



An  
Bord  
Pleanála

## Inspector's Report PL16. 247609

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<b>Development</b>	Poultry House
<b>Location</b>	Ballylahan, Foxford, Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	16/345
<b>Applicant</b>	Gavin Canning
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party vs. Refusal
<b>Appellant</b>	Gavin Canning
<b>Observer</b>	DAHRRGA
<b>Date of Site Inspection</b>	27 <sup>th</sup> February 2017
<b>Inspector</b>	Stephen J. O'Sullivan

## 1.0 Site Location and Description

1.1. The site is in a rural area c5km south of Foxford, Co. Mayo. It has a stated area of 1.57ha. It consists of part of a farmyard complex and part of an adjoining wooded area. It contains two farm buildings with a stated floor area of 395m<sup>2</sup>. There are other agricultural buildings on the southern part of the farmyard which are outside the appeal site. Access to the farmyard from the county road is along a service road which is included in the site's boundaries. A detached house stands immediately to the south of the service road. It appears to have been built recently. There are two other houses across the road from the entrance to the site, and a fairly dense pattern of one-off housing further along that road in both directions. The landscape in the area is characterised by drumlins that restrict the extent of views from most places. The levels on the site vary with some hillocks in the central part of the site being c10m higher than the lowest parts of the site beside the county road, while the level of the farmyard is intermediate between the two. The land on which the poultry house would be erected is mostly occupied by smaller birch trees. There are larger deciduous trees on the perimeter of this plantation to the south, and coniferous trees to the north.

## 2.0 Proposed Development

2.1. It is proposed to demolish two existing farm buildings and erect a new poultry shed with a stated area of 1,952m<sup>2</sup>. The maximum capacity of the facility would be 39,000 broilers. The poultry house would be 92m long, 22m wide and 6m high. It would be built with a steel portal frame on a concrete base, with insulated concrete walls and corrugated cladding on the roof. It would have automated systems for feeding and ventilation. A feed silo and underground effluent tank of 15.9m<sup>3</sup> would be installed beside the western end of the building. It would be served by a new access road and hardstanding area. Storm water runoff would be drained via a silt trap to the existing outfall on an adjacent watercourse.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for 2 reasons. The first reason stated that the development would interfere with the character of the landscape which is was necessary to preserve under objective LP01 of the development plan. The second reason stated that the poultry house would be too close to existing houses and would seriously injure the amenities or depreciate the value of property in the vicinity and would set an undesirable precedent for similar development in the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report on the initial application recommended that further information be requested, including an environmental report and a nutrient management plan.

A handwritten report from the Senior Planner states that it appears as if proposed shed and ancillary development will not impact on the River Moy SAC, but the spreading of wastewater on land adjoining the river that are liable to flooding could have an indirect impact on the SAC. This matter was not addressed in the AA screening or environmental report and should be addressed by condition.

#### **3.2.2. Other Technical Reports**

The report from the Environment Section on the initial application stated that adequate information was not submitted to assess the environmental impact of a development of this size. An environmental report should be requested. The subsequent report from this section referred to the advice in the EPA BATNEEC Guidance Note for the Poultry Production Sector that poultry units should be 400m from dwellings. The proposed poultry house would be only just below the scale that would require IED licensing and there are several houses close to it. Odours and emissions to air have the potential to cause nuisance to nearby houses. It appears as if extensive excavation may be involved, with the removal of extensive amounts of soil and perhaps bedrock. The Environment Section would be concerned as to how

groundwater and surface water would be protected during such works. Permission should therefore be refused.

### **3.3. Third Party Observations**

None

## **4.0 Planning History**

Reg. Ref. 15/539 – the planning authority granted permission to demolish existing farm buildings and erect a new cattle shed with dungstead and effluent tank.

## **5.0 Policy Context**

### **5.1. Development Plan**

The Mayo County Development Plan 2014-2020 applies. Objective AG -01 of the plan is to support the sustainable development of agriculture. The site is in Landscape Policy Area 4 – Drumlins and Inland Lowland. Policy LP-01 is, through the Landscape Appraisal of County Mayo, to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence.

### **5.2. Natural Heritage Designations**

The site is 300m west of the nearest point of the River Moy SAC, sitecode 002298.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The proposal is for a farm enterprise that would be appropriate in a rural area where agriculture is the main industry and it would be consistent with the provisions of the development plan. The maximum capacity of the farm after

the development would be 39,000 broilers which is less than the threshold for EIA or IED licensing. It would be a diversification scheme that would provide closer to full time employment for the applicant compared to the current use of the holding. The proposed poultry house would have appropriate finishes and would be screened by topography and vegetation and so would be integrated into the landscape and it would not be overtly visible from any major road or housing complex. It would be operated in line with the EC(Welfare of Farmed Animals) Regulations 311/2010.

- The poultry house would operate on an all-in, all-out basis. Stock would be brought from the hatchery as day olds. They would remain in the house for 5-6 weeks, and would then be brought to the processors in Ballyhaunis. After this the manure would be removed from the houses by a specialist contractor for disposal off-site. The contractor is registered with the Department of Agriculture for the transport of animal by-products. The estimated manure production would be c250 tonnes per annum. This dry litter system would not give rise to a risk of leakage or a threat to the quality of waters. The house would be washed down and new bedding laid down before the next batch of hatchlings was introduced. Collection facilities are provided for the soiled water that would be generated during washing which would equate to 60-70m<sup>3</sup> per annum with an organic N content similar to the effluent generated by a single cow. The slatted shed that the planning authority permitted on the site under 15/359 would have included a slurry tank of much greater capacity than that now proposed.
- There were no objections from local residents. Letters of support from all houses within 400m are submitted with the appeal.
- The planning authority's conclusion that the proposed development and associated excavation would have a negative visual impact does not have proper regard to the amount of vegetation around the site. Excavation would be required on part of the site only, and the ground level would be similar to the existing farmyard. The resulting space would be occupied by the poultry house. The ridge of the proposed building would be well below the surrounding trees.

- The applicant is extremely disappointed with the decision of the planning authority as he believes the proposal was well designed and comprehensive information about its operation and measures to minimise its impact had been submitted. Although larger than agricultural buildings of previous times, the proposed poultry house would be small by modern standards and it is sensitively located.
- Given the shelter vegetation on the site, the established farmyard with which the proposed development would be integrated, and its proposed floor level, design, profile and finish, the proposed development would comply with the policy regarding the landscape in which it would sit that is outlined for Policy Area 4 in the county development plan and area K as described in the landscape appraisal of the county. The proposed development would not have a significant effect on the landscape.
- The development does not represent an environmental threat to adjacent houses and is part of an existing farmyard complex, and as such it would not tend to depreciate property values in the vicinity. There were no objections to the proposed development and the neighbours have expressed their support for it. As this is a rural area where the predominant landuse is agricultural, the proposed development should be acceptable in principle. It would not be reasonable to regard it as establishing an undesirable precedent or contravening the proper planning and sustainable development of the area.
- The proposed development would provide for a farm diversification scheme that is appropriately designed and located in an agricultural area. It would not cause injury to the character of the area or the amenities of property in the vicinity. It would not give rise to an undue risk of water pollution and it would not threaten road safety. It would have a positive economic impact. It would not be visible from any sensitive visual receptors.

## 6.2. Planning Authority Response

The planning authority did not respond to the appeal

### 6.3. Observations

The observation from DAHRRGA notes that the site is 300m from the River Moy cSAC. The SAC has site specific conservation objectives that include aquatic species and their habitats. Lough Hoe Bog cSAC is 12km north-east of the appeal site and has generic conservation objectives. Elevated atmospheric nitrogen is gaining attention as an environmental stressor, of which agricultural ammonia emissions are a key driver. Nitrogen deposition can cause acidification and eutrophication of terrestrial ecosystems. Peatlands and oligotrophic water bodies are particular at risk. Screening for appropriate assessment should be carried out. The main potential risks are emissions of pollutants and nutrients to water, and emissions of ammonia to air.

## 7.0 Assessment

### 7.1. Screening for Appropriate Assessment

The site is 300m west of the nearest point of the River Moy SAC, sitecode 002298. Given the location and nature of the proposed development, it would not have the potential to cause significant effects on any other Natura 2000 site including the SAC at Lough Hoe or the SPA at Lough Conn and Lough Cullin. However the proposed development should be screened to determine whether it would be likely to have significant effects on the River Moy SAC and if an appropriate assessment would therefore be required, given its proximity and location upstream of that SAC. The emission of Nitrogen to air from the proposed development would be very small compared to that from the established cattle farming in the area and it would not give rise to any likely significant effect on any Natura 2000 site. No other plans or projects were identified whose effects could influence the likelihood or significance of the potential effects from the proposed development in a manner that would require the combined effects on any Natura 2000 site to be assessed

The conservation objective for the River Moy SAC are to restore the favourable conservation condition of the following habitats –

7110 Active raised bogs

7120 Degraded raised bogs still capable of natural regeneration

7150 Depressions on peat substrates of the Rhynchosporion, and

To maintained the favourable conservation condition of the following habitats –

7230 Alkaline Fens

91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles

91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae),.and

To maintain the favourable conservation condition of the following species –

1092 White-clawed Crayfish Austropotamobius pallipes

1095 Sea Lamprey Petromyzon marinus

1096 Brook Lamprey Lampetra planeri

1106 Salmon Salmo salar

1355 Otter Lutra lutra

The SAC is extensive, but it is all part of the same river system. The habitats and species cited in its conservation objectives are either aquatic or freshwater-fed. The potential for the proposed development to effect the SAC arises from the possibility that it could lead to emissions, either during construction or operation that would affect the quality of waters in the SAC.

There is a possibility that the works required to erect the proposed poultry shed could give rise to emissions of suspended solids to surface waters, or the release of pollutants from the spillage of fuel, lubricant or cement. However the scale and extent of the groundworks and building would not be unusually large when compared to those that have been previously carried out at this location to provide the farmyard and adjacent house. The uneven ground on the site would require a certain amount of cutting and filling to provide a suitable level for the shed, but the required works would not be exceptional in their scope. Access to the site has already been provided from the public road. There is a significant separation distance from the appeal site to the SAC, given that it drains towards the River Moy through the agricultural lands to the north and west of the site, rather than through the floodplain to the east of the site. In these circumstances, the implementation of standard construction practices regarding ground works and the handling of hydrocarbons and



cement would be sufficient to prevent any emissions to water that could affect the SAC. The implementation of these practices is specified on page 26 of the environmental report submitted to the planning authority as further information. The construction of the proposed development would not be likely to have significant effects on the River Moy SAC, therefore.

The litter and manure would be removed from the site for disposal by a contractor regulated by the waste authorities under the Waste Management Act and by the Department of Agriculture under regulation SI1069/09 governing animal by-products. The operation of those codes would render any significant indirect impact on any Natura 2000 site unlikely. The only other potential for an effect arises from the water used to wash the facility after the litter has been removed. This would drain to an effluent storage tank, and subsequently be spread on the landholding. The applicant has control of 17ha in the immediate vicinity of the site. The holding is already subject to a fertiliser management plan that governs the spreading of effluent on the land and the loading of Nitrogen and Phosphorous under SI31/2014. The applicant has submitted details of the quantity and nature of the of the effluent generated by washing- which would be 60-70m<sup>3</sup> per annum with a N content of 1kg/m<sup>3</sup>. The submitted details are sufficient to demonstrate that the spreading of effluent from the proposed development would not place an additional demand on the capacity of that land to accommodate that could cause a deterioration in the quality of waters. The operation of the proposed development would not be likely to have significant effects on the River Moy SAC, therefore.

Having regard to the foregoing, it is reasonable to conclude on the basis of the information available on the file, which is adequate to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the SAC at the River Moy, sitecode 002298, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not required.

## 7.2. Screening for EIA

The proposed development would be an installation for the intensive rearing of poultry, which is a type of development described in Class 17(a) of Part 1 and Class

1(e)(i) of Part 2 of schedule 5 to the planning regulations, although its size at 39,000 places for broilers is just below the threshold of 40,000 for the latter class. The criteria set out at schedule 7 to the regulations should therefore be applied to determine whether the proposed development would be likely to have significant effect on the environment and require EIA before a grant of permission was considered.

The characteristics of the proposed development, including its size, cumulation with other proposed development, the risk of accidents and use of resources would not render it likely to have significant effects on the environment. The production of waste from the unit and its capacity to cause nuisance, chiefly through odour, would be the same as would normally be expected from this class of development. The emissions to water would not be likely to cause pollution for the reasons set out in the AA screening above. The location of the proposed development is not of unusual environmental sensitivity, having regard to the existing landuse and the absorption capacity of its natural environment. This rural area is not densely populated and its landscape is not designated for particular protection. The adjacent SAC would not be likely to be affected by the proposed development. The characteristics of the potential impacts, including their extent, magnitude, complexity, probability, duration, frequency and reversibility, would not be unusually significant for this class of development. In these circumstances the threshold set down in Class 1(e)(i) of Part 2 of Schedule 5 provide would be the appropriate guide as to whether the proposed development would be likely to have significant effects environment, as there are no particular characteristics of the development or its location or its potential impacts that would render its effects on the environment more likely or more significant than they would otherwise be.

Therefore, although the proposed development is very close to the relevant threshold, the fact that it remains below it is sufficient to demonstrate in these circumstances that it would not be likely to have significant effects on the environment and would not require environmental impact assessment

### **7.3. The principle of development**

The proposed development would be agricultural in nature and in keeping with the predominant landuse in this rural area. It would be supported by objective AG-01 of

the development plan. The principle of the proposed development is therefore acceptable.

#### **7.4. Impact on the landscape**

The landscape in the area has an attractive rural character characterised by drumlins, pastoral fields separated by hedgerows and sporadic housing along the county road. It is not, however, of the highest scenic amenity nor is it especially sensitive to development. The proposed poultry shed would be a very long building. But it would not be particularly high and its agricultural purpose would be readily apparent from its appearance and its position beside other farm buildings laid out around a yard, as would that of the proposed feed silo. Its visual impact would be reduced by the retention of mature trees and other vegetation around it. It is not considered, therefore, that the proposed development would unduly interfere with the character of the landscape or that it would contravene policy LP-01 of the development plan.

#### **7.5. Impact on residential amenity**

The scale of the proposed poultry would be just below the level at which an IED licence would be required from the EPA. The EPA provided a BATNEEC guidance note for the poultry production sector in 1996. It was referred to in the report from the Environment Section of the county council. Section 4.3 of that guidance is about the siting of poultry units. It says that the BATNEEC approach to this issue would be based on : a mass balance of nutrients in a control area; protection of waters; avoiding odour nuisance with a separation distance to houses of 400m; and the protection of the environment if the units has to be de-stocked in the event of disease. The implication of such an approach is that the operator of the poultry unit would have control of a large area around it in order to provide enough land to spread manure safely and to achieve the required setback from houses.

The current proposal does not follow this approach. Although the proposal contains sufficient measures to protect ground and surface waters, as discussed above, and 17ha would provide enough land to bury 39,000 chickens if an emergency de-stocking was required, the applicant is not assuming responsibility for the disposal of

manure or for achieving a nutrient mass balance on his land or in any particular area, and a setback of 400m from houses will not be achieved. The removal of litter by a contractor in accordance with other regulatory codes is acceptable and would avoid its disposal injuring the amenities of adjacent houses. However this still leaves the question of whether the development would cause a nuisance for nearby houses due to odours, either during ongoing operation or when the litter is periodically removed. The environmental report submitted by the applicant states that only the latter occasion has the potential to cause a nuisance, and transport will occur in properly designed and covered trailers to avoid this. The development does not provide the protection from odour nuisance recommended in the EPA's guidance - a long separation distance from houses- even though its scale is close to that which would require licensing by the agency. However I would prefer the position advanced by the applicant on this matter. The poultry unit would be less than the threshold for EPA licensing, and its location and characteristics do not render it likely to have significant effects on the environment or any Natura 2000 site, as discussed in sections 7.1 and 7.2 above. As stated at section 7.3, the surrounding area is rural and the proposed use is agricultural in its nature, and therefore considered generally appropriate to this location. A grant of permission would not authorise a nuisance that might arise if the poultry unit was not properly operated or prevent action being taken to remedy that nuisance. It is not considered, therefore, that the proposed development would be likely to cause a nuisance to nearby houses to a degree that would seriously injure their residential amenity or depreciate their value.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to the conditions set out below.

## **9.0 Reasons and Considerations**

Having regard to the size and agricultural nature of the proposed poultry unit and its location in a rural area beside an existing complex of farm buildings, it is considered that the proposed development would be in keeping with the character of the area and with objective AG-01 of the Mayo County Development Plan 2014-2020. Having regard to the proposals for the management of litter and effluent, the proposed unit

would not be likely to have significant effects on the environment or on any Natura 2000 site either individually or in combination with any other plan or project, would not cause a deterioration in the quality of waters and would not seriously injure the amenities of property in the vicinity of the site. Having regard to the restricted height of the proposed building and the retention of trees around it, the proposed development would not have an adverse effect on the landscape. It would therefore be in keeping with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 26<sup>th</sup> day of August 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. The development shall provide no more than 39,000 places for the rearing of broilers.

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

2. The measures to control odour set out at section 4(2)(6) and elsewhere in the Environmental Report submitted to the planning authority on the 26<sup>th</sup> August 2016 shall be implemented in full during the operation of the proposed development. In the event that the development gives rise to odours that cause a serious nuisance for dwellings in the vicinity, the planning authority may direct that its operation cease until revised measures to control such odours have been agreed in writing with the authority.

**Reason:** To protect the amenities of property in the vicinity

3. All poultry manure moved off farm shall conform to requirements of the Animal By-Products Regulations SI1069/09 and those under the Waste

Management Act 1996, as amended. Records of poultry litter movements shall be recorded. Records shall be maintained on site and made available to the environmental section of Mayo County Council on request.

**Reason:** In the interest of orderly development and public health

4. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-

(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and

(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

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

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

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

6. Soiled water from washing of the authorised poultry house shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 (SI No. 31 of 2014).

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

7. Details of the finishes of the poultry house and the design, scale and

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

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

- 8 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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. Stephen J. O'Sullivan  
Planning Inspector

7<sup>th</sup> March 2017