg. Reg ABP 300972. It is my opinion that there is sufficient information on file including the information contained in the appellants grounds of appeal to enable the Board to make a determination on the issue of ground water</p>		

contamination. I note that it previously made a determination on, what is essentially the same proposal under Reg. Ref. 300972 in the absence of an EIAR. If the Board are in any doubt as regards the potential impact arising from the development on groundwater, it would be more appropriate in my view to request further information in the form of a more detailed hydrogeological report rather than a full EIAR. Other potential impacts in relation to noise and odour have already been the subject of assessment in the documentation submitted with the planning application. Therefore, having regard to:

- (a) The sites location in a rural area and significantly removed from any potential sensitive receptors.
- (b) It's location outside any designated sensitive habitats for flora or fauna, or having no connectivity with such areas,
- (c) Outside any areas of archaeology or cultural heritage,
- (d) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- (e) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001(as amended)

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.