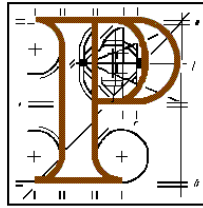


# An Bord Pleanála



## Inspector's Report

PL 18.245129

**DEVELOPMENT:-**

Poultry units, underground washing tank, erection of vertical meal bin, develop existing agricultural entrance together with all associated site works at Mullatishaughlin, Ballinode, Monaghan.

**PLANNING APPLICATION**

**Planning Authority:** Monaghan County Council.  
**Planning Authority Reg. No:** 15/6  
**Applicant:** Damian McPhillips.  
**Application Type:** Permission.  
**Planning Authority Decision:** Grant.

**APPEAL**

**Appellant:** Hugh and Fionnuala Sherlock.  
**Types of Appeal:** Third Party -v- Grant.  
**Observers:** None  
**Date of Site Inspection:** 5/8/2016.

**INSPECTOR:** Paul Caprani

## **1.0 INTRODUCTION**

PL18.245129 relates to a third party appeal against the decision of Monaghan County Council to issue notification to grant planning permission for a new poultry unit and associated works at a site outside the village of Ballinode in north County Monaghan. The grounds of appeal argue that the proposed application as submitted to the planning authority is invalid, will impact on the heritage and amenity of nearby Clonamully House is contrary to many of the provisions contained in the development plan relating to heritage and amenity. It is also contended that the proposal will have an adverse environmental impact on the receiving environment.

## **2.0 SITE LOCATION AND DESCRIPTION**

The appeal site is located on agricultural lands between the townlands of Mullatishaughlin and Clonamully, approximately 2 kilometres to the south of the village of Scotstown and 3 kilometres to west of the village of Ballinode in north County Monaghan. The site is located approximately 8 kilometres west of Monaghan Town. The site and its surroundings is characterised by relatively well-drained undulating drumlins interspersed with small lakes and ponds with a dendritic drainage pattern. The site is located adjacent to a narrow third class laneway, which appears to be in the applicant's ownership in the vicinity of the site. It links up to a larger third class local road circa 100 metres to the east. The private laneway also forms a back entrance to Clonmully House further west. The R187 is located approximately 2.5 kilometres to the south of the site and it links up with the N54 national Secondary Route (Monaghan – Clones route) approximately 1 kilometre further south.

The site itself is roughly rectangular in shape and is located in the southern side of the access laneway which serves the site. The site is approximately 170 metres in length and just less than 50 metres in depth. It slopes down towards the access laneway along the northern boundary of the site. The site comprises of well drained relatively good agricultural land which is currently under pasture. A stream runs along the western boundary of the site and a large agricultural shed is located on lands to the immediate north of the access lane directly opposite the site. Further agricultural sheds are located at the junction of the local access lane and the local road approximately 100 metres east. Dwellings are located on the northern side of the access road between

100 and 150 metres from the north-eastern boundary of the site, the closest of which is owned by the applicant. The access laneway which runs along the northern boundary of the site provides rear access to Clonamully House. This 19<sup>th</sup> century two-storey stone structure is listed in the Record of Protected Structures in the development plan. The appellants in the subject appeal are the current occupants of the house. A number of outdoor stone farm buildings surround the house. A derelict gate lodge and pillars are located along the rear access laneway near the north east boundary of the site. Clonamully House at its closest point is approximately 350 metres from the south-western corner of the subject site. Along the access lane, the distance between Clonamully House and the subject site amounts to circa 500 metres. There is no other development in the immediate vicinity of the subject site.

### **3.0 PROPOSED DEVELOPMENT**

Planning permission is sought for the construction of a large poultry unit to be housed in a large elongated shed centrally within the site. The site is to incorporate some cut and fill in order to accommodate the proposed shed. The shed is just less than 87 metres in length and circa 20 metres in width providing an overall floor area of 1,853 square metres. It is to be constructed upon a 150 millimetre reinforced concrete floor slab. The shed is to rise to a maximum ridge height of 5.3 metres and is to incorporate double access doors at each end. Vertical TGV sheeting is to be provided as an external finish. A small store room is to be provided on the front (east) elevation and a feed storage silo 8 metres in height and 2.7 metres in diameter is to be provided adjacent to the north-eastern corner of the building.

A hard standing turning area is to be located to the front of the building for HGV vehicles and single access is proposed near the north-eastern corner of the site. All surface storm and roof water will be collected and transferred to a filter unit located to the rear of the building in the south-western corner of the site prior to discharge to groundwater. The existing hedgerow along the northern boundary is to be retained and is to be augmented by additional boundary landscaping indicated on the landscaping plans submitted with the original application. According to the information contained in the EIS, it is also proposed to construct an earth berm around the boundary of the site in order to alleviate the visual impact of the development.

The poultry unit would house a maximum of 39,900 broiler chickens at any given time. The poultry unit will be heated in accordance with best practice to create a suitable environment for broiler chicken production. The chickens are specifically bred for meat production from day old chicks until they are removed off-site to a processing facility. The birds would be fed and reared for 8 weeks at optimally controlled temperatures and with optimum amounts of feed and water. All litter (comprising a mixture of bedding materials, feathers and manure) will be transported via a covered trailer for use as compost in the mushroom growing industry within the country. Any wash water arising from the washing of houses between batches will be land-spread in accordance with the Good Agricultural Practice Regulations (SI No. 31 of 2014).

The EIS also indicates that the subject facility could also on occasion be used for turkey production. The EIS states that the proposed house would comply with BAT housing systems for poultry as identified in the IPPC Reference document on *BAT for Intensive Rearing of Poultry and Pigs*.

#### **4.0 PLANNING AUTHORITY'S DECISION**

A planning application was lodged with Monaghan County Council on the 14<sup>th</sup> January 2015. The planning application form submitted indicates that the overall site is 0.72 hectares and the applicant is the owner of the site in question. Letters are submitted with the application by various contractors stating their availability to collect and dispose of litter and dead carcasses arising from the facility.

A letter of objection from the current appellant has been submitted, the contents of which have been read and noted.

#### **4.1 Initial Assessment by the Planning Authority**

A report from the Environment Department requested that additional information be sought in relation to drainage arrangements, details of poultry numbers and fertilisers/litter generated and further details in respect of soiled water management and treatment and compliance with the Good Agricultural Practice for the Protection of Water Regulations 2014.

The Planner's Report notes the detail of the grounds of objection submitted by the current appellants and also notes that while the

proposed broiler numbers within the farm amount to 39,900, it is considered that these numbers are sub-threshold and therefore an EIS is not required.

The Planner's Report requests further information in respect of the potential impact of the proposed development on Clonamully House, a Protected Structure in the County Development Plan.

#### **4.2 Additional Information Request**

The planning authority requested the following additional information.

A revised layout indicating all buildings and structures contiguous to the proposed development.

Further details in relation to drainage arrangements, details of poultry numbers and fertilisers/litter generated and further details in respect of soiled water management and treatment and compliance with the Good Agricultural Practice for the Protection of Water Regulations 2014.

Finally the applicant is requested to comment on the issues raised in the observation submitted to the planning authority.

#### **4.3 Applicant's Response to the Grounds of Appeal**

With regard to the impact on Clonamully House, it is contended that the proposed development would have little or no impact as the house itself is located over 450 metres to the south-west of the proposed development. It is noted that the observers have applied for a similar type agricultural development in closer proximity to the protected structure.

Details of the measures to be incorporated to prevent the discharge of soiled waters from the site are set out in the response. These include: -

- An environmental operating plan.
- Minimisation of surface water run-off.
- Sediment control measures.

With regard to poultry numbers and waste associated with the birds, a separate report prepared by Niall Keenan, Agricultural Advisor is attached. A Nutrient Management Plan is also submitted to ensure

compliance with Good Agricultural Practice for the Protection of Water Regulations 2014 (SI No. 31 of 2014). Details of land spreading maps are also submitted.

#### **4.4 Further Assessment by the Planning Authority**

A further letter of objection from the current appellant was submitted on foot of the additional information response, the contents of which have been and noted.

The **Heritage Officer's Report** recommends that planning permission be refused on the grounds of the potential impact of the proposed development on the setting of Clonamully House and in particular on the Gate Lodge at the entrance to Clonamully House which is located adjacent to the proposed poultry unit.

An Environmental Report prepared by Monaghan County Council notes that a Nutrient Management Plan has been included and it appears that there is sufficient capacity to take the additional wash waters on the applicants' land and therefore recommends that planning permission be granted subject to 10 conditions.

The Planning Report notes the additional information submitted on file and notes that the Heritage Officer has recommended a refusal in this instance. However, it states that the rationale seems unreasonable given that the objector has already sought and obtained planning permission for two agricultural buildings adjacent to Clonamully House. It is further considered that the proposed development will help secure Objective AG 02 and it is therefore recommended that planning permission be granted for the proposed development.

In its decision dated 23<sup>rd</sup> June 2015 Monaghan County Council issued notification to grant planning permission for the proposed development subject to five conditions.

#### **5.0 PLANNING HISTORY**

There appears to be no planning history associated with the appeal site. The Planner's Report makes reference to two files where two agricultural buildings were granted planning permission under Reg. Ref. 06/2115 and 07/1076, both of which were located adjacent to

Clonamully House. Details of these applications are not contained on file.

## **6.0 GROUNDS OF APPEAL**

A third party appeal was lodged on behalf of Hugh & Fionnuala Sherlock of Clonamully House located to the south-west of the subject. It is argued that the proposed development will have an unacceptable impact on Clonamully House, a Protected Structure and in particular the proposed development will adversely impact on the setting of the gate house and piers leading to the house which it is argued are within the curtilage of the structure and are a mere 25 metres from the subject application. It is argued that the gate house and piers are historically and functionally connected with the main house and are under the same ownership. The character and architectural heritage value of Clonamully House would be detrimentally impacted upon if the development were permitted. It is noted that the Heritage Officer of Monaghan County Council recommended a refusal of permission on these grounds. The applicants have plans to renovate the gate house in the near future and restore it to its former glory.

The validity of the planning application is also questioned on the grounds that:

- The applicant failed to show a right of way on the proposed access road on the drawings submitted to the Planning Authority.
- The site layout plan is deficient on the grounds that the gate house and piers or stream that runs along the western boundary of the site have not been indicated on the plan.
- The existing agricultural building to the north of the site is unauthorised development giving the impression that agricultural activity is more prevalent at this location than is actually the case.

It is argued that the proposed development contravenes a number of development plan policies including the protection of groundwater reserves in the county and the protection of all protected structures and their settings.

It is also argued that the proposed development is contrary to the provisions of Policy AFP2 which seeks to give favourable consideration

to agricultural, horticultural and forestry development subject to various criteria. It is argued in this instance that the poultry unit is not necessary for the running of the farm enterprise, is incompatible with the adjoining protected structure and would give rise to unacceptable noise and smells.

It is also highlighted that Clonamully House is included in the National Inventory of Architectural Heritage.

It is submitted that the proposed development is of a scale and size that warrants appropriate assessment screening in accordance with the Habitats Directive.

The grounds of appeal go on to highlight a number of perceived deficiencies in the planner's report in respect of assessing the application.

The wordings of Conditions 2(a) and 2(b) also give rise for concern as there is the reference to a "dwelling" and Condition No. 2 and Condition No. 2(b) will give rise to traffic concerns.

It is argued that the proposed development by virtue of its intensity and nature will give rise to adverse impacts on residential amenity.

It is argued that the access laneway is in a poor state of disrepair and the proposed development will exacerbate the deterioration of the laneway.

It is also noted that the application falls just short of the threshold for which an IPC licence is required EPA guidance notes the poultry unit should ideally be sited 400 metres away from the nearest neighbouring dwelling, however there are six dwellings within 400 metres of the proposed development.

An Bord Pleanála are therefore requested to overturn the decision of the Planning Authority and refuse planning permission for the subject development.

## **7.0 APPEAL RESPONSES**

A response received by the applicant was deemed to be invalid as it was received outside the appropriate period.



## 8.0 AN BORD PLEANALA'S REQUEST FOR AN EIS.

A memorandum by myself dated 12<sup>th</sup> October, 2015 noted that the number of chickens to be housed falls slightly below the stipulated threshold for a mandatory EIS for installations for intensive rearing of poultry (40,000 places). It was therefore recommended that the Board request a sub-threshold EIS under the provisions of Article 109(2) of the 2001 Planning and Development Regulations. The memorandum also recommended that the EPA be notified and requested to comment on the adequacy of any EIS submitted and on the application in general.

On 22<sup>nd</sup> October, 2015 the Board requested that the applicants submit an Environmental Impact Statement before 21<sup>st</sup> April, 2016.

### 8.1 Submission of EIS

An Environmental Impact Statement was submitted on behalf of the applicant by Panther Environmental Solutions Limited on 15<sup>th</sup> April, 2016. The EIS is evaluated in a separate section of my assessment below.

Also the applicant advertised in the form of public notices that an EIS had been submitted in respect of the above application.

### 8.2 Further Submissions on EIS

A submission from **The EPA** states that the development proposed does not exceed the 40,000 capacity threshold and as such the activity will not require a licence under the EPA Act. Therefore the Agency has no further comments to make on the planning appeal.

A further **submission on behalf of the appellants** makes the following submission in respect of the EIS.

It is suggested that the authors of the EIS have no expert qualifications or experience to objectively assess or comment on matters relating to architecture, archaeology and cultural heritage. It is suggested that the analysis is scant and misleading and certainly not objective. It remains the appellants' view that the proposed development would damage the character and architectural heritage of Clonamully House.

Nowhere in the EIS are cumulative impacts properly assessed. It is noted that the Board previously refused a poultry unit under

PL18.218658 due to pollution concerns. Concerns with regard to the right of way along the laneway accessing the site and the appellants' house are reiterated.

It is also considered that the visual assessment contained in the EIS is limited and is not comprehensive. It is not accepted that the impact would be acceptable. It is suggested that no true consideration was given to alternative sites. The need for an appropriate and comprehensive AA screening is also reiterated.

## **9.0 DEVELOPMENT PLAN PROVISION**

The site is governed by the policies and provisions contained in the Monaghan County Development Plan 2013-2019. Section 4.9.7 relates to intensive agriculture and landspreading of manure and sludges. It states that County Monaghan is noted for its intensive agricultural activities and it benefits significantly from successful poultry and mushroom industries. The sustainable development of this industry depends on a quality waste management system that takes account of nutrient balances, sensitive water bodies, topography and soil conditions.

Policy WPP3 seeks to protect known and potential groundwater reserves within the counties. In assessing applications for development the Planning Authority will consider the impact on the quality of water reserves and will have regard to the recommended approach in the groundwater protection scheme for County Monaghan.

In terms of architectural and built heritage, Section 4.11.1 relates to protected structures. PSO1 seeks to protect and/or conserve as appropriate, all structures including the Record of Protected Structures set out in Appendix 5. Clonamully House is listed as a protected structure.

Policy PSP2 seeks to ensure that any development, modification, alteration or extension affecting a protected structure and/or any complex of adjoining buildings is sensitively designed and sited, is compatible with its character and is appropriate in terms of proposed scale, mass, height, density, layout, materials, impact on architectural or historic features and its junction with existing protected structures.

Section 15 of the Plan sets out development management guidelines. Policy APF2 seeks to give favourable consideration to agricultural, horticultural and forestry development where the development:

- Is necessary for the running of the enterprise.
- Is appropriate in terms of scale, location, design and nature.
- Does not seriously impact on the visual amenity of the area or the natural and man-made environment.
- Is located within or adjacent to existing farm buildings unless where the applicant has clearly demonstrated that the building must be located elsewhere for essential, operational and other reasons.
- It is sited so as to benefit from any screening provided by topography or the existing landscaping. It is not located within 100 metres of any residential property not located on the holding unless with the express written consent of the owner of the property.
- Will not result in any unacceptable loss of residential amenity by reason of noise, smell, pollution and general disturbance.
- Will not result in a traffic hazard.
- Will not result in a pollution threat to sources of potable water, watercourses, aquifer or groundwater.

AFP3 seeks to facilitate the process of farm diversification and intensification by giving favourable consideration to appropriate, new and existing rural based farm enterprises.

AFP4 seeks to facilitate where appropriate, specialist farming practice e.g. poultry rearing, mushroom growing and stud farms etc.

The site is not located in an area of primary or secondary amenity although a Hollywood Lake approximately 500 metres to the north-east of the subject site is located as a designated area of secondary amenity. There are no designated scenic views or prospects at the vicinity of the site.

## **10.0 PLANNING ASSESSMENT**

### **10.1 Introduction**

I have read the entire contents of the file, visited the site, have had particular regard to the issues raised in the grounds of appeal and the contents of the EIS. I consider the following issues to be particularly

relevant in determining the current application and appeal before the Board.

- Impact on the Integrity and Setting of Clonamully House.
- Compliance with Development Plan Policy.
- Validity of Planning Application.
- Right of Way Issues.
- Suitability of the Laneway and Traffic Issues.
- Environmental Impacts and Impacts on Residential Amenity.

The final two sections of this report will assess the adequacy of the EIS submitted with the application and undertake an appropriate assessment screening in the context of potential impacts on designated Natura 2000 sites.

## **10.2 Impact on the Integrity and Setting of Clonamully House**

The Board will note from my site description that Clonamully House is located c.450 metres away from the subject site. I consider, having regard to the separation distance between the subject site and Clonamully House and (associated two-storey stone sheds) that the proposed poultry unit will have little or no material impact on the setting and context of Clonamully House and associated stone outbuildings.

The Board should also note that the appellants in this instance have secured planning permission for two agricultural sheds granted under Reg. Ref. 06/2115 and 07/1076. While details of these applications are not contained on file and examination of the Monaghan County Council website indicates that both structures were located in close proximity and to the immediate rear of Clonamully House. Photos are attached indicating the proximity of the structures to Clonamully House. It would seem disproportionate in my view to argue that the proposed poultry unit would have an unacceptable adverse impact on the setting and context of Clonamully House having particular regard to the fact that two similar type agricultural structures were granted planning permission in the immediate vicinity of the protected structures.

A more pertinent issue raised in the grounds of appeal is whether or not the proposal will impact on the integrity and setting of the Gate Lodge and pillars which are located at the rear entrance to Clonamully House approximately 30 metres to the west of the subject site. Neither the gate lodge nor the pillars in question are specifically referred to in the Record

of Protected Structures listed in the Development Plan. The Development Plan specifically refers to '*Clonamully House and the range of two-storey stables*' under Ref. 41400804. Clonamully House is also listed in the National Inventory of Architectural Heritage as being a structure of Regional Importance. Again the gate lodge and pillars are not specifically referred to in the National Inventory of Architectural Heritage. Notwithstanding this point, the buildings in question undoubtedly have a functional and historical connection with, and are located within the overall estate of Clonamully House. Thus it could be reasonably argued that these structures fall within the Attendant Grounds if not the Curtilage of the protected structure.

The Architectural Heritage Protection Guidelines for Planning Authorities (page 191) note that '*the notion of curtilage is not defined by legislation but for the purposes of the guidelines can be taken as the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure*'. Specifically in the case of a large country house the guidelines note that '*the stable buildings, coach houses, walled gardens, lawns etc. may all be considered to form part of the curtilage of the building unless they are located at a distance from the main building*'. Having regard to the separation distances involved, it could be reasonably argued in my opinion that the gate house and pillars do not fall within the curtilage of Clonamully House but it can be equally argued that the structures in question fall within the definition of attendant grounds of a structure (lands outside the curtilage of a structure but which are associated with the structure and are intrinsic to its function, setting or appreciation). As such the impact of the proposed development on the pillars and gate house in question should be taken into consideration when assessing the proposed development.

The grounds of appeal state that in the short term it is proposed to restore the existing gate lodge. The grounds of appeal also make reference to the fact that the Heritage Officer of Monaghan County Council recommended a refusal on architectural conservation grounds. The Board will note from the photographs attached that the gate lodge is currently in a bad state of disrepair. In my view the extent to which any restoration undertaken on the gate lodge could feasibly restore the existing structure, while maintaining the architectural and historic integrity of the structure remains to be seen, having regard its dilapidated state.

I consider that the Board, in assessing the proposed development in the context of the pillars and gate lodge, should have particular regard to

the fact that the proposed poultry unit is located outside the attendant grounds of Clonamully House on lands which are physically separate from the attendant grounds. The lands immediately surrounding the subject site are agricultural in nature and character having regard to the surrounding agricultural units. While the appellant has argued that the building to the immediate north of the subject site constitutes unauthorised development, I note that no such reference to unauthorised development was referred to in the planner's report. Notwithstanding the planning status of the existing agricultural structure to the immediate north of the site, it can be reasonably argued in my opinion that lands to the immediate east of the gate house and pillars are outside the intended grounds of Clonamully House and represent typical agricultural lands which are deemed suitable to accommodate agricultural enterprises such as that proposed. Furthermore any potential adverse impact of the proposed development on the setting of the gate lodge and pillars must be reasonably balanced against the various policies contained in the Development Plan which seek to support and improve agricultural enterprises. This is dealt with in more detail in the section below.

### **10.3 Compliance with Development Plan Policy**

The grounds of appeal argue that the proposed development is contrary to numerous policy and objective statements contained in the Monaghan County Development Plan 2013-2019.

The grounds of appeal argue that there is concern that in times of heavier prolonged rainfall, the surface run-off in the proposed development would lead to potential pollution of groundwater reserves and as such would be contrary to Policy Objective WPP3. The environmental impact arising from the proposed development is assessed in more detail in a separate section below.

The grounds of appeal also argue that the proposed development is contrary to various policy statements (PSO1, PSO4, PSP2 and PSP4) all of which seek to ensure that new development does not adversely affect the integrity and setting of protected structures or sensitive landscape features. I have argued above that the proposed development is appropriate in the context of the setting of both Clonamully House and any structures within the attendant grounds of this house.

The grounds of appeal also argue that the proposed development contravenes Policy AFP2 which seeks to give favourable consideration to agricultural, horticultural and forestry development subject to nine separate criteria which is set out in the Development Plan. I have assessed the proposed development in the context of these criteria and would briefly comment as follows:

The proposed development seeks to expand and develop existing farming activities on site and as such it can be reasonably argued that the proposed poultry unit is necessary for the development and expansion of the existing enterprise.

In terms of scale, location and design the proposed building housing the poultry unit is a large elongated structure but the overall height does not exceed 5.5 metres and the proposed landscaping proposals around the boundary will ensure that the structure sits comfortably within the existing agricultural landscape and would not look incongruous in the context of existing farming and agricultural enterprises in the wider area. The proposed development is also located in close proximity to existing farm buildings and is not located within 100 metres of any residential property. The eastern elevation of the proposed poultry unit at its closest point is c.130 metres from the nearest dwelling that being the applicant's dwelling to the north-west of the site.

I am also satisfied that the proposed development will not result in an any unacceptable loss of residential amenity by reason of noise, smell, pollution and general disturbance, will not result in a traffic hazard and will not result in a pollution threat to watercourses or aquifers in the vicinity. These latter issues are dealt with in separate sections below. I am satisfied therefore that the proposed development complies with the criteria set out under AFP2 of the Development Plan.

In conclusion therefore I do not consider that the proposed development contravenes policy statements contained in the Monaghan County Development Plan. Infact I consider the proposed development to be fully in accordance with other policies contained in the Development Plan such as AFP3 which seeks to facilitate the process of farm diversification and intensification by giving favourable consideration to appropriate, new and existing rural based farm enterprises; and Policy AFP4 to facilitate where appropriate specialist farming practices I note that poultry rearing is specifically mentioned under this policy.

### 10.3 Validity of Planning Application

The grounds of appeal argue that the application before the Board is invalid for a number of reasons namely:

- Failure to show a right of way and wayleave along the proposed access road as required under the Regulations.
- Failure to indicate specific details on the site layout map submitted with the application in accordance with the Regulations.
- Failure to specify unauthorised development on the site location map submitted with the application.

Firstly in relation to the validity of the application, I note that these issues were raised as part of the original observation submitted to it. Notwithstanding the concerns highlighted in the observation, the Planning Authority nevertheless deemed the application to be valid. I would concur with the Planning Authority's view that for validation purposes, the owner of the lane is not required to illustrate third party rights of way. It is clearly indicated that this laneway is in the applicant's ownership.

In relation to the derelict gate lodge, I note that further drawings were submitted with the application to Monaghan County Council on 28<sup>th</sup> May, 2015 which clearly indicates the location of the gate lodge. I do not consider it necessary or obligatory to indicate any stone structures such as pillars or gate piers on any such map. The existence of a stream along the eastern boundary of the site is clearly indicated on the site location map (scale 1:2500 submitted with the original application).

With regard to the issue of unauthorised development, it is not altogether clear from the information contained on file whether or not the structure to the north of the proposed poultry unit constitutes an unauthorised structure. The planning report quite clearly notes from aerial photographs that this structure was constructed between the years 2000 and 2003 and therefore is beyond the seven year limit and is immune from enforcement action under the provisions of Section 157(4) of the Planning and Development Acts. There is no requirement under the Planning Regulations to specifically refer to structures as being authorised or unauthorised. I have consulted the ordnance survey aerial



photos and I note that the building was constructed prior to 2005 and therefore is statute barred in terms of enforcement proceedings.

#### **10.4 Traffic Issues/Condition of Laneway**

In terms of traffic impact, it is clear from the EIS that the proposed development will give rise to modest amounts of traffic that upon completion of the construction phase, associated traffic will comprise of one to two articulated trucks for litter transport, two to three articulated trucks for feed and five to six articulated trucks for broilers over an eight week period. Traffic impact arising from the operational phase of the development is deemed to be negligible amounting to between one and two articulated lorry trips per week. The proposal therefore should not adversely impact on the integrity of the laneway serving the development and should not give rise to any significant residential amenity problems. HGV movements arising from the development would be generally equal to HGV movements associated with more general agricultural activities. As the laneway in question is under the applicant's ownership it will be a requirement of the applicant to maintain the laneway in good condition.

#### **10.5 Environmental Impact and Impacts on Residential Amenity**

The impact on the human environment is set out in Section A of the EIS. In terms of impact on residential amenity the main impacts are likely to arise from air quality, particularly potential odour problems, noise and visual impact. I have already argued in my assessment above that traffic levels are modest and should not give rise to any adverse impacts in terms of amenity. The nearest residences from the subject site include a number of residences to the east of the applicant's house along the access road to the north-east of the subject site. In addition there are two residences approximately 200 metres to the south and Clonamully House, as the crow flies, approximately 400 metres to the south-west. The applicant's dwelling is located approximately 130 metres to the north-east.

In terms of odour impacts the proposed structure is sealed with 0.45 metre wall panels pre-insulated on a reinforced concrete slab floor. The proposed poultry house, according to the EIS will comply with BAT Housing Systems for Poultry. The main odour issues therefore likely to arise are as a result of litter collection. The EIS states that litter collection will take place over a short period of time (approximately 3 hours) and would take place once per batch i.e. every two to three

months. In the context of the surrounding rural environment, the odour generated on such an infrequent basis cannot be considered excessive. A list of mitigation measures to be employed to limit odour emissions are set out in Section 6.5 of the EIS. Any odour generated by the proposed development would therefore be infrequent and should not give rise to significant impacts in terms of residential amenities. An odour management programme is also proposed (see Attachment 2 of the EIS).

In terms of noise, noise surveys were carried out in the EIS. The ambient noise levels at the nearest noise sensitive locations (surrounding residents) show generally modest levels, typical of a rural area ranging from 33 to 36dB(A) L<sub>90</sub>. The EIS employs the BS4142 methodology in evaluating both construction and operational noise. It is noted that the background noise levels were influenced by traffic on local roads and a nearby go-kart track. The noise prediction model indicates that construction noise will be clearly audible due to construction and excavation operations on site. However these peak noise levels would only occur during short periods during the construction phase and would be temporary in nature.

During the operational phase maximum noise levels are expected to be equivalent to noise levels experienced during the operation of large agricultural machinery within existing greenfield sites in the vicinity. It is predicted that any significant increase in the maximum noise levels generated on site as a result of the proposed development will be experienced during the operational phase. All predicted normal operation resultant noise at noise sensitive locations is anticipated to be below the limits set out in the EPA Guidelines. It is not predicted that noise from ventilation fans, when operating during periods of warm weather, would be audible at noise sensitive locations except at the applicant's dwelling during periods where the fan is operating maximum output. The applicant also proposes to implement a noise management programme and this is included in Appendix D of the EIS.

In terms of the visual impact, the proposed poultry unit is a long elongated structure c.86 metres in length its overall height is restricted to less than 5.5 metres. The external finishes are typical of that associated with a large agricultural building and in this regard the proposal in my view would not look out of place or incongruous with other large agricultural structures typical of a rural area. I also note that there are no listed views or prospects in the vicinity of the site which would be impacted upon as a result of the proposed structure. Photo's

attached indicate that the poultry unit would not be visible from vantage points in and around Hollywood Lake. The site which is the subject of the current application is located in close proximity to similar type large agricultural sheds and is therefore deemed to be acceptable from a visual point of view.

In terms of surface water and groundwater contamination, the proposed poultry house is located in close proximity (between 15 and 30 metres) from a small stream which runs along the western boundary of the site. The proposed poultry house is a sealed unit on a reinforced concrete slab floor. There is no discharge from the proposed poultry house to surface water in the vicinity. Nor it is proposed to discharge any wastewater from the poultry house to groundwater via a percolation area. All litter/carcasses and other waste materials from the poultry unit will be removed off-site as necessary by a licenced waste contractor. The only potential contamination from water bodies which could arise relates to surface water run-off from the hardstanding area and the roof of the proposed structure. All surface water from these surfaces will be collected in a drainage system and passed through a subsoil polishing filter located to the west of the shed, prior to discharge to groundwater. It is also noted that no large volumes of potentially polluting materials will be stored on site (such as cleaning chemicals etc). The proposed development therefore does not constitute a significant risk to surface water or groundwater bodies in the vicinity.

All broiler litter removed from site would be used in a mushroom compost facility or landspreading in accordance with the requirements and specifications set out in S.I. 31 of 2014. I therefore do not consider that the proposed development constitutes an environmental risk to receiving waterbodies.

## **11.0 ENVIRONMENTAL IMPACT ASSESSMENT**

I am of the opinion that the EIS submitted with the planning application complies with the statutory requirements set out in Article 94 and Schedule 6 of the Planning and Development Regulations (as amended) and has also been submitted in accordance with the EPA Guidelines as they relate to environmental impact assessment. The EIS submitted has in my opinion identified, described and assessed the likely significant environmental impacts relating to the proposed poultry unit and these potential and likely significant impacts are set out and evaluated in the document. The site location and description, the

proposed development and proposed operations to be undertaken at the development are adequately described in the EIS. Details of the management of bi-products and wastes associated with the facility are also adequately set out and explained in the document.

Chapter 3 of the EIS relates to alternatives and examines alternative sites, alternative layouts and alternative processes in accordance with requirements set out in the Regulations. Table 4.1 of the EIS sets out a summary of the potential interactions and inter-relationships between the various environmental factors which could be impacted upon as a result of the proposed development.

Section A of the EIS specifically looks at the potential impact of the proposal on the human environment. Specifically it identifies potential significant impacts which could arise in respect of air quality, odour, noise, landscape and visual impacts. The potential adverse air quality impacts include increases in emissions of ammonia, methane and nitrous oxide. In terms of the above pollutants the total emissions are not deemed to be significant in the context of the receiving environment having regard to the rural location of the facility. Thus levels generated by the development are also considered to be negligible.

A separate section of the EIS specifically deals with the issue of odour and concludes that the main potential odour issues arise during the removal of poultry litter. The removal of litter would take place on an infrequent basis (once per batch) and therefore would not give rise to a significant environmental impact. A series of mitigation measures are also set out in Section 6.5 of the EIS in order to minimise odour emissions.

In terms of noise a detailed noise modelling exercise was undertaken to assess the potential noise impacts at the nearest noise sensitive locations (dwellinghouses in the vicinity). It concludes that noise levels generated by the proposed facility during both the construction and operation phase are deemed to be acceptable and in accordance with specified limits. The results are evaluated in detail in Section 7.6 of the EIS. The noise generated by the proposed facility would be similar to that currently experienced in the area as a result of agricultural activities. Mitigation measures including planting and boundary treatment will be implemented as part of the proposal. A detailed noise assessment report is contained in Attachment 3 of the EIS.

Section 8 of the EIS specifically relates to landscape and visual impacts. The existing landscape character is assessed. The potential visual impact is assessed from 6 vantage points in the vicinity and it is concluded that overall the proposal may be viewed as having an acceptable level of landscape and visual impact. The visual impact will be mitigated with a series of landscape treatments around the boundary of the site.

The EIS in my view has correctly identified the potential impacts on human beings which could arise from the proposed development and I would agree with the conclusions set out in the EIS that the residual impacts would be slight particularly with the employment of appropriate mitigation measures taken during both the construction and operational phase.

Section B of the EIS specifically deals with the natural environment. Specifically this section of the EIS deals with:

- Impacts on terrestrial environment including flora and fauna.
- Impacts on the aquatic environment.
- Impacts on soil, geology and hydrogeology.
- Impacts on climate.

In terms of the terrestrial environment the EIA notes that the site is not located on or in close proximity to any designated sites (Natura 2000 sites or Natural Heritage Areas). The nearest proposed Natural Heritage Area is Rosefield Lake and Woodland which is located 2.8 kilometres to the south-east of the site. The flora and fauna of the site and the surrounding area are identified and described in the EIS. It is noted that the development will take place on improved agricultural grassland and no hedgerows or associated fauna will be impacted upon. It is acknowledged that the proposed development would give rise to a permanent loss of habitat from beneath the footprint of the proposed poultry unit. However this habitat is of low conservation value.

In terms of the aquatic environment the EIS notes that a stream (the Annahag Stream) flows north/south along the western boundary of the subject site. The stream rises from Hollywood Lake (600 metres to the north) and flows into the Magherarny River. The EIS notes that there will be no surface water discharge from the site into the stream. All waste generated within the unit will be contained therein and will be transported off site for either compositing purposes, landspreading or dealt with by licensed contractors. It is noted that there will be no

pollutant or chemicals stored on site. The management of poultry litter will be in accordance with S.I. 31 of 2014. It is concluded therefore that no significant impacts on surface water bodies in the vicinity would arise as a result of the proposed development. The mitigation measures employed mainly relate to the stormwater drainage system which discharges to groundwater is therefore dealt with separately in the EIS. It is reasonably concluded therefore that there will be no significant residual impacts on the aquatic environment resulting from the proposed development.

In terms of soils, geology and hydrogeology the existing environment is described in the EIS. Surface water drainage from the hardstanding areas and the roof of the proposed building will be discharged to groundwater via a polishing filter. A series of mitigation measures are to be employed with regard to groundwater discharge and these are set out in Section 11.5.1 of the EIS. Again the EIS concludes that the residential impacts in respect of soils, geology and hydrogeology will be negligible.

Chapter 12 of the EIS relates to climate. The EIS acknowledges that the proposed development would slightly increase the volume of greenhouse gas emissions in the area mainly due to traffic emissions. However due to the relatively small footprint of the proposed site there would be no significant impact on the micro-climate of the area.

In terms of potential significant impacts on the natural environment, I consider the EIS has correctly identified, described and evaluated these potential impacts which could arise and I would agree with the conclusions having regard to the nature and scale of the development proposed that the impacts would be slight particularly with the employment of stated appropriate mitigation measures during both the construction and operational phases.

Section C of the EIS specifically relates to material impacts. It evaluates the impacts on the agricultural resource of the area and it concludes that the proposed development would not adversely impact on the welfare of existing livestock in the area.

In terms of traffic the traffic generated by the proposed development will amount to one to two articulated trucks per week and this is not deemed to be significant. Thus no significant residual impacts on agriculture are expected as a result of the proposed development.

In terms of non-agricultural material impacts, the EIS assesses the proposed development in terms of utilising existing utilities, utilising existing transport networks, fuel resources and raw materials and reasonably concludes in my opinion that there will be no significant residual impacts as such facilities and services are available.

The final section of the EIS deals with architectural, archaeological and cultural heritage. The EIS undertakes desktop studies relating to the site and its environments and describes the existing environment in terms of architecture, archaeology and cultural heritage. The impacts arising from the proposed development are identified, described and assessed and the EIS concludes reasonably in my view, that the impact in terms of architecture or archaeology would be negligible.

In conclusion therefore I consider that the residual effects identified under the various sections of the EIS are appropriately evaluated and are unlikely to have a significant impact on the receiving environment. I am satisfied that the EIS has adequately assessed the direct, indirect and cumulative impacts which could arise with other developments in the vicinity and I am satisfied that there is sufficient information in respect of the application to carry out a full environmental impact of the proposal on the receiving environment. I am therefore satisfied that there is sufficient information in respect of this application to carry out a full environmental impact assessment and would agree with the conclusions therein that the development would not have a significant adverse impact on the receiving environment subject to the implementation of the various mitigation measures proposed. I am therefore satisfied that the EIS submitted complies with the legislative requirements in relation to EIA set out under the EU Directive.

## **12.0 APPROPRIATE ASSESSMENT**

The grounds of appeal argue that an Appropriate Assessment or at least an Appropriate Assessment Stage 1 Screening Exercise should have been carried out in respect of the proposed development. Contrary to what is stated in the grounds of appeal, an Appropriate Assessment Screening Exercise was undertaken as part of the planning assessment at local authority level. The assessment notes that the site lies within 6 and 12 kilometres of two Natura 2000 sites. The qualifying interests associated with the sites and a conservation objectives associated with the sites have also been referred to and assessed in the planner's report. The screening exercise concludes that it is the opinion of the

Planning Authority that the development is sufficiently removed from the aforementioned Natura 2000 sites to ensure that it will have no significant effect on the integrity of the sites in question.

As mentioned in the planner's report two Natura 2000 sites are located within a 15 kilometre radius of the subject site.

At its closest point the Slieve Beagh SPA (Site Code: 004167) is located approximately 6.5 kilometres to the north-west of the subject site. The Slieve Beagh SPA has the sole conservation objective to restore the favourable conservation status of the hen harrier. The subject site is located a considerable distance from the aforementioned SPA. In terms of directly affecting the SPA the proposed poultry unit which will house and enclose broiler chickens will in no way impact upon the habitat or conservation status of the hen harrier in this Natura 2000 site. In terms of indirect effects the only possible impact which could arise relates to potential impacts on the feeding grounds of the hen harrier. The only potential pathway which could arise relate to contamination of surface waters which connect the subject site to the SPA in question. I note that the subject site is in no way hydrologically connected with the said SPA. There is on direct discharge to surface waters from the application site and the only surface water which could potentially be affected by the proposed operations is the small stream which runs along the western boundary of the site. The Board will note however that this stream runs southwards, away from the SPA in question. I am therefore satisfied that the proposed development is sufficiently removed from and not connected with the aforementioned Natura 2000 site so as to ensure that it will not have any significant effect on the European site in question.

The Kilroosky Lough Cluster SAC (Site Code: 001786) at its closest point is located c.12.3 kilometres south-west of the subject site. The features of interest associated with this European site are as follows:

- Hard oligo-mesotrophic waters with benthic vegetation.
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae*.
- Alkaline fens.
- White clawed crayfish.

The proposed development because of its nature and scale, and more importantly the separation distances involved, will not in any way impact on the habitats in question (calcareous fens and alkaline fens). With



regard to potential impacts on mesotrophic waters and aquatic species namely the white clawed crayfish, there would be a necessity for the subject site to be hydraulically connected with the SAC. The Annahag Stream flows south-west towards the Magherarny River. This in turn flows into the River Finn which runs along the border and discharges into the Upper Lough Erne. The Upper Lough Erne is located c.10 kilometres from the Kilroosky Louth Cluster SAC. It is reasonable to conclude therefore in my opinion that the proposed development will have no impact whatsoever on the conservation objectives associated with the Kilroosky SAC.

The Finn River discharges into some of the watercourses which form part of the Upper Lough Erne SAC and Lough Oughter SAC complex c. 25 km to the south west (Site code 0007). The features of interest associated with this Natura 2000 site include:

- Natural eutrophic lakes.
- Bog woodland.
- The otter.

While it is indirectly connected to the SAC in question, the Board will note that no discharges to surface water are proposed under the proposed development. The only discharge arising from the proposed development is to groundwater via a polishing filter.

I can only conclude therefore that the proposed development has no potential to significantly impact on the SAC in question. It is therefore reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the three Natura 2000 sites referred to above or any other European site in view of the conservation sites objectives and a Stage 2 Appropriate Assessment and the submission of an NIS is not required.

### **13.0 CONCLUSIONS AND RECOMMENDATION**

Arising from my assessment above I consider that the Board should uphold the decision of the Planning Authority in this instance and grant planning permission for the proposed poultry unit and associated works on the site in question based on the reasons and considerations set out below.

## REASONS AND CONSIDERATION

Having regard to the rural location of the proposed development and Policy AFP4 in the current Monaghan Development Plan 2013-2019 which seeks to facilitate where appropriate specialist farming practices including poultry rearing it is considered, subject to conditions set out below that the proposed development would not interfere with the integrity or setting of Clonamully House or its associated curtilage or attendant grounds, would not seriously injure the amenities of the area by way of odour nuisance, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by the planning authority on the 28<sup>th</sup> day of May, 2015 and the plans and particulars received by the Board on 15<sup>th</sup> day of April 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard -
  - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
  - (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection and public health.

3. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

4. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2009 (SI No. 610 of 2010).

**Reason:** To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

5. Details of the finishes of the poultry house and the design, scale and finishes of the proposed feed silo shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The finished floor level of the building shall not be more than 300 millimetres above the existing ground level.

**Reason:** In the interests of visual amenity.

6. Landbank maps submitted with the Nutrient Management Assessment shall include farmer name, herd number and letter of agreement. Lands submitted with this information shall include aerial photographs with LPID numbers highlighted and each land parcel shall also be clearly marked on a map of scale 1:50,000.

**Reason:** In the interests of public health.

7. Three shelter belts of at least two rows shall be planted along the southern and eastern boundary of the site. The trees shall consist of native or naturalised species and varieties and shall be protected from grazing animals by stock proof fencing. Any trees which within the period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced

within the next planting season with others of similar species unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development in the interest of visual amenity.

8. With the exception of a four metre wide opening to provide access to the site, all existing trees and hedgerows along the northern and north-west boundaries of the site shall be permanently retained at a minimum height of three metres and allowed to grow on and shall be reinforced with additional planting and be protected from damage at all times particularly during building operations.

**Reason:** In the interest of visual amenity.

9. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

**Reason:** In the interest of public health.

10. Records of poultry litter movements shall be recorded. Records shall be maintained on site and made available to the environmental section of Monaghan County Council on request.

**Reason:** In the interest of orderly development.

11. All poultry manure moved off farm shall conform to requirements of the Department of Agriculture, Food and the Marine, Animal Bi-Products Legislation requirements and all Local Authority Guidance on the protection of sensitive waters including water supply sources.

**Reason:** In the interest of public health.

12. There shall be no change in poultry type or numbers of poultry being accommodated at the development without the prior consent of the planning authority.

**Reason:** In the interest of orderly development.

13. The developer shall pay to the planning authority a financial contribution of €3,618 (three thousand six hundred and eighteen euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

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

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**Paul Caprani,  
Senior Planning Inspector.**

**17th August, 2016.**

**sg**