An Bord Pleanála

Inspector's Report PL 16.246323

Development	Construct new poultry house for 38,000 places, new silo and site works.
Location	Greenwood, Bekan, Co Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	15/92
Applicant	Eugene Lannon
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant
Appellant	Niall Kelly
Observer	Mark Curley
Date of Site Inspection	7th June 2016
Inspector	Dolores McCague

1.0 Site Location and Description

1.1. The site is located at Greenwood, Bekan, Co Mayo.

1.2. The site is located on a local road and also to the east of and adjoining a private road which leads from the local road to a large complex of farm buildings comprising: poultry houses, other livestock housing, silos, tanks and other farm buildings; which occupies a ridge, to the south west, close to the site. The road frontage over part of the site is formed of a hedge with mature trees, and along a portion at the eastern end is open to the road. The hedge along the road bounds a field in agricultural use. An area with hardstanding which on the date of inspection was being used for the parking of trailers / cargo containers, is open to the road.

1.3. The site adjoins the public road and a private road accessing the large farm complex to the south west. About half of the site, that at the eastern end, is hard surfaced, the other half is in grass. A surfaced roadway at the western of the site, a private road, has a barrier closure. This is the proposed access point to the proposed development.

1.4. The site is located in a region where the predominant use is agriculture: pasture and intensive argiculture. There are a number of dwellings in the vicinity of the site. The village of Bekan is c1.25km to the south west. Behan Lough is to the south (c350m). There are turloughs in the area, the nearest one being to the north, identified on historic mapping as an area liable to flooding, c300m from the site.

1.5. About a mile on the Ballyhaunis side of the site there is a large manufacturing facility in the name of Western Brand. There are other industrial type developments in the vicinity of the Western Brand facility. Large intensive poultry rearing facilities are licensed by the EPA south west of the subject site, in the village of Bekan.

1.6. Letter of consent from Bleakesdell Ltd, giving consent to the application on their lands, have been provided.

1.7. The site is rectangular is shape (c70m x 193m), with the long axis extending along the public road. Part of the roadside boundary is formed by a hedgerow with mature trees. The eastern boundary is similarly a hedgerow with mature trees. At present the southern boundary has no definition, it will be divided by a post and wire fence from an open field which continues to the south. The western boundary is formed by

a hedgerow of more recent origin, which extends along the private roadway. The private roadway, from its junction with the public road, runs uphill past the subject site in a southerly direction for about 100m and then makes a right angled turn to run westwards parallel to the public road. The private road serves the complex of agricultural buildings to the south west, among which are the poultry rearing sheds which the proposed development is intended to replace. From the drawings supplied in response to the further information request, the total land holding extends to the south as far as the shore of Bekan Lough and to the west, to include the field on the opposite side of the private access road. The existing farm buildings and structures are identified as, cattle sheds, haysheds, other storage sheds, two poultry sheds and a large tank.

1.8. The site, given as 1.316ha, is part of a landholding of some 21.41 ha.

2.0 **Proposed Development**

2.1. The proposed development comprises the construction of a new poultry house for 38,000 broiler places, a new silo and site works. The finished floor level is 108m compared to existing ground levels of 107m and 108m. A silo (metal finish) of 12m height and with a radius of 2.350m (to supply the food), is shown to the south of the building (near the south western corner). Water is to be provided from a new connection to the public mains. A 2,500 gallon underground tank is shown at the north west corner. The poultry rearing shed would be 20m wide x 85m long with it's long axis along county road, x 6.709m high to ridge. The lower portion of the building's walls to consist of masonry construction with selected metal cladding or selected ventilated metal cladding above; and the roof is selected profiled metal cladding. Along the ridge 8 ridge vents are proposed. Double doors are to be positioned on either gable end. The 2,500 gallon underground tank shown on the drawings, appears to be for wastewater collection and storage. The building is located in the eastern half of the site, and a hardstanding, finished in gravel, extends around its perimeter. To the west a large hardstanding area is proposed, where it is indicated that a 38m diameter turning circle could be accommodated. The site access extends from the private road to the west, with double access gates set well back from the roadway.

2.2. Sightlines (4.5m x 145m) at the junction of the private road with the public road are shown, with the sightline cutting through several mature trees along the road frontage of the site. The notation on the drawing states '*all existing trees & hedgerows to be maintained except for those which transgress the required sightlines – these are to be cut back and maintained by applicant or removed and replaced with new planting behind the required lines of vision'*. A separate notation on the same drawing states '*existing boundary treatments retained*.'

2.3. The application is accompanied by an Environmental Assessment Report prepared by Avironment & Energy Consultants which includes that the proposal to operate at 38,000 units within a purpose built broiler rearing house is within the threshold specified under that Annex 1 of the IPPC Directive (2008 /1/EC) and the new First Schedule EPA Acts 1992-2013, of 40,000 places.

2.4. The report is based on the assumption that there is no other poultry activity in the ownership boundary and the number of places is less than 40,000, EIA not required.

2.5. The installation will be operated in line with the Department of Agriculture and Bord Bia Poultry Producer Quality Assurance scheme requirements. The activity will involve bringing day old chicks to the farm and rearing them for approximately 6 weeks for transport to factory for slaughter, every eight weeks (allowing two weeks for complete drying after the cleaning process). Prior to delivery of the chicks the entire floor is bedded with wood shavings and straw. Feeding and ambient temperature and ventilation are adjusted for growth stage. Oil heating is to be used.

2.6. Feed is formulated to match the bird's requirements for protein, energy, minerals and vitamins at various growth stages; similarly heat and ventilation.

2.7. When the birds are removed the poultry litter is cleared out (tilled). The manure is stored within the broiler house until its removal at the end of each batch.

2.8. The cleaning involves brushing / blowing down of the floor to minimise the quantity of washwater required, then washing down; and the soiled water is collected to two underground tanks with a capacity of 40m^3 each. Poultry litter and washwater are applied to land in accordance with the European Communities (Good Agricultural Practices for Protection of Waters) Regulation 2014 (SI 31 of 2014), in accordance with a Nutrient Management Plan.

2.9. Clean surface water will be collected and diverted to soakpits on site.

2.10. Emissions - The main emissions are from the building ventilation system and during the movement of poultry litter. The rate of ventilation increases relative to the age of the bird and the ambient temperature. Ventilation emissions contain ammonia and odour from gas volatilisation and dust. Removal of poultry litter is the greatest potential for odour. This is limited to six hours every eight weeks.

2.11. Control measures include: litter management, use of adequate bedding material, appropriate stocking densities, quality of ventilation, minimisation of carcasses and minimisation of ammonia emissions by formulated feed.

2.12. There are no emissions to sewer or surface water. Clean runoff will be collected and diverted to soakpits.

2.13. Approximately 500 tonnes per annum of manure/poultry litter and approximately 100m^3 of washwater per annum will be generated as part of the poultry rearing activity. The manure/poultry litter will be used as a fertiliser in accordance with the European Communities (Good Agricultural Practices for Protection of Waters) Regulations 2014.

2.14. Noise – the nearest house is 280m distance – EPA typically set limit values of 55dB(A) daytime and 45dB(A) nightime; it will not result in significant noise emissions.

2.15. Measures to minimise and abate potential odour include: litter management, use of adequate bedding material, appropriate stocking densities, quality of ventilation and house design, minimisation of carcasses by maximising flock health and minimisation of ammonia emissions by using optimally formulated feed.

2.16. Waste - includes animal carcasses, packaging waste, veterinary waste containers and fluorescent tubes. Animal carcasses will be stored temporarily on site, in a sealed bin, prior to collection, typically fortnightly, by a licenced contractor and disposed of at a licensed rendering plant. Other waste streams will be managed by other waste contractors.

2.17. Habitats Directive (92/43/EC) & Birds Directive (79/409/EC) - there are no direct discharges to designated sites.

2.18. An Archaeology Assessment report from Arch Consultancy Ltd accompanied the application which includes: monuments in the area and their distance from the site

(within 1km) are listed, the nearest are three enclosures at 180m, 180m and 190m distance (Fig 2). A megalithic tomb is located a distance of 310m from the site. The existence of a wedge tomb and numerous burnt mounds in the area suggest prehistoric activity, however there is no indication of any features on the site of the proposed development.

2.19. A detailed field inspection was carried out; no traces of the enclosures were identified above ground, the existence of the wedge tomb and numerous burnt mounds in the area suggest prehistoric activity. The proposed development will be concentrated in the east of the site where the ground has been previously disturbed. No features of archaeological significance above ground were revealed in the walkover survey. The proposed development will not impact on any known or recorded archaeological monuments or features. No further archaeological input would be required.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided, 25/2/2016, to grant permission subject to 15 conditions, including:

2) No more than 38,000 broilers shall be kept on the overall site, outlined in blue on the site layout plan submitted to Mayo County Council on the 22/12/15 (Drawing No. 11-310-200 Rev. No. PP.2). Written confirmation that the 'Existing Poultry Unit No. 1' and 'Existing Poultry Unit No. 2' have been completely destocked shall be submitted to Mayo County Council within one month of the occupation of the new unit.

Reason: In the interests of proper planning and development.

4) All liquid and solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with Mayo County Council. Adequate on site arrangements shall be made to the satisfaction of Mayo County Council for the storage of recyclable materials prior to collection.

Reason: In the interests of the reduction and management of waste from the proposed development.

6) All existing trees/hedgerows shall be retained on site. Landscaping details, described on the proposed site layout plan submitted to Mayo County Council on the 22/12/15 (Drawing No. 11-310-200 Rev. No. PP.2), shall be carried out prior to the occupation of the building. Additional planting, of semi-mature trees, shall be planted along the northern and eastern boundaries, prior to the occupation of the building. A detailed landscaping plan to be submitted to Mayo County Council, for written approval, prior to the commencement of works on site.

Reason: In the interests of visual amenity.

7) Noise levels emanating from the proposed development when measured at the site boundaries shall not exceed 55dBA (15 minute Leq) between 08.00 hours and 18.00 hours, Monday to Saturday inclusive, and shall not exceed 45dBA at any other time. Measurements shall be made in accordance with ISO recommendation R.1991/1 ‘Acoustics – Description and Measurement of Environmental Noise, Part 1: Basic quantities and Procedures’.

At no time shall the noise generated on site result in an increase in noise level of more than 10dBA above background levels at the boundaries of adjoining premises. Background noise level shall be interpreted as the mean minimum sound level at the relevant place and time in the absence of noise from the premises the subject of the application. There shall be no clearly audible tonal component or impulsive component in the noise emission from the activity at any noise sensitive location.

Reason: In the interests of the reduction and management of noise levels from the proposed development.

11) All surface water within the overall site, outlined in blue on the site layout plan submitted to Mayo County Council on the 22/12/15 (Drawing No. 11-310-200 Rev. No. PP.2), shall be dealt with by a SUDS system to be installed on site. Full details to be agreed with Mayo County Council prior to the commencement of works on site.

Reason: To avoid flooding.

12 Samples of finishes to be submitted for prior agreement and the selected metal cladding and doors on west and east elevations to be replaced by wood finishes.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first planning report dated 14/04/2015, recommended a further information request, which issued on 7 points:

1 Submit specific details of the use of each of the nearby buildings and structures as shown outlined in the south east of the site layout plan (Drawing No. 11-310-200).

2 Submit details of the total numbers of poultry, the types of poultry and the arrangements that are in place for dealing with wastewater and waste from the two existing poultry units in operation at the nearby farm buildings.

3 Outline in blue the adjacent lands and extent of lands in the ownership of the applicant on a revised site layout plan.

4 A recent application (P14/611) which was withdrawn by the applicant indicated that it was the applicant's intention to demolish the two existing poultry units at the adjacent farm and to construct two new poultry units, one at the farm and one at the proposed site. Confirmation if it is now the intention to de-stock the existing poultry units and move the operation to the proposed new unit.

5 The 'Environmental Assessment Report' submitted on behalf of the applicant states that 'Eugene Lannon has advised that there will be less than 40,000 places' for poultry. It is also stated that the 'Environmental Assessment Report' was prepared on the basis that an EIA is not required as there is no other poultry activity within the ownership boundary and the number of poultry places is less than 40,000, Mayo County Council understands however further to recent site inspections that a cumulative number of approximately 62,000 poultry may result from the additional proposed development within the ownership boundary. Please clarify.

6 Submit a copy of the Nutrient Management Plan and associated maps for the proposed development and the existing poultry units.

7 Submit details of how it is proposed to prevent surface water discharging onto the public road.

Advice note: the details of the use and the numbers of poultry in the two existing poultry units in the nearby farm is necessary to determine if the cumulative impact of the application for planning permission will require an Environmental Impact Assessment to be undertaken as part of a planning application. This requirement is outlined in the EC Environmental Impact Assessment Regulations 1989 to 2000 as amended and also in Schedule 5, Part 2, Section 1 of the Planning and Development Regulations 2001-2013.

3.2.2. Other Technical Reports:

3.3. Environmental Section

Recommending further information on:

- Specific details of the use of each of the nearby buildings and structures.
- Details of the total numbers of poultry, the types of poultry and the arrangements that are in place for dealing with wastewater and waste from the two existing poultry units in operation at the nearby farm buildings.
- A drawing showing the extent of land under the control of the applicant.
- The intention with regard to the two existing units.
- Re. the Environmental Assessment Report, (included in item 5 above).
- Nutrient management plan and associated maps for the proposed development and the existing poultry units.

Advice note, as above.

3.4. Area Engineer – conditions, including details, that no surface water be discharged onto public road, to be submitted.

3.5. Senior Archaeologist – agreeing with the archaeological consultant's report; and that no further archaeological work is required.

3.6. **Further information.** The request for further information (as above) issued 15th April 2016.

3.7. **Further information,** which was submitted 22nd December 2015, includes:

3.8. Details of use of nearby buildings: there are currently places for 24,000 broiler chickens for rearing on an 8 week cycle. Wastewater is collected and stored in underground storage tank and then spread in compliance with of S1 31 of 2014 on the recipient's land holding. There is a dedicated manure storage shed for the storage of poultry litter which complies with the requirements of S1 31 of 2014. The litter is spread on lands as outlined in the Nutrient Management Plan as prepared by Rogers Agri Consultancy. The extent of adjacent lands under the control of the applicant is shown on Drawing No 11-310-200 Rev PP2. It is the applicant's intention to de-stock the existing 2 poultry units. There will not be, at any one time. in excess of 38,000 broilers within the development and ownership boundary.

3.9. Surface water drainage will be designed per Building Regs. Road edge details at entrances will be per drawing submitted, or as stipulated by Mayo County Council.

3.10. A Nutrient Management Plan (NMP), prepared by Barry Rogers Agri Consultancy, which includes a map of the land spreading of wash water and maps for the land spreading of poultry litter, and a copy of recipient farmer's BPS (Basic Payment Scheme) application, accompanied the response.

3.11. Approximately 272 tonnes of poultry litter will be produced annually and is suitable for land spreading. The volume of organic product that can be applied to the land bank is calculated to be 809 tonnes based on the total organic N&P that can be imported onto the farm at the limits prescribed. Part 3 (Nutrient Management Section) of SI 31 of 2014 European Communities (Good Agricultural Practices for Protection of Waters) Regulations of 2014 (Nitrates Directive) came into effect on the 28th January 2014. Index 3 was assumed for the land bank as soil analysis results were not available. Compliance with Articles 15, 16, 20 and 35 and tables 8, 9, 10, 11, 16 and 17 of SI 31 2014, is stated. A phosphorus content of 6 kg/tonne (100% available) and a nitrogen content of 11 kg/tonne (50% available) gives total phosphorus of 1632kgs and total nitrogen of 1496 kgs per annum. The P&N content of the wash water is deemed to be negligible, due to good management practices undertaken during the cleaning of the poultry houses. Lands in Offaly and

Westmeath, currently used for tillage and grassland, are listed for spreading of poultry litter. The land for spreading wash water is the applicants holding at Greenwood Ballyhaunis approx. 20.41 ha. At a maximum rate of 25m^3/ha and approx. 57m^3 produced per annum, only 3ha of land is required.

3.12. Storage of litter for 26 weeks is required by SI 31 of 2014, therefore 136m^3 is required. The recipient farmer will store all the poultry litter and has a dedicated manure storage shed, which Mr Barry Rogers attests to having inspected and found suitable, with a capacity of 1312m^3. All effluent produced from the litter is collected and stored in an underground storage tank. The effluent is then spread in compliance with SI 31 of 2014, on the recipient's land holding.

3.13. The NMP was prepared in compliance with the Teagasc 2004 recommendations: Nutrient and Trace Element Advice for Grassland and Tillage Crops, Teagasc 2004 and SI 31 of 2014 European Communities (Good Agricultural Practices for Protection of Waters) Regulations of 2014 (Nitrates Directive). Table 3 of the NMP details the crop areas and the N and P application rate per ha and estimates that for the total 177.90 ha, 29,404kg of N and 4,854 kg of P can be applied and that 809 tonnes of organic product can be imported. The recipient farmer's BPS (Basic Payment Scheme) application form refers to 184.52 ha. of land.

3.14. The second planning report, following receipt of the further information, states that the proposed development is adjacent to existing broiler units and agricultural buildings. It is lower on the hill and additional landscaping has been conditioned to complement the existing mature trees along the front boundary. It is intended that the conditions relating to landscaping, destocking and noise will address the concerns of the submissions received. Recommending permission subject to conditions including: development contribution for Surface Water €1,668.8, Amenities €999.6, Roads €4,253.2, Footpaths €666.4, and Community Open Space and Recreational Facilities €999.6 based on 2.8 housing units equivalent for a 1,675 sq m building.

3.15. The decision was in accordance with the planning recommendation.

3.16. **Third Party Observations**

Three third party observations were received, from: Mark Curley, Niall Kelly and Stephen Mooney, which included:

Any development should be maintained within existing cluster.

Legacy issues should be addressed – detailed road drainage proposals, detailed landscaping, former hard surface area removed.

Invalid – should have included existing units; changes at FI stage; outside red line; how enforceable is the decommissioning of existing units.?

Close to national monument which is not highlighted.

Should be subject to EIA and AA – although 5% sub-threshold, Mr Eugene Lannon is the licensee of 2 other large units 600m and 1200m distance, 163,000 units combined, project splitting. AA – R Moy SAC 3.1km to north, the main emissions appear to be airborne. The statement that there are no discharges directly to designated sites is insufficient. Ammonia can have numerous significant effects AA must be carried out.

As P15/188

Insufficient details – applicant's lands are not clearly shown: director of Western Brand Group Ltd and Blakesdell Ltd. Land to the rear of the Western Brand facility is in the same ownership.

What is to become of the decommissioned buildings? Under 12/581 and 13/88, by a different applicant, the first application sought permission for structures sub-threshold and shortly after the second application sought to increase capacity.

What trees are to be removed? Tree survey required. Mitigation measures?

Site history P13/641 withdrawn, P14/611 withdrawn, queries raised are still unanswered: damage done by HGVs to the public road; major surface water drainage is required to address ongoing runoff from the private road across the road into private properties; traffic movements; planning permissions for the nearby buildings and structures.

Inconsistencies - the blue line doesn't reflect the full extent of land under applicant's control. Nearest house is 100m, not 280m away. The area is peri-urban rather than

rural. The nutrient management plan refers to litter waste from the existing and proposed units; and refers to 272 tonnes litter waste per annum and 500 tonnes per annum. The nutrient management plan refers 57 cubic metres of wash water storage and the environmental report refers to 100 cubic metres. It also refers to two underground washwater tanks of 40 cubic metre capacity. The drawings show one tank with a capacity of 11.36cubic metres. Surface water runoff comes down from higher ground along and across the public road and has the potential to become contaminated.

Precedent for adhoc expansion of poultry houses. It would be difficult to manage/control. It will not be regulated by EPA IPC licencing.

Visual amenities – removal of mature hedgerows treelines. Much larger and higher structure than existing, closer to the road and to nearby houses.

Residential impacts – no assessment of noise, no comprehensive specialist odour assessment.

Material contravention of CDP s56.3 of vol 2, criteria for evaluation.

Devalue property - many prospective purchasers would be put off.

4.0 **Planning History**

PL16.099230 PA Reg Ref P96/448. An appeal against the planning authority's decision to grant permission to Greenwood Growers Ltd, (Mr Jack Lannon) for the demolition of three poultry houses and the construction of two replacement poultry houses, each of 1,350 square metres and each with a capacity of 26,000 units together with all ancillary site works and services at Greenwood, Ballyhaunis, (this permission was not implemented).

The site was the same as the subject site (existing houses to be demolished at right angles to road, the proposed new units were shown parallel.
Documentation included lands pledged for landspreading in the area, but also that all litter would go to Mushroom Composting Ltd.
It was proposed that wash water would be spread on applicant's land – 18.175 ac with 17.33 suitable.

The applicant Mr Jack Lannon has been experiencing difficulties in the running of the three number poultry houses, which it is proposed to demolish, primarily due to the fact that they are 30 years in existence, coupled with difficulties in cleaning due to their close proximity to the road.

The report of Sanitary Services stated:
Re. wash water - location is of concern because of proximity to Bekan Lough, the source of the local group water supply scheme. Wash water should not be spread within 300m of the lakes high water mark.

Re. litter - Disposal of litter to composters or similar approved outlets and in the event that no such outlet is available then unit is to close and not reopen until planning permission has been obtained.

The Board granted planning permission subject to conditions including:

1. Litter from the proposed development shall only be stored within the proposed poultry houses. No litter from the proposed development shall be landspread. Such litter shall be transported from the site for further processing by compost manufacture, or as may otherwise be agreed in writing with the planning authority. Reason: In the interest of the protection of public health and to avoid water pollution.

4. Contaminated surface water from all paved areas and floor washings from the proposed development shall be discharged to water-tight storage tanks, adequate to accommodate all effluent arising over a 24 week period. No system of overflow, overspill or direct discharge from such effluent tanks shall be formed. Reason: In the interest of the protection of public health and to avoid water pollution.

5. The contents of the effluent storage tanks shall be landspread in accordance with the "Code of Good Agricultural Practice to Protect Waters from Pollution by Nitrates", as published by the Department of Agriculture, Food and Forestry and the

Department of the Environment. In this regard, no landspreading shall take place within 300 metres of Bekan Lough. The southernmost larger area of land, shaded yellow on the map submitted to the planning authority on the 2nd day of May, 1996 (scale 1:10560) shall not, therefore, be used for landspreading of effluent. Alternative proposals for such landspreading of effluent shall be submitted for the agreement of the planning authority or, in default of agreement, the details shall be determined by An Bord Pleanala. Development shall not commence until such agreement has been issued in writing.

Reason: In the interest of the protection of public health and to avoid water pollution.

10. Dead birds shall not be buried on the site but shall be removed for burial elsewhere. Details in this regard shall be submitted for the agreement of the planning authority prior to the commencement of development.

Reason: In the interest of the protection of public health and to avoid water pollution.

11. Records of the disposal of effluent and contaminated water shall be maintained on site at the developer's expense and shall be made available to the planning authority on request. Such records shall include details of the dates of spreading, maps of the landspread areas including the location of all drains, rivers, watercourses and other sources of water supply, quantity of effluent disposed of, application rate of effluent and duration of spreading and weather conditions.

Reason: In the interest of the protection of public health and to avoid water pollution.

History, from details given by first party in response to the grounds of appeal, (stated to be from on line planning registry maps).

14/611 – Western Brand Group Ltd - demolition of 2 existing units and construction of 2 units including feed silos, water storage and all associated site works – withdrawn Jan 2015.

13/641 Western Brand Group Ltd - construction of new poultry house 38,000 places feed silos. water storage and all associated site works – withdrawn Nov 2014.

02/1511 – Blakesdale Ltd – construct farm equipment repair shop and septic tanks – granted Jan 2003.

5.0 **Policy Context**

5.1. **Development Plan**

5.2. **Mayo County Development Plan, 2014-2020** is the operative plan.

Relevant provisions include:

Volume 1 - AG-01 It is an objective of the Council to support the sustainable development of agriculture, with emphasis on local food supply and agriculture diversification (e.g. agri-business and tourism enterprises) where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.

Volume 2- Rural enterprises such as agriculture, forestry, marine, resource related enterprises, medical, teaching, IT, etc. shall be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and the environment including visual amenity. Preference will be given to the conversion of existing buildings in rural areas for small-scale employment purposes.

The Council recognises the importance of agriculture and agriculture diversification in the County. It is also recognised that those living on farms and working the land are the guardians of the countryside.

The principal aim shall be to support agriculture in the County subject to best environmental standards which promote maintaining good water quality and biodiversity. Therefore the activities on the farm shall comply with the provisions of S.I. No. 610 of 2010, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010.

5.3. **Commission Implementing Decision (EU) 2017 / 302,** 15th February 2017

5.4. Establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs, includes:

BAT 2 proper location of the plant/farm and spatial arrangements of the activities in order to:

- reduce transport of animals and materials (including manure),
- ensure adequate distances from sensitive receptors requiring protection,
- take into account prevailing climatic conditions (e.g. wind and precipitation),
- consider the potential future development capacity of the farm,
- prevent the contamination of water.

BAT 10 &13 - ensure adequate distances between the plant/farm and the sensitive receptors, to prevent / reduce noise and odour emissions.

5.5. **Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), EPA 2016**

The NG4 guidance note was originally published in 2012, and updated in 2016. The revised Noise Guidance Note (NG4) is intended to assist licensed sites with the assessment of their potential and actual noise impact on the local environment. In all cases this revised version of NG4 should be applied by licensees and consultants,

The proposed methodology expands upon previous advice to give specific guidance on how to deal with areas with relatively low background noise levels. This methodology only applies to new licence applications:

Reduced noise limits are applicable to locations which satisfy the criteria set out to establish low background noise areas:

Average Daytime Background Noise Level ≤40dB L_{AF90}, and;

Average Evening Background Noise Level ≤35dB L_{AF90}, and;

Average Night-time Background Noise Level ≤30dB L_{AF90}.

Recommended Noise Limit Criteria are set out in Table 1:

Areas of Low Background Noise: Day 45dB, Evening 40dB, Night 35dB.

5.6. **SI 31 of 2014 the European Union (Good Agricultural Practices for Protection of Waters) Regulations 2014, Statutory Instruments, SI No. 31 of 2014**

"livestock manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

Article 7 refers to storage facilities being provided 'on a holding'.

Article 11 requires that storage for livestock manure produced by poultry shall equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks, a lesser capacity is required where certain conditions are met (tillage or grassland and not more than 2000 poultry places) including that the holding comprises a sufficient area of land for the application of all livestock manure produced; the lesser storage requirement in Mayo is for 18 weeks storage.

Article 14 Reduced storage may, in particular circumstances be acceptable provided the occupier has a contract providing exclusive access to adequate alternative storage capacity outside the holding, a contract for access to a treatment facility for livestock manure, or a contract for the transfer of the manure to a person registered under and in accordance with the European Communities (Tranmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 S.I. 252 of 2008, to undertake the transport of manure.

Article 17 prescribes distances from water bodies for the spreading of organic fertiliser or soiled water, including 20m from a lake shoreline and 200m from the abstraction point of any surface waters and 15m from exposed karsified limestone.

Transitional provisions allow the application of excess phosphorus in manure from poultry where it is produced on a holding on which activities were being carried out which gave rise to manure and there has not been an increase in the scale of such activities on the holding since 1 August 2006.

5.7. **Dead Birds and Poultry Litter: Legal Obligations and Good Practice Guidelines for Poultry Farmers**, Department of Agriculture, Food and the Marine, 2014

Water used for cleaning poultry houses should be captured and disposed of in accordance with environmental and nitrates legislation. Water used for cleaning poultry houses should not be spread on land used for grazing livestock or on land adjacent to water courses or to grazing animals.

5.8. **European Communities (Waste Directive) Regulations 2011, S.I. No. 126/2011**

Substitution of sections 3 and 4 of Act of 1996

S4. The Act of 1996 is amended by substituting the following sections for sections 3 and 4

Non-application of this Act.

3.

(1) This Act shall not apply to—

g) faecal matter, if not covered by subsection (2)(*b*), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

(2) This Act shall not apply to the following to the extent that they are covered by other Community acts:

b) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation);

(*c*) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No. 1069/2009.

5.9. **Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (Recast) 24th November 2010.**

Member States shall take the necessary measures to provide that installations are operated in accordance with the following principles:

(a) all the appropriate preventive measures are taken against pollution;

(b) the best available techniques are applied;

(c) no significant pollution is caused;

(d) the generation of waste is prevented in accordance with Directive 2008/98/EC;

The baseline report shall contain at least the following information:

(a) information on the present use and, where available, on past uses of the site;

(b) where available, existing information on soil and groundwater measurements that reflect the state at the time the report is drawn up or, alternatively, new soil and groundwater measurements having regard to the possibility of soil and groundwater contamination by those hazardous substances to be used, produced or released by the installation concerned.

Where information produced pursuant to other national or Union law fulfils the requirements of this paragraph that information may be included in, or attached to, the submitted baseline report.

The Commission shall establish guidance on the content of the baseline report.

5.10. **Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)**

Article 12 excludes animal by-products including waste of animal origin from the scope of the Directive.

5.11. **Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, EPA 1998**

A guidance note for poultry rearing installations, where the capacity exceeds 100,000 units (whether within the same complex or within 100 metres of that complex).

BATNEEC for the siting of poultry units is based on the following hierarchy:

• A mass balance of nutrients within a control area.

• Protection of both surface and groundwater resources in the vicinity of the site and landspreading areas.

• Avoidance of nuisance due to malodours for dwellings in the vicinity of the site.

• Protection of the environment in the event of the de-stocking of the unit due to an emergency, e.g. an outbreak of a Class A disease.

The management of poultry manure should be based on a mass balance of nutrients within a control area, whether the area be a farm, group of farms or a region. Thus, poultry units should preferably be sited in close proximity to either mushroom compost production areas or suitable landspreading areas such as land used for tillage crop production in which they can operate as 'back to back' enterprises to:

• Facilitate the utilisation of manure for mushroom compost or crop production.

• Avoid a surplus of manure prevailing within a region.

• Reduce manure transportation costs.

In order to protect both surface and groundwater resources in the vicinity of the site and landspreading areas a site investigation is essential and it is generally advisable that it be carried out by a qualified hydrogeologist. The site investigation should provide information on:

• Depth to water table (if shallow).

• Depth to bedrock (if shallow) and details of bedrock outcrops.

• Subsoil and bedrock type and quantitative assessment of permeability.

• Presence or absence of karst features - caves, swallow holes etc. - if bedrock is limestone.

Aquifer classification and groundwater vulnerability in accordance with the provisions of 'Groundwater protection schemes in Ireland: A proposed approach', (Daly, 1995).

• Private wells within 200 metres and all public wells within 1 kilometre of site and 300 metres of the landspreading areas.

• Direction of groundwater flow.

• Baseline information on surface and groundwater quality.

• Location of all watercourses adjacent to the site and landspreading areas.

In addition the investigation should include information on soil types and nutrient status.

Poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling and all operations on site shall be carried out in a manner such that air emissions and/or odours do not result in significant impairment of or significant interference with amenities or the environment beyond the site boundary.

Poultry units should be sited such that in the event of an outbreak of disease requiring de-stocking there is an appropriate site available for the construction of a lined carcass disposal site for the disposal of all carcasses. The carcass disposal site shall be appropriately constructed in order to avoid any detrimental impacts on both surface and groundwater quality in accordance with the provisions contained in 'Class A disease outbreak - a multi-disciplinary approach', (Duggan, O'Laoide and Finn, 1995.)

5.12. **Natural Heritage Designations**

5.13. River Moy SAC site code 002298 is located to the north west north and north east. At its nearest point to the north-east (Mannin Lake and Island Lake, both seasonal lakes), is less than 3km from the subject site. Selected for the following features:

Active raised bogs

Degraded raised bogs still capable of natural regeneration

Depressions on peat substrates of the Rhynchosporion

Alkaline fens

Old sessile oak woods with Ilex and Blechnum in the British Isles

Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)

White-clawed Crayfish

Sea Lamprey

Brook Lamprey

Salmon, and

Otter.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.2. Niall Kelly has appealed the decision to grant permission, the grounds includes:

- Concerns were not taken seriously or properly assessed.
- The decision was made in the absence of a recommendation from the Environment Department.
- Numerous technical issues raised by the third party, errors / inaccuracies, cumulatively undermine the proper assessment of the proposed development. The conditions imposed will not address the problems and are unworkable and unenforceable.
- The proposal is much closer (100m) to residential properties than claimed (280m).
- Any proposed development should be within the existing cluster, with no increase in footprint or proximity to dwellings, or increase in output, scale and address legacy issues (e.g. access, restoration of hard standing area to greenfield and comprehensive screen planting).

- Application is invalid. It should have included existing units; changes at FI stage, outside red line; how enforceable is the decommissioning of existing units?
- Potential impacts on environment and SAC. Should be subject to EIA and AA – the level of capacity is above the IPC licence and EIA threshold of 40,000 units.
- Close to national monument which is not highlighted.
- There are inconsistencies / inaccuracies in the details submitted.
- Undesirable precedent for ad hoc expansion, particularly in area with significant concentration of this type of development.
- Inconsistent with CDP.
- Depreciate value of property.
- Conditions are impractical, unworkable, unenforceable and will not prevent / reduce negative impacts.

6.3. Application is invalid because IPC licence and EIA are required. Question Q17 on application form confirms that IPC licence is required. Invalidity (is claimed) in relation to the red line boundary which doesn't include the existing houses to be decommissioned and doesn't include road access which requires works to sightlines. A national monument in the vicinity was not mentioned on the application form and the landholding may not be correctly shown and may include other agricultural buildings and feed silos.

The further information proposes significant changes to the development by proposing the removal of existing facilities and such should not be accepted (per Development Management Guidelines).

6.4. AA and EIA are required. Existing chicken houses in the same ownership on an adjacent site to the east would put the proposal above the threshold. The first party is also the licensee of two large poultry farms to the south west and west (EPA licence numbers P0912-01 and P0911-01) with a combined capacity of 163,000 broilers. These facilities should be included in an EIS, in relation to cumulation.

6.5. The multiple, physically separate developments, appearing to operate together, gives rise to the issue of project splitting.

6.6. Determination in relation to AA is the responsibility of the Council. The site is close to the River Moy SAC, 3.1km to the north, particularly of concern in relation to airborne emissions.

6.7. There is insufficient information in the planning application – regarding ownership. The development boundary should include the entire complex of existing building and other structures on separate but adjacent lands.

6.8. Are the existing buildings to be demolished and if so what issues arise and what will the use of the area be? If not be demolished what use will me made of them?

6.9. The area where three buildings were previously located has been retained for storage and cleaning of machinery and trucks.

6.10. Proposals in relation to the boundary are vague. It could mean the removal of all the mature trees. A tree survey and precise details along with mitigation for any loss off trees and hedgerow is required.

6.11. Outstanding information:

- The traffic, including HGVs, has done substantial damage to this section of road and improvements are required including major surface water drainage to address runoff across the public road to private properties.
- Traffic movements.
- Relevant planning permission for the nearby buildings and structures.

6.12. Inconsistencies/inaccuracies

- Full land ownership is not shown, applicant's lands are not clearly shown: director of Western Brand Group Ltd and Blakesdell Ltd. Land to the rear of the Western Brand facility is in the same ownership.
- Proximity to dwellings: 100m rather than 280m.
- Area is not rural but peri-urban.

- The nutrient management plan refers to the proposed broiler house and the two existing units 'the land banks will remain the same for both'. The volume of litter waste is referred to as 272 tonnes and in the Environmental Report as 500 tonnes per annum.
- The receiving lands are stated to have capacity for 809 tonnes but a current application, Ref 15/188, for a virtually identical development in nearby Woodpark, Ballyhaunis, encloses a virtually identical Nutrient Management Plan estimating an identical 272 tonnes of waste for disposal to what appears to be the exact same lands.
- Wastewater storage is estimated at 57 m^3 in the NMP and 100m^3 in the Environmental Report, which also refers to two (2 x 40m^3) underground tanks; not shown on drawings; a single tank of 11.36m^3 capacity is shown on the layout plan.
- Existing problems with surface water crossing the road could increase and become contaminated surface water.

6.13. Precedent

6.14. The third party is concerned that the proposed activity will not be regulated by the EPA. EIA should be carried out. Previous applications were withdrawn highlighting difficulties in addressing planning issues. Applicant should put forward a more comprehensive proposal after discussing with residents.

6.15. Visual/Noise/Odour

6.16. Loss of hedgerow and trees and increased proximity to dwellings. Much larger and higher structure than existing. High silo. Noise calculations are based on incorrect distance to dwellings. A comprehensive specialist odour assessment should be prepared.

6.17. The CDP sets out guidance for large agricultural development at S56.3 of volume 2; which is cited, and breaches alleged.

6.18. Depreciation of property value

6.19. The proposed development would put many prospective purchasers off. The Council have previously acknowledged such impact (ref. P02/2385) re. proximity of a dwelling to an existing poultry facility.

6.20. Conditions considered unworkable/unenforceable are:

Condition 2 – destocking of existing houses
Condition 3 – keeping site neat and tidy
Condition 4 – recycling of wastes
Condition 6 – retention of hedges and trees. The requirement to submit a landscaping plan is fundamental and should not be left to compliance stage
Condition 11 – surface water
Condition 12 – finishes should be dealt with in a transparent manner

The Development Management Guidelines are cited in this regard.

6.21. Attached to the grounds are: a map showing the distance to other broiler facilities, and photographs of flooding.

6.22. **Planning Authority Response**

6.23. The Planning Authority has not responded to the grounds of appeal.

6.24. **First Party Response**

6.25. McCarthy Kelville O'Sullivan, Planning and Environmental Consultants, on behalf of the First Party, have responded to the Third Party grounds of appeal, which includes:

6.26. A description of the production process: six weeks production, 2 weeks with the houses empty to allow complete drying after the cleaning process. Prior to delivery of a new batch of chickens the entire floor is bedded with wood shavings and straw, etc.

6.27. **EIA requirement**

6.28. EIA requirement Schedule 5 Part 1, 17(a) 85,000 places for broilers – the Board will note that the proposal is less than 50% of the threshold. A separate threshold is provided in Schedule 5, Part 2, 1e) Installations for intensive rearing of poultry not included in Part 1 of this schedule, which would have more than 40,000 places for poultry'. This lower threshold does not apply to broilers and it is clearly related to installations for intensive rearing of poultry 'Installations for intensive rearing of poultry not included in Part 1'. Broilers are included in Part 1. When the proposed facility is commissioned the existing houses will be de-stocked. There will be no more than 38,000 broilers.

6.29. **AA**

6.30. The site is an estimated 3.2km to the south west of the R Moy SAC. Waste resulting will be spread on land in accordance with a site specific nutrient management plan.

6.31. The Environmental Assessment Report provided sufficient information to Mayo County Council to complete Appropriate Assessment screening.

6.32. **Alleged Project Splitting**

6.33. The nearest facility is estimated to be over 1km away. The purpose of the new facility is threefold: to allow for the modernisation of the existing facility on the same landholding in the form of a purpose built facility of adequate size; to allow the existing buildings to be decommissioned; and to minimise the potential for cross contamination arising from the current location. The proposed development represents consolidation and modernisation rather than expansion.

6.34. Planning Policy is cited in support.

6.35. **Visual & Residential Amenity**

6.36. There are a number of individual houses in the area the closest of which is estimated to be 143m to the north of the proposed building. In addition to existing trees and hedgerow, comprehensive landscaping proposals were presented to the planning authority. Condition 6 refers to landscaping. The position of the silo serves to

minimise any perceived negative impact, and condition 12 requires agreement with the PA re. selected metal finishes and that the doors be wood finished. Signage is to be agreed under condition 13. The proposed development will not have negative visual impact.

6.37. Noise – The Environmental Assessment Report was written in November 2014 when a previous proposal was being examined and refers to the existing farm complex 280m from the nearest dwelling, the correct distance is in excess of 143m. Condition 7 imposes noise restrictions. The first party operates EPA licensed facilities at Bekan under License P0911-01, the closest dwelling is 138m. Condition 4 of the license relates to noise. If operated within EPA noise emission values, it will not present a negative noise impact on surrounding residences.

6.38. Odour - the Environmental Assessment Report refers to control measures. The management practices will minimise emissions to atmosphere and the potential for odour. The first party operates EPA licensed facilities at Bekan the closest dwelling is 138m. Condition 5 of the license relates to odour. If operated within EPA emission controls, it will not present a negative odour impact on surrounding residences.

6.39. Precedent – it is not accepted that the proposed development sets an undesirable precedent.

6.40. Property Values – no supporting evidence that the development will result in depreciation of property values is provided. A planning reg. ref. referred to by third party, refers to a house where planning permission was granted.

6.41. The Board is requested to dismiss unsubstantiated assertions.

6.42. The response rebuts the assertions that conditions are unenforceable or unworkable.

6.43. Traffic – details are supplied; the first party states that the traffic movements do not represent significant traffic impact.

6.44. Flooding of Road – clean runoff arises on site from yards and roofs. This will be collected, diverted and disposed of in accordance with the agreement of Mayo County Council's Roads Authority, to existing ditches or soak-away. The flooding shown in photographs is removed from the subject site. The upkeep of the public road is a matter for the local authority. Adequate measures are proposed to address surface water, any existing flooding will not be exacerbated.

6.45. Discrepancies in Figures:

The Environmental Assessment Report November 2014 refers to 500 tonnes of poultry litter per annum and approximately 100m^3 of washwater. These figures are outdated. The NMP quotes the correct figures: approximately 272 tonnes per annum of poultry litter will be produced and 57m^3 of washwater, annually.

As correctly referenced by the third party, the NMP refers to lands which are also proposed to be used for the spreading of poultry waste from other facilities. The first party is fully aware of this and is advised, in accordance with the NMP for the lands upon which the manure is to be spread, that there is sufficient capacity on the lands selected, to cater for this proposal in additional to other facilities.

The response re-iterates the first party's intention to decommission the existing units for reasons including their ageing condition, and the potential for cross contamination; and their intention to comply with condition 2.

Re. works outside red line boundary; the planning authority has the power to attach conditions regulating development adjoining, which is under the control of the applicant.

There are no existing poultry houses to the east of the site as alleged.

7.0 **Observation**

7.1. An observation was received from Mark Curley, the issues raised are broadly similar to issues raised in the third party appeal.

8.0 **EIS**

8.1. The Board requested the submission of an EIS which was received on 25th October 2016 and the 30th January 2017. It includes:

8.2. Day old chicks will be brought to the farm from a hatchery in Cappagh, Co Waterford which is owned by the Western Brand Poultry Products Limited, delivered by (a single) truck once every eight weeks for rearing for approximately 6 weeks and then transported to factory for slaughter, every eight weeks (allowing two weeks for complete drying after the cleaning process).The house measures 85m x 20m = 1,675 m^2, x 6.709m high, (7.118 including ridge); with a solid concrete floor. The

walls are concrete with upper section constructed of selected metal cladding. The roof is selected profiled metal roof cladding; with eight ridge vents along the apex, to provide optimal natural ventilation.

A Skov ventilation system: a conventional climate controlled automated ridge ventilation system, consisting of fans mounted in the roof chimneys, along with wall inlets mounted along the two side walls, will be used. The system expels air vertically into the atmosphere thus eliminating dust falling on the roof sheeting, which could be washed down to the gutters and foul the soil or surface water receptor.

8.3. Water usage: 57m^3 washing; 5,145m^3 per 1,000 birds, 195,510 m^3 per batch, or 1,270,815m^3 annual use.

8.4. Feed silo 12m high x 4.5m in diameter. Feed delivered weekly.

8.5. Dead birds would approx. 600 per batch – 1.6%; stored temporarily on site for regular removal to College Proteins Co Meath.

8.6. Wash Water - wash water generation would be minimised through the maximising of the effectiveness of the litter cleaning process and the efficient use of wash-water during cleaning. It is anticipated that a maximum of 9.5m^3 of wash water would be produced at the site per batch.

8.7. A 11,360 litre wash-water storage tank would be located at the north western end of the shed, for spreading on Mr Lannon's land. It would be in compliance with the definition of soiled water under the Nitrate Regulations not including any liquid where such has either a biochemical oxygen demand exceeding 2,500 mg/l or a dry matter content exceeding 1% (10g/l). Set back distances outlined in the Nitrate Regulations will be observed. A preventative maintenance system, entailing regular visual inspection and cleaning of tanks, would be in place.

8.8. Groundwater vulnerability at the site and surrounding 1km is moderate. A regionally important karst aquifer underlies the area, the consequence of contamination events onsite affecting potential groundwater used off site is high, however the risk of contamination incidents is low. Soiled water would be spread on Mr Lannon's lands subject to set back distances outlined in the Nitrate Regulations.

8.9. Outside the site boundary there would be a potential risk to the hydrogeological environment through spreading of litter on agricultural lands. Contractors and

farmers would be experienced in handling chicken litter, and would be aware of their responsibilities under the Nitrate Regulations. Therefore the risk to groundwater from the spreading of chicken litter off-site would be low.

8.10. Noise Assessment – the closest noise sensitive receptor is 150m to the north. There will be a moderate noise impact during construction. Noise from agricultural machinery and delivery trucks are expected to be equivalent to noise levels currently in place during the operation of large agricultural machinery and delivery trucks. Minor additional impact from vehicle noise, due to the closer proximity of the site to noise sensitive locations, is anticipated. Noise from the operation of the proposed ventilation fans is anticipated to be audible at the nearest noise sensitive location, similar to the existing farmyard but closer; expected to operate at maximum during the warmest days of the year for short periods. Due to closer proximity, a minor noise impact from ventilation during warm summer days, is predicted.

8.11. Predicted noise impact during construction is moderate and temporary. No significant predicted noise impact during operational phase.

8.12. It is recommended that excavated material be used to construct an earth berm of a minimum of 1.5m on the northern boundary and if feasible on the eastern and western boundaries. An earth berm of 1.5m in height would be anticipated to mitigate noise from vehicles by approximately 5dBA. Noise levels arising at noise sensitive locations (in particular due to vehicle noise) is anticipated to be 7dBA to 14dBA above existing baseline noise levels during evening periods and 16dBA to 25dBA above existing baseline noise levels during night time. Potentially noisy activities such as removal of litter and delivery of feed are recommended to be restricted to normal working hours.

8.13. Figure 8.1 shows the comparison of baseline conditions, construction noise, normal operation - normal ventilation and maximum operational noise for day time evening and night time – dBA L90.

8.14. The largest increase is found at the receptor 150m from the site where the baseline L90 is c20dBA (night time), and the maximum operational noise will be c45dBA. The report states that during the infrequent periods of maximum ventilation noise from the site, the resultant noise levels at the nearest noise sensitive locations would be in

compliance with the EPA (NG4) guidance noise limits during day time evening and night time.

8.15. Air emissions – air modelling of ammonia and particulate matter as PM_{10}, has been carried out for the proposed development and existing poultry farms: 1, 2 and 3. Farms 2 and 3 are identified on maps at locations to the north and south of Bekan village. Farm 1 is identified to the east of the subject site. No plume is shown in the vicinity of Farm 1.

8.16. The modelling for ammonia indicates that the maximum annual average GLC (ground level concentration) plume will be no greater than 5% of the criterion, and the 1 hour concentration is no greater than 5% of the criterion; and that the operation of the new unit in combination with the existing units will not result in ammonia air quality impact at nearby sensitive receptors.

8.17. The modelling for PM_{10} indicates that the 90.40^{th} percentile 24 hour average and annual average GLC for PM_{10}, including baseline, will be no greater than 25% and 30% of the criterion; and that the operation of the new unit in combination with the existing units will not result in total particulates, as PM_{10}, air quality impact at nearby sensitive receptors.

8.18. Mitigation is proposed in relation to litter management, avoiding/reducing dust in ventilation emissions and in relation to construction.

8.19. Odour – air quality and odour impact assessment carried out included predictive modelling. Predictive odour dispersion emission contribution of overall cumulative impact of existing farms and proposed unit to odour plume dispersal at 98^{th} percentile for an odour concentration of less than or equal to 3.0 Ou_e/m^3 for the worst case meteorological year (2012) is shown mapped in Figure 7.3.

Table 6.1 of the EIS gives predicted mass emission value results for odour

Odour Emission Rate			
Farm Number	Stock Density	Odour emission rate (Ou_e/bird/s)	Total odour emission rate (Ou_e/s)
Existing Farm 1	20,000	0.35	7,000
Existing Farm 2	68,000	0.35	23,800

Existing Farm 3	96,000	0.35	33,600
Proposed	38,000	0.35	13,300

8.20. Odour impact assessment sources: digestive processes, litter of the broilers and the burning of fuel for heating.

8.21. Dust and gas concentrations increase with flock size and age; higher inside in winter because ventilation is decreased. Levels rise during clean out and when birds are moved. Litter tilling can result in high levels of dust and odour in the barns.

8.22. The main potential source of odour emissions from a poultry unit is from the storage and land spreading of poultry litter. Bacterial growth during storage results in the release of volatile compounds which are emitted to the atmosphere from the litter surface, particularly during litter tilling for removal.

8.23. All identified receptors located in the vicinity will perceive an odour level less than the guideline odour limit of less than 3.0 Ou_e/m^3 for the 98^{th} percentile of worst case hourly averages for met year 2012 (worst case met year) alone and in combination with other similar sources in the area. Fig. 7.2 shows the dispersion modelling contour for the 98^{th} percentile. The new unit will not impact on nearby sensitive receptors with respect to odour.

8.24. Mitigation is proposed in relation to odour which involve use of best practice methods in relation to feed, ventilation, etc.

8.25. Landscape – Being sited in the lee of a drumlin the proposed site would not interrupt or penetrate linear sections of primary ridge lines.

8.26. Mitigation proposed includes – existing hedgerow would be retained to a minimum of 3 metres during and post construction works at the proposed site, where these do not impact on sight-lines from the proposed entrance to the site. In order to further screen the proposed development, semi-mature trees and shrubs would be planted in gaps in existing hedgerows as necessary, i.e. particularly along the northern and eastern boundaries. It is recommended that excess topsoil remaining from excavation and landscaping be used to construct earth berm at the north boundary to provide additional mitigation of the visual impact on the adjacent local road. It is recommended that boundaries be planted with native hedge and tree species to

improve biodiversity value of the site. Native species planted should be chosen for speed of growth and level of concealment provided. Native trees may include species such as ash, alder, Scot's pine, laurel and willow. The shrub layer may include species such as blackthorn, hawthorn and holly. It is recommended that native evergreen hedge species be planted where possible to provide year round screening.

Terrestrial Environment

8.27. Litter – the deposition of by-product litter on land, to supply fertiliser nutrients, is provided for and controlled under the Nutrients Regulations. Use by other farmers is required to be in accordance with the terms prescribed in Fertilisers and Soil Improvers Order (SI 253 of 2008) and the Nutrients Regulations (SI 31 of 2014 and Directive 91/676/EEC).

8.28. Litter management – broiler litter is composed of a mixture of bedding material, feathers and manure. It is estimated that the quantity of manure excreted by 1,000 birds is approximately 1.2 tonnes per batch for broiler chickens – 45.6 metric tonnes per batch, 273.6 tonnes for 6 batches and an average of 296.4 tonnes per annum (6.5 batches).

8.29. All manure collections from the site would be recorded in a log by the applicant, as per Nitrates Regulations (SI 31 of 2014).

8.30. The use of organic fertilisers for spreading on agricultural lands is controlled under the Nitrates Regulations (SI 31 of 2004). It is the responsibility of the occupier of a holding to comply with the provisions of these regulations, which outline permitted application rates, times and exclusion zones. Therefore, potential environmental impacts from the use of organic fertilisers on land would be effectively controlled.

8.31. A Nutrient Management Plan (F) has been prepared for the lands of intended receiving farmers in Co. Offaly and Co. Westmeath. The NMP has shown that there is sufficient landbank capacity to accommodate 809 tonnes of litter by-product material per annum from the proposed development. Litter would be used on these lands as a replacement for chemical fertilisers.

8.32. Removal of litter (mixture of bedding material feathers and manure) to a covered trailer for immediate delivery to a farmer by a licenced haulier, after removal of a (broiler) batch, litter would be collected from the house and supplied to other farmers for spreading on land off site. Other litter receptors may also be used throughout the operation of the development. All spreading of poultry litter is subject to the requirements of the European Communities ((Good Agricultural Practice for Protection of Waters) Regulations (SI 101 of 2009)).

8.33. The system for the management of broiler litter from this unit and for the lawful transfer of litter to external parties (i.e. occupiers of other holdings) who seek a supply from the farm, would consist of:

- Collection of all litter in a covered container by a licensed removal contractor as required under SI 31 of 2014 after removal of stock.
- Transfer to occupiers of other holdings whom express a requirement for the litter as a by-product fertiliser for their land, or their customers, as is required for and authorised under SI 252 of 2008, in the knowledge that use by customers is required to be in compliance with standards prescribed in SI 253 of 2008 and SI 31 of 2014.
- Record all transfers of by-product from the farm/holding as is required by Article 23(1)9g) in SI 31 of 2014 and maintain the records for relevant inspectors; and
- Submit details of annual supplies of poultry litter to the Department of Agriculture, Food and the Marine,

8.34. It is prescribed, in Article 16 of SI 31 of 2014, that the responsibility for nutrient management planning is the responsibility of each occupier of a holding.

8.35. Construction of a unit closer to the existing agricultural buildings was considered and ruled out primarily for biosecurity reasons. It was considered that the location of a beef herd adjacent to a poultry flock would pose a threat to both the cattle and the poultry and heightened risk of transmission of bacterial infections such as Salmonella and Campylobacter.

8.36. Washwater - The landbank for the spreading of wash-water would be the applicants holding at Greenwood, Bekan, Co Mayo. At a maximum application rate of 25m^3/ha

and approximately 57m^3 expected to be produced per annum at the proposed development, only 3.0ha of spreadable land would be required for wash-waters with 20.412 ha of landbank available.

8.37. The site is located on an aquifer, categorised as a regionally important karst aquifer, and classified as being of moderate vulnerability.

8.38. Within the house the broiler chickens would be accommodated on bedding made from straw / wood chippings and would be fed and medicated via automated and optimised feed and watering systems. Feed would be stored in a silo which would be located on a concrete apron external to each house.

8.39. Surface Water - Drainage design features to be incorporated in the final design will include:

8.40. Infiltration – infiltration involves allowing surface water runoff to soak into the ground, as would have pre development greenfield site conditions. This is the most desirable approach because it most closely replicates the natural hydrological process and recharges the groundwater, provided that the runoff quality is satisfactory. In addition it considerably slows down the rate of runoff to watercourses. It is not suitable where the existing aquifer is sensitive or vulnerable and is of limited use where the local soils are of poor permeability.

8.41. Attenuation and storage: this process consists of providing a storage device or devices on the surface water system together with a controlled outlet from the storage. The control device is used to restrict the runoff rate from the storage at previously determined ‘greenfield runoff rates’. During a rainfall event the flow rate in the piped drainage system increases considerably but the outlet flow remains at the pre-determined rate. At the end of the event the flow continues at the set rate until the storage is empty.

8.42. The applicant intends that existing greenfield runoff rates will be maintained and for the Council to assess the final drainage design prior to construction.

8.43. Designated sites:

8.44. The primary potential impact of the proposed development to the River Moy SAC would be through contaminated storm-water entering the groundwater system and infiltrating the pNHA.

8.45. The proposed development would not be hydrogeologically linked to the Mannin and Island Lake pNHA, as this is located in a separate river basin.

8.46. The proposed development could result in an ecological potential impact from the spreading of the litter as organic fertiliser, either through pollution of water bodies or the enrichment of natural vegetation. The protected sites are a combination of wetlands, bogs, lakes and turloughs. These sites would not be suitable for intensive agriculture and therefore would not be directly impacted by the spreading of organic fertilisers from the site. However, diffuse agricultural pollution of lakes, turloughs and wetlands and, to a lesser extent bogs, is possible through the spreading of organic fertiliser. The majority of the land-take within 15 kilometres of the site is improved agricultural grassland some of which is bordering SACs and protected and proposed NHA sites.

8.47. It is intended to supply litter to farmers in counties Offaly and Westmeath, however this does not preclude the use of litter by local farmers in the future.

Aquatic Environment:

8.48. Landspreading of Broiler Litter

8.49. The use of poultry litter as a fertiliser is subject to control under EC (Good Agricultural Practices for Protection of Waters) Regulations (SI 31 of 2014) and Fertilisers and Soil Improvers Order (SI 253 of 2008). These regulations provide statutory framework for the management of farm residues as fertilisers in order to protect the quality of surface and ground-waters from agricultural activities.

8.50. The legislation confers rights and responsibilities on the ‘occupier’ of a ‘holding’. Therefore, the transport and spreading of the manure would be required to be managed by the subsequent users in compliance with the Nitrates Regulations (SI 31 of 2014). The regulations include measures relating to the timing of land-spreading, nutrient management planning and buffer zones around sensitive receptors and transport vectors,

8.51. Compliance with the Nitrates Regulations is linked to a farmer’s Single Farm Payment, where breaches of regulations are identified a farmer can be penalised all or a portion of the SFP, depending on the severity of the breach. Farm inspections to

determine compliance with the Nitrates Regulations are carried out by Department of Agriculture.

8.52. Spreaders of the by-product would be required to compile and submit an annual Nutrient Management Plan. The contractors and farmers would be experienced in handling these materials, and would be aware of their responsibilities under these regulations. Therefore, the risk to the aquatic environment, from the spreading of poultry litter from the site on farmland, is deemed to be minor.

8.53. Soils Geology and Hydrogeology:

8.54. Organic fertilisers from the proposed development would not be spread upon lands in the vicinity of the site. Chicken litter would be removed from the poultry house floor directly into covered trailer after each production batch. It would be supplied to Strawchip Ltd who would primarily distribute it to large-scale tillage farmers as a replacement for inorganic fertilisers. Therefore, fertiliser nutrients (P and N) acquired would not have to be imported as chemical fertiliser products from outside the state.

8.55. Use of poultry litter as a fertiliser is subject to control under EC (Good Agricultural Practices for Protection of Waters) Regulations (SI 31 of 2014).

8.56. Material Assets:

8.57. Material Assets are dealt with under the headings agricultural properties, non-agricultural properties (no details) and natural and other resources (e.g utilities and transport network).

8.58. The heading agriculture is dealt with at some length. No mitigation measures are required as the development of this land would increase its material value to the land owner and not cause significant impacts upon the agricultural material assets of other parties.

8.59. The Corine data shows that land within approx. 1km of the proposed site is primarily used for pasture (complex cultivation patterns) and in the surrounding region is primarily pasture with significant areas of peat bogs.

8.60. The soil type within the site is Clashmore soil association poorly drained (basic) mineral soils.

8.61. Natural and other resources include utilities and transport network

8.62. Traffic and transport

8.63. A Traffic and Roads Report Submitted as part of the EIS includes: the construction is expected to take four months to complete. The materials, loads and vehicles to be used during construction are listed in Appendix C of the report. Traffic counts were undertaken at the junctions: priority junction between the R323 and the L-1502 (approx. 750m west of the site) and the cross road junction between the L-1502 and the L-1501 (located approx. 500m east of the site), in January 2017. The results are presented in appendices to the report. The impact of traffic on the junctions was modelled using PICADY software. Link capacity was analysed. Currently there is spare link capacity on both the R323 and the L-1501 (60% and 84%).

8.64. The report concludes that the junctions will operate within desired levels (based on PICADY analysis) for all design years for both construction and operations traffic. Spare link capacity is available on all the road networks assessed. If necessary, a walkover survey to assess the existing pavement condition could be undertaken prior to the commencement of the construction activities, and on completion of these activities, to identify any residual impact on the pavement surface by these activities.

8.65. Archaeological Architectural and Cultural Heritage – the information contained in an Archaeology Assessment which accompanied the application is restated. No significant residual impacts are predicted.

8.66. **An Appropriate Assessment Screening Report** was received on 25th October 2016. It includes:

8.67. The habitats on-site are highly modified and of low conservation value.

8.68. No SPAs, RAMSAR or NHAs occur within 15km of the site. Seven SACs occur within 15km and 10 proposed NHAs.

8.69. The only protected site within 5km of the proposed development is the Mannin and Island Lake wetland complex (SAC002298, pNHA 001910), which includes the Glore River. This is located 3-3.5km to the north, north-east of the boundary of the proposed site. It is hydraulically connected to the River Moy via the Glore / Gweestion Rivers.

8.70. The habitat consists of two lake basins - Mannin and Island Lakes, which were drained in the 1960's by the deepening of the Glore River. The Glore / Gweestion River is a tributary of the River Moy, with which it joins at a point in the townland of Lisduff, 20km to the north-west of the lakes, approximately 6km south of Foxford.

8.71. Since draining the Mannin and Island Lakes, a mosaic of vegetative habitats has become established on the original shell marl lake bed. These seasonal lakes contain a wide range of wetland habitats which support a high diversity of botanic, insect, mammal and bird life. A good winter depth makes the lakes attractive for a range of wintering fowl.

8.72. Extensive strands of alkaline fen, including the rare moss Bryum uliginosum, are found within the wetland habitats.

8.73. Attishane Turlough (pNHA) is within 15km of the site.

8.74. Errit Lough and Urlaur Lakes are SACs. Errit Lough, Lough Gower, Urlaur Lakes and Lough O'Flynn are all proposed NHAs. Bogland SACs and NHAs, within 15 km of the proposed site are: Drumalough Bog, Derrinea Bog and Carrowbehy/Caher Bog. A section of the River Dalgan, which forms part of Lough Corrib SAC, occurs within 15km of the proposed site.

8.75. The closest protected site is the Mannin and Island Lake pNHA seasonal lakes, principally fed by groundwater, located at its closest point 3-3.5km to the north, north-west.

8.76. The development is located within the Yellow (Knock) River catchment, which is a sub catchment of the River Moy SAC. The development would be hydrogeologically linked to the River Moy SAC through groundwater additions to the headwaters of the Yellow (Knock) River. The proposed development would not be hydrogeologically

linked to the Mannin and Island Lake pNHA as this is located in a separate river basin.

8.77. There would be no process effluent from the site operations, and the site is not in an area of flood risk or benefitting lands. The primary potential impact of the proposed development to the River Moy SAC would be through contaminated storm-water entering the groundwater system and infiltrating the pNHA.

8.78. The storm water from roofs and yard areas would be collected and discharged to ground via a system designed to SuDS and CIRIA technical guidance specifications and soak-pit. It is considered that the drainage design and distance from the designated sites would ensure that there would be no significant negative impact from the proposed development. Mitigation, in the form of good housekeeping practices, are proposed.

8.79. The proposed development could result in a potential impact on ecology from the spreading of the litter as organic fertiliser, either through pollution of water-bodies or the enrichment of natural vegetation. The protected sites in the area are a combination of wetlands, bogs, lakes and turloughs. These sites would not be suitable for intensive agriculture and therefore would not be directly impacted by the spreading of organic fertilisers from the site. However, diffuse agricultural pollution of lakes, turloughs and wetlands and, to a lesser extent, bogs, is possible through the spreading of organic fertiliser. The majority of the land-take within 15km of the site is improved agricultural grassland, some of which is bordering SACs and protected and proposed NHA sites.

8.80. Nutrient Management Plans for locations in Co Offaly and Co Westmeath are provided. No spreading near protected sites within 15km of the development is proposed, however this does not preclude the use of litter by local farmers in the future.

8.81. Wash-water spread on Mr Lannon’s lands would be done so in accordance with the setback distances from surface waterbodies and abstraction points specified in the Nitrates Regulations. This would minimise the risk of any pollution occurring and protected sites being impacted due to the spreading of organic manures.

8.82. Conclusion of screening:

8.83. It is not anticipated that the proposed development by itself or in combination with other developments would impact negatively upon the Natura 2000 network during the construction of operational phases of the development.

8.84. As organic fertilisers would be used as a substitute for inorganic fertilisers and with the implementation of the controls currently in place under the Nitrates Regulations, it is not anticipated that the proposed development would have any additional impact upon protected species or habitats.

9.0 **EPA Consultation**

9.1. The EPA were written to by the Board, on the 24th March 2017, and requested to confirm that a licence is required under section 83 or section 90(1)(b) of the EPA Act for the activity to be carried on arising from the proposed development; and if a licence is required to submit any observations they may have on the application including the EIS; and to make observations on the specific matters:

- Is the methodology set out in the EIS in relation to the management of broiler litter and soiled water adequate and sufficiently robust to support the conclusions reached? The nutrient management plan supplied to the planning authority is attached to this consultation.
- Is the methodology set out in the EIS, in relation to the air emissions, in particular ammonia and particulates emissions, adequate and sufficiently robust to support the conclusions reached?
- Please refer to any relevant BAT guidance documents in relation to the type of activity in question; your attention is drawn to the various statutory instruments referred to in the EIS.

9.2. The EPA response received on the 19th April 2017 includes:

Should the existing houses be demolished and the proposed houses constructed per planning application, the development appears to fall below the thresholds for activities licensable under the EPA Act 1992 as amended. Should the existing houses not be demolished the development would be above the threshold. The

applicant has not contancted the Agency for a determination and the agency has not received a licence application relating to the development.

The EIS appears to address the key points in relation to the environmental aspects of the proposed activity which relate to the maters that come within the functions of the Agency. It also appears to address the direct and indirect effects of the development on the aspects of the environment listed in Section 83 (2A)(a) of the EPA Act. If and when a licence application is received by the Agency all matters to do with emissions to the environment from the activities proposed, the licence application and EIS will be considered and assessed by the Agency.

Should an IE licence application be received in relation to the development it will define the site boundary. In most cases, the site boundary only relates to the site of the poultry rearing and directly associated activities which occur within that defined site boundary. Activities such as the processing of animal feed, use of organic fertiliser as fertiliser beyond the site boundary etc. cannot be controlled by a condition of an IE licence which may be granted for the poultry rearing activity because they do not occur within the defined site boundary. In relation to the management and use of organic fertiliser by, or the actions of, the subsequent holder of the organic fertiliser generated. The recipient of organic fertiliser is responsible for the management and use of the organic fertiliser in accordance with the applicable regulations (European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014 and Animal By-Products Regulations (Regulation (EC) No 1069/2009)).

With regards to air emissions, in particular ammonia and particulate emissions, attention is drawn to Attachment B.1 of the EIS where the applicant submitted odour and air quality dispersion modelling. Screening for emissions to air from poultry rearing activities can also be carried out using a tool called SCAIL Agriculture. The SCAIL Agriculture screening tool is available at: http://www.scail.ceh.ac./uk/.

Where the agency is of the opinion that the activities, as proposed, cannot be carried on, or cannot be effectively regulated under a licence then the agency cannot grant a licence for such an activity. Should the agency decide to grant a licence it will incorporate conditions that will ensure that appropriate National and

EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on of the activities.

The Board were advised of the following documents:

- Commission Implementation Decision (EU) 2017/302 of 15th February 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs.
- BAT Reference Documents on http://eippcb.jrc.ec.europa.eu/reference/ including:
    - BREF on Emissions from Storage
    - BREF on Energy Efficiency
- National legislation regarding emissions.

The Agency cannot issue a Proposed Determination on any licence application (that may be received) which addresses the development until a planning decision has been made.

10.0 **Further Submissions**

10.1. Further to notification of the submission of the EIS, further submissions were received from the third party and observer.

10.2. The submission from the third party raises issues which are broadly similar to those raised previously. It states that the baseline should disregard the existing facility, given that no planning permission exists in respect of the existing two units which are to be decommissioned. The distance to the nearest residence is restated to be 100m rather than the 150m stated in the noise assessment. As regards restrictions on hours of delivery / waste removal, current deliveries take place late at night and the third party has no confidence that any restriction of deliveries / waste removal would be abided by. Details of complaints made to Mayo County Council in relation to noise from the existing facilities are provided, and refuelling of the applicant's HGV fleet within the farmyard is referred to. The risk that the surface water will run through the subject site and become contaminated is of concern to the party. The removal of trees and hedgerows is not properly assessed. If the hedge is replanted it will take

many years to reach the same level of maturity. Transplanting trees is feasible. The EIS provides little analysis of cumulative effects. In relation to the examination of alternatives it is pointed out that the applicant controls a number of other locations in the wider area, where the proposed development could be co-located with existing poultry houses. As sited, it relies on unsustainable travel patterns for raw materials and waste disposal. The EPA Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, (1998), recommends a minimum distance of 400m to the nearest house, and the Board's decision on PL93.247354, in a refusal reason, refers to this recommended distance and finds, based on the 120m distance to a disused cottage, that the development would would seriously injure the residential amenities.

10.3. A full Natura Impact Assessment is required and should not have been screened out. They have not established beyond reasonable doubt that adverse effects will not result. The EIS does not adequately address the impact on the local road. A road safety audit should have been carried out. The use of the existing farmyard as a compound for the wider poultry business, and the regular movements of large vehicles has not been included in the assessment.

10.4. Mr Justice Barrett is quoted with reference to the Board's responsibility:

> 'It is not enough for a public decision making body to issue a decision that refers "in a largely uninformative manner" to an "ocean of material" consulted or relied upon and leave an affected party thereafter to "fish in that ocean" for whatever they might catch of relevance within the "ever diminishing timeframe" for judicial review. It is not sufficient to say "somewhere in an ocean of documentation is some stream of logic that An Bord Pleanála favours".'

10.5. The specific issues and shortcomings which they have raised should be addressed.

10.6. The submission from the observer, is largely the same as that of the third party.

11.0 **Assessment**

11.1. There issues which arise in relation to this appeal are: the principle of the development, residential amenity, landscape and visual amenity, devaluation of

property, surface water, other issues and appropriate assessment and the following assessment is dealt with under those headings.

11.2. **The Principle of the Development**

11.3. The site is located in a rural part of County Mayo where it is an objective of the Council as set out in the County Development Plan to support the 'sustainable development of agriculture, with emphasis on local food supply and agriculture diversification (e.g. agri-business and tourism enterprises) where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity'.

11.4. The Council's Development Management policies are set out in Volume 2 of the Plan and further define its policy in relation to agricultural development. Agricultural development will be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties or on the environment.

11.5. Sustainable Development is a broad concept and could, in terms of the Development Plan policies refer to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and no adverse impacts on the environment.

11.6. Although agricultural development is acceptable in principle subject to the safeguards set out in the Plan, the intensive rearing of poultry (or pigs) is a form of agricultural development which has certain characteristics in terms of impact on the environment which require it's licencing, at a threshold level 5% (40,000 broiler production) above the size of the subject development; 38,000 annual production of broilers is proposed.

Locational criteria have been set out for such forms of development (those above the relevant threshold) in the EU, Commission Implementing Decision 2017 / 302, **(**15th February 2017), which sets out best available techniques, under Directive 2010/75/EU, for the intensive rearing of poultry or pigs.

BAT 2 refers to the proper location of the plant/farm and spatial arrangements of the activities in order to:

- reduce transport of animals and materials (including manure),
- ensure adequate distances from sensitive receptors requiring protection,
- take into account prevailing climatic conditions (e.g. wind and precipitation),
- consider the potential future development capacity of the farm,
- prevent the contamination of water.

11.7. The EPA Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, (1998), (those above the 100,000 threshold), includes locational criteria:

BATNEEC for the siting of poultry units is based on the following hierarchy:

• A mass balance of nutrients within a control area.

• Protection of both surface and groundwater resources in the vicinity of the site and landspreading areas.

• Avoidance of nuisance due to malodours for dwellings in the vicinity of the site.

• Protection of the environment in the event of the de-stocking of the unit due to an emergency, e.g. an outbreak of a Class A disease.

The management of poultry manure should be based on a mass balance of nutrients within a control area, whether the area be a farm, group of farms or a region. Thus, poultry units should preferably be sited in close proximity to either mushroom compost production areas or suitable landspreading areas such as land used for tillage crop production in which they can operate as ‘back to back’ enterprises to:

• Facilitate the utilisation of manure for mushroom compost or crop production.

• Avoid a surplus of manure prevailing within a region.

• Reduce manure transportation costs.

In order to protect both surface and groundwater resources in the vicinity of the site and landspreading areas a site investigation is essential and it is generally advisable that it be carried out by a qualified hydrogeologist. The site investigation should provide information on:

• Depth to water table (if shallow).

• Depth to bedrock (if shallow) and details of bedrock outcrops.

• Subsoil and bedrock type and quantitative assessment of permeability.

• Presence or absence of karst features - caves, swallow holes etc. - if bedrock is limestone.

Poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling and all operations on site shall be carried out in a manner such that air emissions and/or odours do not result in significant impairment of or significant interference with amenities or the environment beyond the site boundary.

Poultry units should be sited such that in the event of an outbreak of disease requiring de-stocking there is an appropriate site available for the construction of a lined carcass disposal site for the disposal of all carcasses. The carcass disposal site shall be appropriately constructed in order to avoid any detrimental impacts on both surface and groundwater quality in accordance with the provisions contained in 'Class A disease outbreak - a multi-disciplinary approach', (Duggan, O'Laoide and Finn, 1995.)

11.8. It must be noted that the proposed development is intended to replace existing poultry production houses and also that the location is close to the factory where the broilers are slaughtered and processed. It is also worth noting that the landspreading of poultry litter as a fertiliser is subject to control under EC (is SI 31 of 2014 the European Union (Good Agricultural Practices for Protection of Waters) Regulations 2014, Statutory Instruments, SI No. 31 of 2014. However the Board must consider the suitability of this location: on a regionally important karsified aquifer, where groundwater vulnerability within 1km of the site is stated to be predominantly moderate with areas of extreme vulnerability approximately 300m to the north and east, associated with turloughs and depressions directly influenced by groundwaters; for a development of this nature. The concentration of similar operations in this sensitive area is also a consideration.

11.9. It is noted that the only landspreading proposed in the area is that of washwater. Washwater from poultry rearing is referred to in the Department of Agriculture, Food and the Marine, 2014 guidance: Dead Birds and Poultry Litter: Legal Obligations and Good Practice Guidelines for Poultry Farmers, where it is stated that water used for

cleaning poultry houses should be captured and disposed of in accordance with environmental and nitrates legislation and should not be spread on land used for grazing livestock or on land adjacent to water courses or to grazing animals.

11.10. Litter spreading, as currently proposed, is on a tillage farm remote from the subject site. The distance to proposed spread lands is a negative indicator in relation to the proposed site location.

11.11. As is stated in the documentation submitted, the current litter spreading proposal does not preclude the use of litter by local farmers in the future. The use by local farmers must be considered likely, because of the economy and convenience of proximity.

11.12. Concern regarding landspreading of litter in this area appears to have been a consideration in the Board's previous decision to grant permission for the demolition of three poultry houses and the construction of two replacement poultry houses on this site, in 1996. Condition no. 1 of the permission, which was not implemented, required that litter from the proposed development not be landspread but transported from the site for further processing by compost manufacture, or as otherwise agreed in writing with the planning authority; in order to protect public health and to avoid water pollution.

11.13. It is also worth noting that the suitability of the site for the disposal of dead birds, a requirement referenced in the EPA guidance, was considered in the Board's previous decision wherein condition 10 states that dead birds shall not be buried on the site but shall be removed for burial elsewhere, in the interest of the protection of public health and to avoid water pollution.

11.14. In my opinion, having regard to the concentration of intensive poultry rearing facilities in the area, the regional importance of the karst aquifer and its vulnerability, and the importance of protecting surface and groundwater resources in the vicinity of the site, and notwithstanding that Statutory Instruments, SI No. 31 of 2014 controls the use of the litter as a fertiliser, this location is unsuitable for the development proposed, and this is a reason for refusal.

11.15. **Residential Amenity**

11.16. Some of the issues raised in the grounds of appeal and observation, concern residential amenity.

Noise

11.17. The grounds of appeal states that the noise calculations are based on incorrect distance to dwellings; the proposal is much closer (100m) to residential properties than claimed (280m).

11.18. The response to the grounds of appeal states, in relation to noise, that the Environmental Assessment Report was written in November 2014 when a previous proposal was being examined, and refers to the existing farm complex which is 280m from the nearest dwelling; the correct distance is in excess of 143m. It further states that condition 7 of the decision imposes noise restrictions, and that the first party operates EPA licensed facilities at Bekan under License P0911-01, where the closest dwelling is 138m, and condition 4 of the license relates to noise. If operated within EPA noise emission values, the proposed development will not present a negative noise impact on surrounding residences.

11.19. The EIS submitted includes a report on Noise Assessment which states that the closest noise sensitive receptor is 150m to the north. Noise from the operation of the proposed ventilation fans is anticipated to be audible at the nearest noise sensitive location, being similar to the existing farmyard but closer. The main noise sources will be traffic and ventilation. The latter is expected to operate at maximum during the warmest days of the year for short periods; and due to closer proximity, a minor noise impact from ventilation, during warm summer days, is predicted. Predicted noise impact during construction is moderate and temporary. There will be no significant predicted noise impact during operational phase. It is recommended that excavated material be used to construct an earth berm of a minimum of 1.5m on the northern boundary and if feasible on the eastern and western boundaries. An earth berm of 1.5m in height would be anticipated to mitigate noise from vehicles by approximately 5dBA. Noise levels arising at noise sensitive locations (in particular due to vehicle noise) is anticipated to be 7dBA to 14dBA above existing baseline noise levels during evening periods and 16dBA to 25dBA above existing baseline

noise levels during night time. Potentially noisy activities such as removal of litter and delivery of feed are recommended to be restricted to normal working hours.

11.20. The Noise Assessment Report, attached to the EIS shows, at Figure 8.1, the comparison of baseline conditions, construction noise, normal operation - normal ventilation and maximum operational noise for: day, evening and night time in dBA L90.

The greatest noise impacts are those from maximum operational noise, which occurs when fans are in operation during warmer periods. The report acknowledges that during the infrequent periods of maximum ventilation noise from the site, noise is anticipated to be audible at the nearest noise sensitive locations, but that all resultant noise levels from the proposed development are predicted to comply with the EPA (NG4) guidance limits of 55dBA day time, 50dBA evening and 45dBA night time.

11.21. The Board should note that the Appropriate Noise Criteria set out in the EPA guidance document Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), EPA 2016, distinguishes areas of low background noise, and for those areas the recommended limits are as follows: Day 45dB, Evening 40dB and Night 35dB.

11.22. The guidance limits of 55dBA day time, 50dBA evening and 45dBA night time, referred to in the EIS, are those applying generally (ie. to areas other than areas of low background noise). The surveys carried out for the Noise Assessment Report show that this is a low background noise area, and this is stated in the report, therefore the noise which would be experienced under maximum ventilation conditions, during day, evening and night time operation, which exceed the criteria levels applying to areas of low background noise, at all the identified receptors which were subject to the assessment, would not comply with the EPA guidance.

11.23. The maximum breach would occur at the nearest house, NSL 2, where the maximum operational noise is predicted to be between 16dBA to 25dBA above existing baseline noise levels during night time, that is between 1dBA and 15dBA above the criteria (guideline) level. It is also worth noting in this regard that the proposed development would not comply with condition no. 7 of the planning authority's decision which states that noise generated should not be more than 10dBA above the background level at the boundaries of adjoining premises.

11.24. The impact of noise from the proposed development during the operational phase, on nearby dwellings, exceeds that recommended in guideline standards, is likely to cause a nuisance to residents and to seriously impact on their residential amenities and this is a reason to refuse permission.

Odour

11.25. Odour is a concern of the grounds of appeal and the observation.

11.26. The response to the grounds of appeal states that the Environmental Assessment Report refers to control measures; management practices will minimise emissions to atmosphere and the potential for odour; the first party operates EPA licensed facilities at Bekan where the closest dwelling is 138m. Condition 5 of the license relates to odour. If operated within EPA emission controls, it will not present a negative odour impact on surrounding residences.

11.27. The EIS submitted includes a report titled Odour and Air Quality Impact Assessment…, dated 29th Sept. 2016, which includes results of a dispersion modelling exercise, carried out using meteorological data for the worst case year, 2012. It states that all identified receptors located in the vicinity of the existing and proposed facility will perceive an odour less than the guideline odour limit of 3.0 Ou_e/m^3 for the 98th percentile, worst case hourly averages for meteorological year 2012, (worst case year).

11.28. Table 2.1 in the report references EPR H1 Parts 1 and 2. The UK Environmental Agency guidance document for Odour Management H4, March 2011, may be the document referenced. This includes: '*the benchmarks are based on the 98th percentile of hourly average concentrations of odour modelled over a year at the site/installation boundary. The benchmarks are:*

- *1.5 odour units for most offensive odours;*
- *3 odour units for moderately offensive odours;*
- *6 odour units for less offensive odours.'*

Intensive livestock rearing is described as moderately offensive.

11.29. The use of a mass emission value in the model appears to represent a single figure based on the number of poultry housed. It does not provide details of the odour emissions related to growth stage, or to the deployment of fans for ventilation or to

the impact of the removal of the litter and the cleaning and disinfection of the shed (occurring 6.5 times per year). In relation to the reference to a maximum number of exceedances allowed in a year, 175 times, it does not give the source of this criterion or explain its implications.

11.30. I note that the dispersion modelling contour, shown in Figure 7.2 of the report, indicates that the plume of maximum guidance concentration will impact on a very small area immediately adjoining the eastern end of the building, crossing the road to agricultural land and not impacting on sensitive receptors; and that, it is stated in the EIS, that based on the dispersion modelling contour for the 98th percentile, the new unit will not impact on nearby sensitive receptors with respect to odour.

11.31. The February 2017 EU Commission publication establishing best available techniques (BAT) conclusions, for the intensive rearing of poultry or pigs (above threshold), includes that the location/siting should ensure adequate distances between the plant/farm and the sensitive receptors, to prevent/reduce noise and odour emissions. The 1998, EPA Guidance Note for the Poultry Production Sector (licensable facilities) states that poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling, for the same reasons.

11.32. In my opinion the concerns of the third party and observer in relation to odour impact are valid, and the report accompanying the EIS does not include sufficient information to provide the necessary reassurance that these concerns are unfounded. The guidance separation distance of 400m between the development and sensitive receptors is significantly greater than that available in this case, and this provides the context within which this issue should be considered.

Air Quality

11.33. Air emissions – air modelling of ammonia and particulate matter as PM_{10}, has been carried out for the proposed development and existing poultry farms: 1, 2 and 3. Farms 2 and 3 are identified on maps, at locations to the north and south of Bekan village. Farm 1 is identified to the east of the subject site. No plume is shown in the vicinity of Farm 1.

The modelling for ammonia indicates that the maximum annual average GLC (ground level concentration) plume will be no greater than 5% of the criterion, the 1 hour concentration is no greater than 5% of the criterion; and the operation of the new unit in combination with the existing units will not result in ammonia air quality impact at nearby sensitive receptors.

The modelling for PM_{10} indicates that the 90.40th percentile 24 hour average and annual average GLC for PM_{10}, including baseline, will be no greater than 25% and 30% of the criterion; and that the operation of the new unit in combination with the existing units will not result in total particulates, as PM_{10}, air quality impact at nearby sensitive receptors.

Mitigation is proposed in relation to litter management: avoiding/reducing dust in ventilation emissions; and in relation to construction.

Conclusion

11.34. Due to the proximity of the proposed development to nearby dwellings and the potential for significant adverse impacts in terms of noise and odour, planning permission should be refused on grounds of residential amenity.

11.35. **Devaluation of Property**

11.36. The Devaluation of Property is a concern of the grounds of appeal and the observation. The response to the grounds of appeal states that no supporting evidence has been provided that the development will result in depreciation of property values, and responds to the reference to a planning history (in County Mayo), by third party, stating that rather than supporting the third party's argument, the planning history refers to a house where planning permission was granted.

11.37. The EIS makes no specific reference to residential properties as material assets.

11.38. In my opinion, in this rural area, where agriculture is the main land use, a development, such as that proposed, should not impact on property values, provided its impact on residential amenities, i.e. noise, odour and air emissions are within guidance levels.

Landscape and Visual Amenity

11.39. As pointed out by the first party, the siting in the lee of a drumlin means that the proposed development would not interrupt or penetrate linear sections of primary ridge lines; its impact in terms of landscape would therefore be local to the immediate area.

11.40. The development, although located close to the road, would be of relatively low profile, 6.7m high for the building, but the metal silo which is to the rear of the building, would be 12m high. The structures would have limited impact on visual amenities or landscape. The impact in visual terms is more likely to arise from the loss of some of the mature trees which are within the hedgerow. It is stated that sightlines (4.5m x 145m) at the junction of the private road with the public road will be provided. These are shown cutting through several mature trees along the road frontage of the site. The notation on the site layout plan, which shows the sightlines, submitted on 22nd December 2015 (drawing No. 11-310-200 Rev. No. PP.2) states '*all existing trees & hedgerows to be maintained except for those which transgress the required sightlines – these are to be cut back and maintained by applicant or removed and replaced with new planting behind the required lines of vision'*. A separate notation, on the same drawing, states '*existing boundary treatments retained*.'

11.41. Condition 6) of the decision states:

All existing trees/hedgerows shall be retained on site. Landscaping details, described on the proposed site layout plan submitted to Mayo County Council on the 22/12/15 (Drawing No. 11-310-200 Rev. No. PP.2), shall be carried out prior to the occupation of the building. Additional planting, of semi-mature trees, shall be planted along the northern and eastern boundaries, prior to the occupation of the building. A detailed landscaping plan to be submitted to Mayo County Council, for written approval, prior to the commencement of works on site. This condition is in the interests of visual amenity.

11.42. The grounds of appeal states that the requirement to submit a landscaping plan is fundamental and should not be left to compliance stage.

11.43. The EIS proposes mitigation under the heading of landscape including – existing hedgerow would be retained to a minimum of 3 metres during and post construction

works at the proposed site, where these do not impact on sight-lines from the proposed entrance to the site. In order to further screen the proposed development, semi-mature trees and shrubs would be planted in gaps in existing hedgerows as necessary, i.e. particularly along the northern and eastern boundaries. It is recommended that excess topsoil, remaining from excavation and landscaping, be used to construct earth berm at the north boundary to provide additional mitigation of the visual impact on the adjacent local road. It is recommended that boundaries be planted with native hedge and tree species to improve biodiversity value of the site. Native species planted should be chosen for speed of growth and level of concealment provided. Native trees may include species such as ash, alder, Scot's pine, laurel and willow. The shrub layer may include species such as blackthorn, hawthorn and holly. It is recommended that native evergreen hedge species be planted where possible to provide year round screening.

11.44. It appears to me that the provision of sightlines will lead to the removal of some of the mature trees which contribute to the amenities of the area, nevertheless the impact on visual amenities will be experienced in the immediate vicinity of the site, and can be mitigated to some extent by landscaping, as proposed by the first party and conditioned by the planning authority; and visual amenity should not be a reason to refuse permission.

11.45. There will be little if any impact on the wider landscape.

11.46. **Surface Water**

11.47. The grounds of appeal and observation raise the issue of surface water, which currently discharges from the private road onto the public road, causing flooding of the road and of private property in the vicinity, which they consider would be exacerbated by the proposed development. The risk that the surface water will run through the subject site and become contaminated is also of concern.

11.48. The response to the grounds of appeal states that: the flooding, shown in the third party's photographs, is beyond and removed from the subject site; that the upkeep of the public road is a matter for the local authority; and that the proposed development will not exacerbate any existing flooding. The third party and observer consider that the design of the surface water system is not decided or documented and such

should not be left for agreement but should be detailed as part of this proposal. I am inclined to agree with this argument, because a surface water problem exists at this location and appears to be related to the existing private roadway. If a surface water solution is capable of being implemented in this instance, it is likely that the surface water problem would have been addressed before now.

11.49. The proposal in relation to surface water treatment is presented as two drainage concepts, in respect of which no relevant information has been presented, e.g. percolation quality of the soil, depth to rock, etc, or connection to a surface waterbody. I consider that this is unacceptable in the context of the existing surface water problem. The appropriate assessment screening report identifies the primary potential impact of the proposed development to the River Moy SAC as being through contaminated storm-water entering the groundwater system and infiltrating the pNHA.

11.50. Should the Board be minded to grant permission the outstanding information in this regard should be addressed.

Other issues

11.51. The first party considers that discrepancies in the documentation: failure to show all lands in the applicant's ownership and conditions which seek to regulate works outside the site; invalidate the application, and also that the application represents project splitting.

11.52. Some of the discrepancies have been explained by the first party as arising from an earlier proposal which would have located the proposed shed within the existing farm complex, e.g. distance from dwellings; or from more detailed consideration of the proposal, e.g. wastewater storage requirements. In relation to the landholding, there appear to be a number of landholdings in related ownerships, in the vicinity of this site. In this regard I note that the site submitted in the previous application, in respect of PL16.099230, was equivalent to the eastern two thirds of the subject site, but no part of the declared landholding, now shown, was part of the landholding in that case (i.e. lands of John Lannon who was also stated to own the Company and Poultry Units of Greenwood Growers). Those lands are to the east of the current

landholding). Nevertheless the landholding submitted is associated with the subject site and the appeal may be assessed on that basis.

11.53. In relation to the concern regarding project splitting, no aspect of the subject proposal is reliant on some future development and it is speculative at this point in time to infer that the first party may have other projects in the pipeline.

11.54. In relation to the concern regarding works required outside the site boundary, as pointed out by the first party it is common practice and acceptable, to condition works outside a site, but within a landholding.

12.0 **Appropriate Assessment**

12.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

Appropriate Assessment Screening Report

12.2. Accompanying the EIS the applicant has submitted an Appropriate Assessment Screening Report. This is provided as Attachment IV to the EIS and was prepared by Panther Environmental Solutions, Carlow.

12.3. It describes the proposed development and states that there would be no long-term storage of litter on site; that the spreading of organic fertiliser on land is regulated under EC (Good Agricultural Practices for Protection of Waters) is SI 610 of 2010; and that it is the responsibility of the occupier of a holding to comply with the provisions of these regulations. As there would be no effluent discharge from the operation of the proposed site, the potential threat to protected areas would only be

posed through the contamination of stormwater and the spreading of litter as fertiliser.

12.4. A stormwater tank of 11,360 l sited at the north western boundary would undergo regular visual inspection and cleaning if necessary.

12.5. The habitats on-site are highly modified and of low conservation value. Rare species are unlikely to be found.

12.6. No SPAs, RAMSAR or NHAs occur within 15km of the site. Seven SACs occur within 15km, and 10 proposed NHAs. The only protected site within 5km of the proposed development is the Mannin and Island Lake wetland complex, (SAC002298, pNHA 001910), which includes the Glore River. This is located 3 - 3.5km to the north, north-east of the boundary of the proposed site. It is hydraulically connected to the River Moy via the Glore / Gweestion Rivers. The habitat consists of two lake basins - Mannin and Island Lakes, which were drained in the 1960's by the deepening of the Glore River. The Glore / Gweestion River is a tributary of the River Moy, with which it joins at a point in the townland of Lisduff, 20km to the north-west of the lakes, approximately 6km south of Foxford. Since draining the Mannin and Island Lakes, a mosaic of vegetative habitats has become established on the original shell marl lake bed. These seasonal lakes contain a wide range of wetland habitats which support high diversity of botanic, insect, mammal and bird life. A good winter depth makes the lakes attractive for a range of wintering fowl.

12.7. Included in the wetland habitat is extensive strands of alkaline fen. The rare moss Bryum uliginosum occurs on exposed marl, at a ditch to the east of Island Lake.

12.8. Attishane Turlough (pNHA) is within 15km of the site.

12.9. Errit Lough and Urlaur Lakes are SACs. Errit Lough, Lough Gower, Urlaur Lakes (European otter and stoat) and Lough O'Flynn (European otter) are all proposed NHAs.

12.10. Bogland SACs and NHAs within 15 km of the proposed site are: Drumalough Bog, Derrinea Bog and Carrowbehy/Caher Bog.

12.11. A section of the River Dalgan, which forms part of Lough Corrib SAC occurs within 15km of the proposed site.

12.12. The closest protected site is the Mannin and Island Lake pNHA seasonal lakes principally fed by groundwater located at its closest point 3-3.5km to the north, north-west.

12.13. The development is located within the Yellow (Knock) River catchment, which is a sub catchment of the River Moy SAC. The development would be hydrogeologically linked to the River Moy SAC through groundwater additions to the headwaters of the Yellow (Knock) River. The proposed development would not be hydrogeologically linked to the Mannin and Island Lake pNHA as this is located in a separate river basin.

12.14. There would be no process effluent from the site operations, and the site is not in an area of flood risk or benefitting lands. The primary potential impact of the proposed development to the River Moy SAC would be through contaminated storm-water entering the groundwater system and infiltrating the pNHA.

12.15. The storm water from roofs and yard areas would be collected and discharged to ground via a system designed to SuDS and CIRIA technical guidance specifications and soak-pit. It is considered that the drainage design and distance from the designated sites would ensure that there would be no significant negative impact from the proposed development. Mitigation, in the form of good housekeeping practices, are proposed.

12.16. The proposed development could result in a potential impact on ecology from the spreading of the litter as organic fertiliser, either through pollution of water-bodies or the enrichment of natural vegetation. The protected sites in the area are a combination of wetlands, bogs, lakes and turloughs. These sites would not be suitable for intensive agriculture and therefore would not be directly impacted by the spreading of organic fertilisers from the site. However, diffuse agricultural pollution of lakes, turloughs and wetlands and, to a lesser extent, bogs, is possible through the spreading of organic fertiliser. The majority of the land-take within 15km of the site is improved agricultural grassland, some of which is bordering SACs and protected and proposed NHA sites.

12.17. Nutrient Management Plans for locations in Co Offaly and Co Westmeath are provided. No spreading near protected sites within 15km of the development is proposed, however this does not preclude the use of litter by local farmers in the future.

12.18. Wash-water spread on Mr Lannon's lands would be carried out in accordance with the setback distances from surface waterbodies and abstraction points.

12.19. The report concludes that having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

Screening

12.20. The first exercise to be carried out by the Board is screening, in order to determine the Natura sites which should be subject to appropriate assessment. If it cannot be excluded, on the basis of objective information that the proposed development will have a significant effect on a Natura site, either individually or in combination with other plans or projects in view of the sites conservation objectives, it must be subject to appropriate assessment.

12.21. The River Moy SAC site code 002298, is located to the north west, north and north east as fingers extending from the main river. These fingers include the Mannin Lake and Island Lake area which is less than 3km from the subject site.

The site is selected for the following features:

Active raised bogs

Degraded raised bogs still capable of natural regeneration

Depressions on peat substrates of the Rhynchosporion

Alkaline fens

Old sessile oak woods with Ilex and Blechnum in the British Isles

Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)

White-clawed Crayfish

Sea Lamprey

Brook Lamprey

Salmon, and

Otter.

12.22. Conservation objectives are set out by the NPWS for each of the qualifying interests, which are generally aimed at maintaining their favourable conservation condition and in the case of degraded raised bogs still capable of natural regeneration, the specific conservation objectives is that its peat-forming capability is re-established. The specific conservation objectives for otter, note its presence in the Mannin Lake and Island Lake area. The specific conservation objectives for white-clawed crayfish note its widespread distribution in the upper tributaries of the River Moy including the Glore and Yellow Rivers. As stated in the first party's screening report extensive strands of alkaline fen are found in the wetland habitat in the Mannin Lake and Island Lake area.

12.23. Stormwater is the only potential impact considered in any detail in the screening report in relation to the SAC. It is stated that the drainage design, the distance and the mitigation, which includes best practice in construction and operation, will be effective in preventing any adverse impact. The report bases these assumptions on the development being in the catchment of the Yellow River.

12.24. The spreading of the litter as organic fertiliser, either through pollution of water-bodies or the enrichment of natural vegetation is considered briefly in the screening report. The report notes that the majority of the land-take within 15km of the site is improved agricultural grassland, some of which is bordering SACs and protected and proposed NHA sites; the protected sites in the area wetlands, bogs, lakes and turloughs would not themselves be suitable for intensive agriculture and would not be directly impacted by the spreading of organic fertilisers from the site but could be impacted by diffuse agricultural pollution through the spreading of organic fertiliser. It further notes that the proposed landspreading, per the nutrient management plans submitted, does not preclude the use of litter by local farmers in the future.

12.25. In terms of surface water, the site drains to the Yellow River which is a tributary of the River Moy and where the presence of white-clawed crayfish is noted. The site is

hydraulically connected to the River Moy SAC through surface water (Yellow River) and groundwater which rises to the surface as turloughs such as that within 300m of the site, and the Mannin and Island Lakes which similarly have seasonal influence. Whether the pathway to the River Moy SAC is via the Mannin and Island Lakes area which is closest to the site or via the Yellow River, pathways link the site via surface water and groundwater to the SAC, where there are many qualifying interests water dependent habitats and species, downstream.

Wastewater and Litter

12.26. The spreading of washwater is proposed on the landholding. It is stated that at a maximum rate of 25m^3/ha and approx. 57m^3 produced per annum only 3ha of land is required. It is stated that the wash water generation would be minimised through the maximising of the effectiveness of the litter cleaning process and the efficient use of wash-water during cleaning, and that It would be in compliance with the definition of soiled water under the Nitrate Regulations not including any liquid where such has either a biochemical oxygen demand exceeding 2,500 mg/l or a dry matter content exceeding 1% (10g/l). Set back distances outlined in the Nitrate Regulations will be observed.

12.27. No baseline details have been provided on the receiving environment or the soil status on the landholding and there is no nutrient management plan. It is worth noting that cattle are housed in the farmyard and no details have been provided in relation to the landspreading of the manure/slurry thus generated.

12.28. The litter generated by the proposed development is not waste, but a recovery operation, per European Communities (Waste Directive) Regulations 2011, nevertheless the landspreading of litter has the potential to cause water pollution and consideration of the impact of landspreading is an important part of Environmental Assessment and Appropriate Assessment. The information submitted is in respect of a farm in Offaly Westmeath. The third party has pointed out that these same lands have already been proposed for landspreading of litter for a virtually identical development in nearby Woodpark, Ballyhaunis and that a virtually identical Nutrient Management Plan, estimating an identical 272 tonnes of waste for disposal, was presented as part of that application.

12.29. The first party has responded that he is fully aware of this and is advised, in accordance with the NMP for the lands upon which the manure is to be spread, that there is sufficient capacity on the lands selected, to cater for this proposal in additional to other facilities.

12.30. The EIS states that the system of management of broiler litter from the unit and for the lawful transfer of litter to external parties (i.e. occupiers of other holdings) who seek a supply from the farm would consist of:

- Collection of all litter in a covered container by a licensed removal contractor as required under SI 31 of 2014 after removal of stock.
- Transfer to occupiers of other holdings whom express a requirement for the litter as a by-product fertiliser for their land, or their customers, as is required for and authorised under SI 252 of 2008, in the knowledge that use by customers is required to be in compliance with standards prescribed in SI 253 of 2008 and SI 31 of 2014.
- Record all transfers of by-product from the farm/holding as is required by Article 23(1)9g) in SI 31 of 2014 and maintain the records for relevant inspectors; and
- Submit details of annual supplies of poultry litter to the Department of Agriculture, Food and the Marine,

and it further notes that it is prescribed, in Article 16 of SI 31 of 2014, that the responsibility for nutrient management planning is the responsibility of each occupier of a holding.

12.31. To conclude the appropriate assessment at screening stage, as has been done in the screening report provided, it is necessary to be able to definitively conclude that there are no significant effects, on protected sites, likely to arise from the proposed development; otherwise appropriate assessment is required. I consider that such a conclusion cannot be reached in this case. The landspreading of litter is clearly and deliberately separated from the proposed development, with no responsibility or control remaining with the developer. Notwithstanding that the screening report acknowledges the potential for impact on protected sites, if landspreading were to occur in the local area; and the acknowledgement that landspreading may occur in the local area; the

consequences of such occurrence have not been examined in full, as is required under the legislation.

12.32. The landspreading of washwater is not fully considered.

12.33. The potential for impact from surface water discharge is identified but not fully considered.

12.34. The pathway via air and possible impact on protected sites has been given no consideration in the screening report.

12.35. In my opinion there is a likelihood of impact on the River Moy SAC from stormwater, landspreading of washwater and use of litter as fertiliser on local farms, such that appropriate assessment is required and appropriate assessment has not been carried out.

12.36. In my opinion, having regard the nature of the receiving environment and to the proximity of the site to water dependent habitats and species, the conclusion reached in the AA screening report that the nature and scale of the proposed development and nature of the receiving environment indicate that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site; cannot be supported and this is a reason for refusal.

13.0 **Recommendation**

13.1. In the light of the above assessment, I recommend that planning be refused for the following reasons and considerations.

14.0 **Reasons and Considerations**

1 The proposed development is located c220m from two dwellings and less than 150 metres from the nearest adjacent dwelling. Having regard to the recommendation for a 400 metre separation distance set out in the Environmental Protection Agency (EPA) Guidance document ‘Batneec Guidance Note for the Poultry Sector Environment Integrated Pollution Prevention and Control Licence

(IPPC)' as published in February 1998, it is considered that the proposed development would seriously injure the residential amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2 On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No. 002298, River Moy SAC, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.-

Planning Inspector

11th July 2017

Appendices

1 Photographs
2 Extracts from the Mayo County Development Plan 2016-2022
3 Extract from Commission Implementing Decision (EU) 2017 / 302, 15th February 2017 Establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs
4 Extract from the EPA Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector
5 Site Synopsis River Moy SAC Site Code 002298
6 Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), EPA 2016